

Advisory Report on the Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012

Joint Standing Committee on Electoral Matters

March 2012
Canberra

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Chair's foreword

Australian Electoral Commission (AEC) figures indicate that there are 1.5 million eligible Australians not on the Commonwealth electoral roll. These are people who have failed to enrol, or did not update their address details and have consequently been removed from the roll. Under the current arrangements if they do not complete and submit a form to the AEC, they will not be able to vote at the next federal election or referendum.

The Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012 (the Bill) will provide the AEC with greater flexibility to improve roll completeness. Schedule 1 of the Bill will enable the AEC to directly enrol eligible people who are not currently enrolled, based on data received from trusted third party sources.

The Bill also makes provision for people who are unaware they have been removed from the roll by objection action and subsequently attend a polling place to vote. Schedule 2 of the Bill provides for the reinstatement of some electors and for their provisional votes to be fully, or partially, admitted to the count if requirements are met.

The direct enrolment and reinstatement measures complement those in the Electoral and Referendum Amendment (Maintaining Address) Bill 2011. That Bill provided for direct update of address details of already enrolled electors and changes to the objection process to reduce the number of eligible electors removed from the roll.

Direct enrolment is an administrative tool to enhance the completeness, accuracy and currency of the roll. It will augment other mechanisms for roll stimulation, such as targeted mail-outs, fieldwork and education programs. Direct enrolment is a logical extension of the existing Continuous Roll Update (CRU) process. The Bill

also makes provision for the AEC to communicate with affected individuals about their direct enrolment.

The AEC is the appropriate body to determine which agencies will provide reliable data best-suited for roll administration. The AEC recognises that not all data sources are suitable for direct enrolment. The third party data sources that the AEC will rely on for directly enrolling an eligible person have been tried and tested in the existing CRU and objection processes. The data will also be subject to further checks to verify the identity, eligibility and address details before any action is taken to directly enrol someone.

Direct enrolment will provide a service to eligible electors and allow the AEC greater flexibility in its administration of the roll. No evidence was provided to the committee which demonstrated poor data management or use by the AEC in the past. Furthermore, New South Wales and Victoria have successfully implemented direct update and enrolment legislation for their respective state electoral rolls.

In 2009-10, nearly 350 000 eligible electors were objected from the roll. At the 2010 federal election, around 280 000 votes were rejected because these electors were incorrectly enrolled or not enrolled. Prior to the 2007 federal election the AEC had the discretion to admit the votes of people found not to be on the roll and reinstate them to the roll if they had been removed under the objection process. However, under the current arrangements the AEC cannot do so. Allowing the AEC the flexibility to reinstate these electors and to admit their provisional votes to scrutiny could have saved many of these wasted votes. The Bill returns an appropriate safety net for those electors who have clearly demonstrated their intention to vote by attending a polling place and casting a provisional vote.

The Bill, in combination with the Maintaining Address Bill, aims to balance the effects of the objection process on the roll and enable the data collection systems, which are deemed strong enough to object an elector, to be used to assist eligible electors to meet their electoral obligations.

On behalf of the committee I thank the organisations and individuals who assisted the committee during the inquiry through submissions or participating at the roundtable discussion in Canberra. I also thank my colleagues on the committee for their work and contribution to this report, and the secretariat for their work on this inquiry.

Daryl Melham MP
Chair

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Membership of the Committee

Chair Mr Daryl Melham MP

Deputy Chair The Hon Alexander Somlyay MP

Members The Hon Bronwyn Bishop MP

The Hon Alan Griffin MP

Ms Amanda Rishworth MP

Senator Simon Birmingham

Senator Carol Brown

Senator Helen Polley

Senator Lee Rhiannon

Senator Scott Ryan

Committee Secretariat

Secretary Mr Stephen Boyd

Inquiry Secretary Ms Samantha Mannette

Senior Research Officer Ms Zoë Smith

Administrative Officer Ms Natasha Petrović



Terms of reference

On 16 February 2012 the Selection Committee requested the committee inquire into and report on the Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012.

Under Standing Order 222(e), reports of the Selection Committee are treated as having been adopted by the House when they are presented.



List of abbreviations

AEC	Australian Electoral Commission
ANAO	Australian National Audit Office
CRU	Continuous Roll Update
PIA	Privacy Impact Assessment
the Bill	Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012



Recommendation

2 The issues

Recommendation 1 (paragraph 2.117)

That the House of Representatives pass the Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012 as proposed.

Introduction

Referral of the Bill

- 1.1 On 16 February 2012 the House of Representatives Selection Committee referred the Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012 to the Joint Standing Committee on Electoral Matters (the committee) for inquiry and report.

Origins and purpose of the Bill

- 1.2 It is estimated that 1.5 million eligible electors are not on the Commonwealth electoral roll and will not be able to vote unless they initiate enrolment.¹ The number of eligible electors is growing faster than the rate of enrolled electors.² To abate this trend the Government has proposed significant changes to the *Commonwealth Electoral Act 1918* (Electoral Act) and the *Referendum (Machinery Provisions) Act 1984* (Referendum Act). The Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012 (the Bill) seeks to provide the Electoral Commissioner with the power to directly enrol previously unenrolled eligible electors.
- 1.3 At the 2010 federal election, Australian Electoral Commission (AEC) figures revealed that around 280 000 declaration votes (pre-poll, absent and provisional votes) were rejected due to the people casting the votes

1 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 9.

2 Australian Electoral Commission, *Submission 4*, p. 3.

being incorrectly enrolled or not enrolled.³ Many of these electors were removed under the objection process, which requires the AEC to remove an elector from the roll if there is reason to believe that an elector no longer lives at their enrolled address.

- 1.4 The current arrangements provide that an elector who attends a polling place but is not found on the roll may make a declaration vote at an election, but cannot be reinstated to the roll if they were removed under the objection process. As a result their vote cannot be counted. This Bill will allow these votes to be admitted to further scrutiny if certain requirements are met.
- 1.5 The Bill is described in the Explanatory Memorandum (EM) as implementing recommendations one and 24 of the committee's report entitled *The 2010 Federal Election: Report on the conduct of the election and related matters*.⁴
- 1.6 The EM also incorporates a statement of compatibility with human rights. It concluded that the Bill 'is compatible with human rights because it advances the realisation of Article 25 of the ICCPR [International Covenant on Civil and Political Rights] by ensuring that all Australian citizens can vote in elections'.⁵

Direct changes to the roll

- 1.7 The proposal to introduce direct enrolment is based on recommendation one of the committee's review of the 2010 federal election, which supported amending the Electoral Act to allow the AEC to directly enrol eligible electors:

The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* should be amended to allow the Australian Electoral Commission (AEC) to directly enrol eligible electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC

3 Australian Electoral Commission, *Submission 2* to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 9.

4 Explanatory Memorandum, Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012, p. 1.

5 Explanatory Memorandum, Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012, p. 3.

for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument.⁶

- 1.8 The current Bill's substantive change — enrolling electors without claim — is dependent on the commencement of Schedule 2 of the Electoral and Referendum Amendment (Maintaining Address) Bill 2011. The latter Bill provides the Electoral Commissioner with the power to directly update an enrolled elector's address details 'following the receipt and analysis of reliable and current data sources from outside the Australian Electoral Commission that indicate an elector has moved residential address'.⁷ That Bill was also the subject of inquiry by the committee.⁸
- 1.9 The current proposals to allow the Electoral Commissioner to make amendments to the electoral roll based on sources of data from outside the AEC have developed over the last decade. It will be an extension of the Continuous Roll Update (CRU) process that is a key component of the AEC's roll maintenance activities.
- 1.10 The Australian National Audit Office (ANAO) in a 2001-2002 performance audit of the integrity of the electoral roll, found that:
- Greater efficiencies could be obtained and CRU could be further streamlined through automatic updating of the roll using information provided from reliable third party sources. Automatic updating of enrolment information is possible through cross matching the electoral roll to, and updating it from, reliable COA information provided by electors to other government agencies.⁹
- 1.11 In its 2002 review of the ANAO's report, the committee at the time noted the AEC's interest in the concept of 'automatic roll updating and direct address change' and acknowledged that 'automatic roll updating provides a means of streamlining CRU'.¹⁰ However, it also expressed reservations

6 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, June 2011, Commonwealth Parliament of Australia, Recommendation 1, p. 36.

7 Explanatory Memorandum, Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 1.

8 The House Selection Committee referred the Electoral and Referendum Amendment (Maintaining Address) Bill 2011 to the committee on 24 November 2011. The committee reported on 13 March 2012.

9 ANAO Audit Report No. 42 2001-02, *Integrity of the Electoral Roll*, p. 52.

10 Joint Standing Committee on Electoral Matters, *The Integrity of the Electoral Roll: Review of ANAO Report No. 42 2001-02, Integrity of the Electoral Roll*, October 2002, Commonwealth Parliament of Australia, p. 29.

about the 'potential for inaccurate outcomes if the elector is not directly involved in the process'.¹¹

- 1.12 The committee recommended, in its report on the 2004 federal election, that:

...the AEC consider and report on the implications of the Direct Address Change proposal (contained in Submission No. 136) and provide a detailed report to the Committee on its findings by the end of 2005.¹²

- 1.13 The review of the 2007 federal election contained a recommendation in relation to the update of address details of already enrolled electors (recommendation 10).¹³ This unanimous recommendation was the basis of the Electoral and Referendum Amendment (Maintaining Address) Bill 2011.
- 1.14 The committee again considered the issue of adding eligible electors to the roll based on third party data in its report entitled *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections*. The committee examined the adoption of this approach in New South Wales and recommended that the AEC be allowed to 'automatically enrol electors on the basis of data provided by trusted agencies'.¹⁴ A dissenting report opposed the recommendation.¹⁵
- 1.15 In the committee's review of the 2010 federal election, recommendations one and two supported amending the Electoral Act to enable the AEC to 'directly enrol eligible electors' and to 'directly update the enrolment details of electors' on the 'basis of data or information provided by an

11 Joint Standing Committee on Electoral Matters, *The Integrity of the Electoral Roll: Review of ANAO Report No. 42 2001-02, Integrity of the Electoral Roll*, October 2002, Commonwealth Parliament of Australia, p. 29.

12 Joint Standing Committee on Electoral Matters, *The 2004 Federal Election: Report of the Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto*, September 2005, Commonwealth Parliament of Australia, Recommendation 6, p. 46.

13 Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto*, June 2009, Commonwealth Parliament of Australia, p. 114.

14 Joint Standing Committee on Electoral Matters, *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections*, February 2010, Commonwealth Parliament of Australia, p. 22.

15 Joint Standing Committee on Electoral Matters, *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections*, February 2010, Commonwealth Parliament of Australia, Dissenting report, p. 26.

elector or electors to an agency approved by the AEC'.¹⁶ A dissenting report opposed these recommendations.¹⁷

Declaration votes and objection action

- 1.16 Significantly, the Bill also proposes to change the requirements for admitting declaration votes to further scrutiny and allowing the reinstatement of some eligible electors who have been removed from the roll.
- 1.17 It will affect electors who believe they are already on the roll, but cast a provisional vote because they could not be found on the roll at the time of voting. Some of these electors may have been removed under the AEC's objection process. However, under current arrangements they cannot be reinstated to the roll and their vote will not be admitted to further scrutiny.
- 1.18 The Special Minister of State, the Hon Gary Gray AO MP, stated in his second reading speech that the Bill will 'protect the participation of eligible Australian citizens in the electoral process by establishing a safety net for enrolment and voting'.¹⁸
- 1.19 Recommendation 24 – which is being implemented in Schedule 2 of the Bill – aimed to reinstate people onto the roll after they had been removed as the result of an objection by the AEC:

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that where an elector who had lodged a declaration vote at an election has been removed from the electoral roll by objection action on the ground of non residence; and

- the removal from the roll occurred after the election prior to the election to which the scrutiny relates, or
- where there has been a redistribution of the state or territory that includes the division since the last election but one before the election to which the scrutiny relates, the removal from the roll was made after the last such redistribution, then:

16 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, June 2011, Commonwealth Parliament of Australia, p. 36.

17 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, June 2011, Commonwealth Parliament of Australia, p. 179.

18 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 9.

- ⇒ if the address at which the elector claims to be enrolled at the time of voting is within the electoral division for which he or she was previously enrolled, his or her House of Representatives and Senate votes will be counted; but
- ⇒ if the address at which the elector claims to be enrolled at the time of voting is in a different electoral division in the same state or territory, his or her Senate vote will be counted, but his or her House of Representatives vote will not be counted.¹⁹

- 1.20 Prior to and at the 2004 election, around 50 per cent of provisional voters were reinstated to the roll during the preliminary scrutiny of provisional votes. These electors were reinstated and their votes accepted for further scrutiny on the basis that the electors had, prior to their removal from the roll, previously been enrolled in the division in which they cast their vote. In the majority of cases, it was found that these electors had been removed from the roll as a result of the objection process. However, the percentage of provisional votes accepted dropped to less than 20 per cent for the 2007 and 2010 elections.²⁰
- 1.21 Amendments to the Electoral Act in 2004 – amending subsections 114(4) and 118(4)²¹ – and to Schedule 3²² in 2006, removed the AEC’s discretion in relation to removing an elector from the roll.
- 1.22 As outlined earlier, the Bill seeks to implement recommendation 24 of the committee’s report *The 2010 Federal Election: Report on the conduct of the election and related matters*. In that report, it was noted that traditionally the Electoral Act has contained safety nets designed to ensure that the voting franchise can be exercised by those who are entitled to do so.²³ The Bill aims to return safety net provisions for electors who have been removed from the roll, enabling them to be put back on the roll and their vote counted in certain circumstances.

19 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, June 2011, Commonwealth Parliament of Australia, p. 95.

20 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, June 2011, Commonwealth Parliament of Australia, p. 90.

21 *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004*, items 51 and 55.

22 *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006*, item 96.

23 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, June 2011, Commonwealth Parliament of Australia, p. iv.

Requirement to enrol

- 1.23 For the purposes of federal elections in Australia, an eligible elector is a person who is:
- 18 years of age or over;
 - an Australian citizen, or was a British subject on a Commonwealth electoral roll as at 25 January 1984; and
 - has lived at their current address for at least one month.
- 1.24 There is an inherent tension between eligible people's entitlement to vote and the compulsory nature of the act. One presupposes a right and the other an obligation. The Electoral Acts states that 'any person qualified for enrolment...shall be entitled...to have his or her named placed on the Roll'.²⁴
- 1.25 Under the Electoral Act, it is compulsory for eligible electors to enrol and vote in federal elections. Section 101 provides that eligible people who do not enrol are guilty of an offence and punishable by a fine of one penalty point, which is currently \$110.²⁵
- 1.26 The Bill aims to facilitate people to meet their enrolment obligation and exercise their right to vote.

CRU and objection processes

- 1.27 One of the main tools used by the AEC for roll update is the Continuous Roll Update process:

The process of CRU data matching operates as follows:

- data is matched against AEC enrolment records to establish whether or not a person is enrolled;
 - ⇒ data relating to specific categories of electors is excluded, e.g. silent electors, Members of Parliament, eligible overseas electors (and their kin), Antarctic electors, itinerant electors, and prisoners;
- date of enrolment is compared against the currency of the data record supplied by the third party to determine further action;

²⁴ *Commonwealth Electoral Act 1918*, pt VIII – Enrolment, s 99 (1).

²⁵ *Commonwealth Electoral Act 1918*, pt VIII – Enrolment, s 101.

- address data is matched against the AEC address register to establish whether or not an address is valid for enrolment purposes; and
 - ⇒ addresses with no mail service are excluded where no postal address is provided.²⁶

- 1.28 CRU activities are often based on data received from third party sources that indicate address details of enrolled people may have changed. It places the onus on the elector to confirm their current address details. The AEC advised that response rates were generally between 15 and 20 per cent for the monthly mail-outs during periods when there were no major electoral events.²⁷
- 1.29 Part IX of the Electoral Act sets out the objection process under which electors can be removed from the electoral roll. A person enrolled in a particular electoral division may object to the enrolment of another elector if they believe the person is not entitled to be enrolled in that division or is enrolled at an address at which they do not currently live and have not lived for at least one month.²⁸
- 1.30 Section 114 also requires the Electoral Commissioner to object to the enrolment of an elector in these circumstances. The AEC indicated that objection actions initiated by the Electoral Commissioner 'are most commonly triggered by CRU mailing based on third party data'.²⁹ The Electoral Commissioner writes to the elector notifying of the AEC's intention to remove them from the roll. If the elector does not respond to this notice within 21 days, they will be removed from the roll. The AEC will send a second notice to the same address advising the elector that they have been removed from the electoral roll.

26 Australian Electoral Commission, *Submission 2* to the JSCem inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, pp. 7-8.

27 Australian Electoral Commission, *Submission 2* to the JSCem inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 7.

28 *Commonwealth Electoral Act 1918*, pt IX – Objections, s 114.

29 Australian Electoral Commission, *Submission 2* to the JSCem inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 8.

New South Wales and Victorian enrolment activities

- 1.31 In 2010 New South Wales and Victoria commenced with direct enrolment of eligible unenrolled people and the direct update of relevant enrolment details.³⁰
- 1.32 On 1 December 2009 the NSW Parliament passed the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW)*.³¹ The Act gave effect to the 'Smart Roll' system which introduced the direct enrolment of electors for state and local government elections in New South Wales.³² It also allowed eligible state electors to enrol and cast a provisional vote on polling day.
- 1.33 In Victoria, the *Electoral Amendment (Electoral Participation) Act 2010 (Vic)* was passed in July 2010. It provided the Victorian Electoral Commission with greater enrolment powers that included:
- enrolment procedures on election day for those electors not on the electoral roll;
 - abolition of the "three-month rule", which uses the elector's principal place of residence, three months prior to election day, as a measure of the elector's entitlement to vote;
 - streamlined enrolment procedures whereby the Victorian Electoral Commission (the Commission) will have the power to enrol people on its own initiative based on information obtained from sources under section 26(4) of the Act...³³
- 1.34 The AEC has suggested that this will lead to divergence between the Commonwealth electoral roll and the NSW and Victorian state rolls, as currently Commonwealth enrolments must be elector initiated.³⁴

30 Australian Electoral Commission, *Submission 2 to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011*, p. 11.

31 Joint Standing Committee on Electoral Matters, *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections*, February 2010, Commonwealth Parliament of Australia, p. 1.

32 Joint Standing Committee on Electoral Matters, *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections*, February 2010, Commonwealth Parliament of Australia, p. 2.

33 Explanatory Memorandum, Electoral Amendment (Electoral Participation) Bill 2010 [Vic], p. 1, see <<http://www.parliament.vic.gov.au/static/www.legislation.vic.gov.au-bills-archive.html>>, accessed 24 February 2011.

34 Australian Electoral Commission, *Submission 87 to the JSCEM inquiry into the conduct of the 2010 federal election and matters related thereto*, p. 53.

Overview of the Bill

- 1.35 The Bill contains two significant schedules: ‘enrolment without claim’ and ‘declaration votes and objection action’. The substantive change to the Electoral Act is the inclusion of section 103B which allows the Electoral Commissioner, or delegate, to enrol an unenrolled eligible person without claim or notice from the person. The majority of the other amendments to both the Electoral Act and the Referendum Act are to ensure the changes proposed by 103B are consistently represented through both Acts and allow for their implementation. Other amendments correct past errors and clarify existing subsections.
- 1.36 The commencement of Section 103B (enrolment without claim) is contingent on the commencement of Schedule 2 (updating enrolment without claim) of the Electoral and Referendum Amendment (Maintaining Address) Bill 2011.³⁵

Schedule 1—Enrolment without claim

- 1.37 Items 1 and 2 provide that directly enrolled voters will be placed on any new roll and that they are included on the roll even though they have not directly made a claim or given notice.
- 1.38 Item 3 reflects the change proposed by subsection 101(8) of the Electoral and Referendum Amendment (Maintaining Address) Bill 2011 and prohibits legal proceedings being commenced against a person for failing to enrol if the Electoral Commissioner enrolls them.³⁶
- 1.39 Item 4 is the key amendment of Schedule 1 to the Bill – ‘Enrolling unenrolled person without claim or notice from the person’:
- 103B(1): Before proceeding with a direct enrolment, the Electoral Commissioner must be satisfied that the person (a) is entitled to enrolment, (b) has lived at an address for one month, and (c) is not enrolled.
 - 103B(2): The Electoral Commissioner may give a person notice of the proposed action and inform them they have 28 days to respond. The proposed action is ‘that the Electoral Commissioner proposes to enter

35 Explanatory Memorandum, Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012, p. 4.

36 Explanatory Memorandum, Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 4.

the person's name and other particulars required by section 83 on the Roll for the relevant Subdivision'.³⁷

- 103B(3)–(4): The Electoral Commissioner can enrol a person after 28 days, or prior to the 28 days if the elector responds confirming address details and entitlement.
- 103B(5): The Electoral Commissioner cannot directly enrol a person in the period starting from the close of rolls to the close of polling for the election.
- 103B(6): If the Electoral Commissioner directly enrolls, or decides not to enrol a person, the affected person must be given notice in writing of the decision and the person's full name and address as entered on the roll, if applicable.
- 103B(7): If the Electoral Commissioner receives a claim for enrolment after giving notice of the proposed action, then a notice advising the person that they have been enrolled need not be sent under subsection 102(1)(b)(ii).
- 103B(8): A notice can be given by electronic means, regardless of whether or not the person has consented to this form of communication.

1.40 Item 6 sets out 'reviewable decisions' in a table format. The principle change is the addition of item 10 in the table which identifies the mechanisms for the dismissal of an objection and the subsequent notification. Changes to enrolments made under section 103A (update of address details) and section 103B (enrolment without claim) are also subject to review. A person has 28 days from the issue of a notice to apply for an internal review of the decision.

1.41 Items 10, 11, 12, 14 and 15 provide the standard protection afforded by the AEC against the disclosure of an elector's personal information.³⁸

37 Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012, item 4, s 103B(2)(a).

38 Explanatory Memorandum, Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012, p. 7.

Schedule 2—Declaration votes and objection action

- 1.42 The inclusion of subsection 105(4) provides ‘the Electoral Commissioner with the discretion to enrol a person who was not enrolled when casting a declaration vote’.³⁹
- 1.43 At present the Electoral Commissioner will enrol a person who casts a declaration vote if they are entitled to vote and their omission from the roll is the result of an error by an electoral officer or a mistake of fact. However, removal due to objection action is not currently regarded as an error or mistake of fact.
- 1.44 The new subsection 105(4) provides that a declaration vote may be admitted to further scrutiny if it meets with certain requirements under schedule 3, paragraph 12 of the Electoral Act.
- 1.45 Paragraph 12 of Schedule 3 currently reads:
- This paragraph applies to an envelope if the DRO is satisfied:
- (a) that the elector who signed a certificate or declaration on the envelope is not enrolled for the Division; and
 - (b) after making enquiry:
 - (i) that the elector was, at the time of voting, entitled to be enrolled for the Division; and
 - (ii) that the omission of the elector’s name from the Roll for the Division was due to an error made by an officer or to a mistake of fact; and
 - (iii) that the omission was not attributable to subsection 118(4A) [Determination of objection].
- 1.46 The Bill proposes to remove subparagraph 12(b)(iii). This will provide the AEC with the previous discretion it had to admit these declaration votes to further scrutiny and reinstate electors to the roll who were removed by objection action.
- 1.47 In its submission to the inquiry the AEC illustrated how ‘declaration votes cast by people who have been omitted from the electoral roll due to an “error or mistake of fact” would be treated under the proposed Bill’.⁴⁰

39 Explanatory Memorandum, Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012, p. 8.

40 Australian Electoral Commission, *Submission 4*, Attachment C, Table C1, p. 12.

Table 1.1 How changes to declaration votes and objection action will operate

Removed from the roll due to an ‘error or mistake of fact’ including based on objection action				
Address on envelope compared to address on Roll at the time of removal	Elector at same address	Same division but different address	Different division but same state	Different state
Include all votes	✓	✓	✗	✗
Include Senate and/or referendum ballot papers only	N/A	N/A	✓	✗
Reinstate to the roll and for which address (if any)	✓ Address prior to removal from the roll	✓ Latest known address in the division	✓ Latest known address in the state or territory	✗

Source Australian Electoral Commission, Submission 4, Attachment C, Table C1, p. 12.

1.48 Similar changes are also proposed to be made to the Referendum Act.

Date of effect

1.49 Clauses one to three will commence on the day the Act receives Royal Assent. The amendments in Schedule 2 (Declaration votes and objection action) of the Bill will take effect from the day following Royal Assent. However, the amendments in Schedule 1 (Enrolment without claim) are contingent on both this Act and the *Electoral and Referendum Amendment (Maintaining Address) Act 2012* receiving Royal Assent.

Objectives and scope of the inquiry

1.50 While the committee acknowledges that the Bill seeks to implement a policy on which there has been some difference of opinion in the past, the main objective of this inquiry is to investigate the adequacy of the Bill in achieving its policy objectives and, where possible, identify any unintended consequences.

- 1.51 On 17 February 2012, the committee Chair, Mr Daryl Melham MP, issued a media release announcing the inquiry and called for submissions to the inquiry.
- 1.52 The committee received seven submissions for this inquiry, which are listed in Appendix A. It held a roundtable discussion in Canberra on 29 February 2012. The participants are listed in Appendix B. The submissions and transcript of evidence are available on the committee's website at: www.aph.gov.au/em.

The issues

Overview

2.1 The Australian National Audit Office (ANAO), in its review of the Australian Electoral Commission's (AEC) conduct of the 2007 federal election, noted that the 'most significant long-term issue facing the AEC remains the state of the electoral roll'.¹ In the last decade it is estimated that the Commonwealth electoral roll has decreased from 95 per cent complete to around 90 per cent complete. In practical terms, that means 1.5 million eligible electors are unable to vote unless they take action to enrol.²

2.2 When enrolment issues were canvassed in the Australian Government's *Electoral Reform Green Paper – Strengthening Australia's Democracy*, it was stated that:

The primary purpose of an electoral roll is to enable eligible electors to exercise their franchise. This objective will be frustrated if enrolment processes and systems become a barrier to the exercise of the right to vote. Electoral processes and systems should facilitate a high level of participation in the electoral system by all eligible members of the Australian community, but some argue the existing enrolment processes are more efficient at

1 Australian Electoral Commission, *Submission 4*, p. 2.

2 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 9.

removing qualified electors from the electoral roll than at putting them on the roll.³

- 2.3 The Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012 (the Bill) proposes that the AEC be able to directly enrol eligible electors. The AEC explained that direct enrolment would work in the following way:

Under a direct enrolment process, the AEC would receive data from a third party data source, conduct a data matching process including a check of the eligibility of individuals to enrol, notify eligible individuals and, after a period of 28 days, make additions to the electoral roll and inform electors of the AEC's action.⁴

- 2.4 Under the proposed changes the AEC has indicated that it will take approximately 60 days from when an eligible unenrolled person interacts with an external agency to them being placed on the roll.⁵

- 2.5 The Special Minister of State, the Hon Gary Gray AO MP, stated in his second reading speech on the Bill that:

The bill provides the Electoral Commissioner with the ability to use modern processes to protect the participation of eligible Australian citizens in the electoral process. This is fundamental to maintaining the strength and resilience of our democratic system of government.⁶

Roll completeness

Background

- 2.6 Roll completeness is one aspect of ensuring the integrity of the roll. As the AEC previously submitted, the elements necessary for roll integrity include:

- **Entitlement** – the individual meets all legislative qualifications for enrolment on the electoral roll, information provided by the individual is tested to detect and prevent enrolment fraud

3 Commonwealth of Australia, *Electoral Reform Green Paper – Strengthening Australia's Democracy*, September 2009, p. 91.

4 Australian Electoral Commission, *Submission 4*, p. 5.

5 Australian Electoral Commission, *Submission 4*, Attachment B, Figure B1, p. 11.

6 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 10.

- **Accuracy** – the individual is enrolled for the address at which they are entitled
- **Completeness** – all individuals who are entitled to enrolment are enrolled
- **Processing Correctness** – information provided by individuals and organisations is entered correctly and completely on the roll, addresses are correctly and completely described, classified and aligned, and
- **Security** – the electoral roll is protected from unauthorised access and tampering.⁷

- 2.7 While the number of electors on the roll has increased, population growth has outstripped enrolment participation. Since 2001 there has generally been a decline in the proportion of eligible people registered on the roll. The number of eligible Australians missing from the roll is estimated at 1.5 million. This number is calculated based on 'Australian Bureau of Statistics (ABS) population figures and adjusted for the estimated number of eligible electors, for example by excluding non-citizens and those under 18'.⁸
- 2.8 The AEC's enrolment target is 95 per cent of the eligible population.⁹ However, AEC estimates put the rate at 90.2 per cent as at 31 December 2011. AEC figures indicate that enrolment rates can also vary considerably between different age groups. Eligible electors in their mid-fifties and older have the best participation rates, meeting and exceeding the AEC's 95 per cent target. However, for those under 50 years there are lower levels of enrolment participation.¹⁰ Of particular note is the enrolment participation rate of 18 to 19 year olds, which is 53 per cent.¹¹
- 2.9 In New South Wales and Victoria direct enrolment and update processes are being used. As the rolls of these states are increased and updated overtime, the proportion of people enrolled on them will be at variance to the Commonwealth roll.

7 Australian Electoral Commission, *Submission 2* to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 3.

8 Australian Electoral Commission, *Submission 169* to the JSCEM Inquiry into the conduct of the 2007 federal election and matters related thereto, p. 8.

9 Australian Electoral Commission, *Submission 4*, p. 3.

10 Australian Electoral Commission, *Submission 4*, Attachment A, Table A2, p. 10.

11 Australian Electoral Commission, *Submission 4*, Attachment A, Table A2, p. 10.

- 2.10 The AEC reiterated to the committee that the 'greatest risk to the integrity of the electoral roll relates to its completeness'.¹² The Special Minister of State stressed the gravity of the situation, stating:

That is 1½ million Australian citizens who cannot choose their representatives in parliament. That is 1½ million Australians who cannot have their say when proposals to change Australia's Constitution are put to the people. That is 1½ million Australians excluded from exercising one of the most important rights – and responsibilities – of their citizenship.¹³

- 2.11 The AEC asserted that:

A larger electoral Roll means that more electors will be able to vote thus making the outcome of the election more representative and the entire democratic process more robust, giving effect to the constitutional requirements that Members of Parliament are to be 'directly chosen by the people'.¹⁴

- 2.12 The AEC has in the past used a range of promotional strategies to facilitate enrolment. Prior to the 2007 election the AEC undertook a large-scale Targeted Enrolment Stimulation exercise (involving fieldwork visits, targeted mailing and telephone contacts) and an extensive national media advertising campaign. The Government provided the AEC with additional funding for the campaign. However, at a cost of \$36 million, the AEC argued that the approach was not financially sustainable. Despite increasing enrolment for that election it did not lead to a long-lasting improvement in enrolment participation.¹⁵
- 2.13 In its audit of the 2007 federal election, the ANAO found that the 'AEC's existing approaches to improving enrolment rates have become less effective (as well as becoming more costly)'.¹⁶

12 Australian Electoral Commission, *Submission 4*, p. 4.

13 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 9.

14 Australian Electoral Commission, *Submission 4.2, Attachment C*, p. 5.

15 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, June 2011, Commonwealth Parliament of Australia, pp. 22-23.

16 ANAO Audit Report no. 28 2009-10, *The Australian Electoral Commission's Preparation for and Conduct of the 2007 Federal General Election*, p. 16.

Analysis

- 2.14 It is intended that direct enrolment will build on existing AEC programs to help stem the declining enrolment rate and to minimise divergence between state – New South Wales and Victoria – and Commonwealth rolls.
- 2.15 The Australian Privacy Foundation (APF) submitted that it does not support the Bill and does not believe that the ‘desire to maximise the number of people on the rolls...is an appropriate objective’.¹⁷
- 2.16 The AEC submitted that direct enrolment ‘would be a comparatively sustainable approach to addressing the low level of enrolment amongst eligible persons’.¹⁸ The Democratic Audit of Australia advocated that direct enrolment is the next step in the management of the roll, which has in the past relied on habitation reviews and more recently the CRU.¹⁹
- 2.17 The AEC has stated that direct enrolment is not a panacea to declining enrolment.²⁰ Rather it is a tool which will complement other mechanisms for roll stimulation, such as the CRU, fieldwork and education programs. The AEC told the committee:
- We will still continue a whole range of education programs, in particular in those areas that are more disadvantaged than others. The Northern Territory, for instance, with its large Indigenous population, is not likely to be an area where direct enrolment and direct update mechanisms will be terribly effective because we do not have the surety of the address and, sometimes, identity.²¹
- 2.18 Electoral demographers have observed that enrolment rates for younger voters are steadily decreasing from already low levels.²² The AEC has been actively trying to engage this cohort, for example 16 year olds can provisionally enrol. The Bill will allow the AEC to enrol first-time electors without them having to make a claim. In its submission, the Australian

17 Dr Roger Clarke, Chair, Australian Privacy Foundation, *Committee Hansard*, 29 February 2012, Canberra, p. 6.

18 Australian Electoral Commission, *Submission 4*, p. 4.

19 Professor Brian Costar, Coordinator, Democratic Audit of Australia, *Committee Hansard*, 29 February 2012, Canberra, p. 3.

20 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 15.

21 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 15.

22 NSW Electoral Commission, SmartRoll, <http://www.elections.nsw.gov.au/enrol_to_vote/smartroll>, accessed 29 February 2012.

Labor Party supported the direct enrolment of young people.²³ When questioned by the committee as to the anticipated effect of direct enrolment on young Australians, the AEC indicated that as drivers licence information would be a primary data source it was likely that the current proposal would increase enrolment.²⁴

- 2.19 Without the implementation of direct enrolment at the Commonwealth level, it is likely the gap between the New South Wales and Victorian rolls and the Commonwealth roll will grow. According to the AEC this ‘will become a source of disenfranchisement’ and increase public confusion about electoral processes.²⁵ The Democratic Audit of Australia noted that this divergence undermines joint roll agreements between the states/territories and the Commonwealth.²⁶ The Special Minister of State commented that:

With the trend in declining enrolment participation, it is no longer possible to keep doing the same things in the same way, particularly as superior processes have been successfully implemented in New South Wales and Victoria.²⁷

- 2.20 Direct updating is viewed as an administratively appropriate extension of current AEC practices to facilitate enrolment. According to the AEC it builds on the existing CRU process of data-matching and ‘reflects the commonplace practice of using government and third party data sources to compile and maintain voter lists’.²⁸ The Democratic Audit of Australia told the committee that direct updating provided an effective and accurate solution to a technical problem.²⁹
- 2.21 The proposal in Schedule 2 of the Bill also aims to enhance roll completeness by providing the AEC with the flexibility to reinstate a person to the roll if they have been removed as a result of the objection process. This is discussed in detail in the section on declaration votes and objections.
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23 Australian Labor Party, *Submission 2*, p. 2.

24 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 15.

25 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 2.

26 Professor Brian Costar, Coordinator, Democratic Audit of Australia, *Committee Hansard*, 29 February 2012, Canberra, p. 6.

27 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 10.

28 Australian Electoral Commission, *Submission 4*, p. 4.

29 Professor Brian Costar, Coordinator, Democratic Audit of Australia, *Committee Hansard*, 29 February 2012, Canberra, p. 5.

- 2.22 The Bill provides a 'safety net' for eligible individuals who fail to enrol. The Special Minister of State stressed in his second reading speech that:

It is not an automatic process. Every potential elector will be given an opportunity to dispute the information before any action occurs.³⁰

Conclusion

- 2.23 The Bill aims to assist eligible electors to meet their enrolment obligations and by extension to exercise their voting franchise. Direct enrolment extends the AEC's administrative practices to ensure roll completeness and accuracy. Direct enrolment is not the only approach the AEC should, or will, take to increase enrolment. It is a technical tool to facilitate enrolment.
- 2.24 The AEC currently has the power to amend the roll to remove people, this Bill will allow them to add eligible electors. The Bill will balance the effects of the objection process on enrolment and enable the data collection systems, which are deemed strong enough to object an elector, to be used to assist eligible electors to meet their electoral obligations.
- 2.25 The committee supports the AEC's objective of maximising roll completeness and believes there is no reason to assume that maximising electoral participation will be at the expense of the roll's integrity. The reports on the New South Wales and Victorian experiences with direct updating are promising.
- 2.26 This Bill will have a positive impact on young people who are often lumped disparagingly into the 'disengaged youth' category. It is anticipated that direct enrolment will assist this group to meet their enrolment obligations and to exercise their democratic franchise to vote.

30 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 9.

Receipt and use of third party data

Background

2.27 Third party data is currently received and used by the AEC for the CRU process:

Over the last decade the AEC's CRU program has come to rely on large and regular volumes of change of address information obtained from data provided by Centrelink, state and territory motor registry (more recently via the National Exchange of Vehicle and Driver Information System), and Australia Post.³¹

2.28 The AEC stated that the third party data sources would have the following characteristics:

- the third party requires a client to establish their unique identity;
- documentation establishing the unique identity of the individual is required to be an original document or a certified copy of the original;
- 'identity' documents include an Australian birth certificate, Australian passport or an Australian citizenship certificate, or a document which requires one or more of the latter to be provided prior to issue;
- multiple documents are usually required to establish the identity of the individual; and
- residential address must be shown on one of the 'identity' documents, otherwise an extra document must be provided showing current residential address.³²

2.29 Most submissions to the inquiry supported the use of third party data for direct enrolment. However, the APF raised concerns that the AEC's processes can negate the information a person provides about themselves and it assumes that electors have one residential address.³³ Furthermore, as correspondence will only be sent to the updated address, should this be incorrect the elector will be unaware of proposed changes to their electoral franchise.³⁴

31 Australian Electoral Commission, *Submission 2* to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 7.

32 Australian Electoral Commission, *Submission 4*, p. 5.

33 Australian Privacy Foundation, *Submission 3*, pp. 4-5.

34 Australian Privacy Foundation, *Submission 3*, p. 5.

Analysis

- 2.30 The APF questioned the integrity of the data the AEC is receiving from third party sources:

Data matching relies heavily on names, addresses and date of birth. By definition, address is not a suitable basis for matching in this case, because address-differences are being sought. Names are highly variable, contain many ambiguities, and are the subject of 'data scrubbing' (i.e. organisationally imposed changes). This may assist operations within a single organisation, but adds to the sources of false positives when the data is expropriated for data matching purposes. Date of birth is in many data collections a miscellaneous data-item, not subject to quality assurance, and subject to misrepresentations motivated not only by dishonesty but also by reticence and embarrassment.³⁵

- 2.31 In evidence to the committee, the APF expanded on the practice of 'data scrubbing':

Name is enormously variable in its recording and is routinely 'scrubbed' – that is the term used – in order to try to muck around with the data, modify the data, in order to make it seem right. It is differently scrubbed by every different agency, so we have differential collection for different purposes in different ways with different data-quality measures with different data-scrubbing measures, and then we bundle all this together and match it...It is extraordinarily error prone.³⁶

- 2.32 While the AEC currently uses various third party data sources³⁷ in its CRU process, it acknowledged that not all third party data sources are suitable for direct enrolment purposes.³⁸ The AEC indicated that the data sources to be used for the direct enrolment of eligible electors are primarily Centrelink and road and traffic authorities. The AEC stated that:

Each of those agencies at the federal level and at the state level has processes in place that require an individual, prior to being registered for either a driver's licence or Centrelink, to provide

35 Australian Privacy Foundation, *Submission 3.1* to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 7.

36 Dr Roger Clarke, Chair, Australian Privacy Foundation, *Committee Hansard*, 15 February 2012, Canberra, p. 4.

37 For a list of current CRU data sources see Australian Electoral Commission, *Submission 4.2*, Attachment C, Appendix B, p. 24.

38 Australian Electoral Commission, *Submission 4.2*, Attachment C, p. 6.

documentary evidence – original documents – of their identity as well as their age and residence. Those documents include documents such as birth certificates, passports or other original documents. Those documents also provide that the person is to show their residential address – that is, their normal place of living. All of those requirements are exactly the same as...[those] that a person needs to provide to the Australian Electoral Commission to be enrolled.³⁹

2.33 The AEC went on to clarify that the data used from roads and traffic authorities was drivers licence data not registration data.⁴⁰

2.34 A two-step process for data use is proposed by the AEC.⁴¹ Firstly, the data received by the AEC from a third party will be standardised, formatted and validated in isolation. The AEC indicated that Centrelink data would be collected monthly and drivers licence details collected daily.⁴² Secondly, it will be matched with other sources, including the electoral roll, to establish its integrity and determine a proposed action.⁴³

2.35 The AEC outlined the various checks to be undertaken in the direct enrolment process, including identity, address and citizenship verification, and stated:

Records that do not satisfy these checks [are] either diverted to the existing CRU program (which will involve sending the person a letter with an enrolment form to complete) or removed from the process.⁴⁴

2.36 The Democratic Audit of Australia disputed the APF's claim that incorrect data was likely to be added to the roll as a result of direct updating. It drew on evidence from the New South Wales experience of direct enrolment and found that the error rate for direct enrolment communications in that state was low, arguing that:

...we do have two working examples now, functioning in two elections: New South Wales and Victoria's last two elections were

39 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 5.

40 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 11.

41 Australian Electoral Commission, *Submission 4*, Attachment B, Figure B1, p. 11.

42 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 15.

43 Australian Electoral Commission, *Submission 4*, Attachment B, Figure B1, p. 11.

44 Australian Electoral Commission, *Submission 4.2*, Attachment C, p. 7.

operated in an environment in which there was a version – they varied it a bit – of what I will call direct enrolment. I went and looked at the data produced by the New South Wales Electoral Commission. I was looking for errors – that is, letters wrongly sent...I looked at the error factor in New South Wales. These are what they call 'people incorrectly contacted' – that is, they sent it to the wrong place. The error factor was 0.05 per cent. That is statistically random – anything could have that error factor.⁴⁵

2.37 The AEC receives data from the NSW Electoral Commission on electors who have been directly enrolled or updated on the state roll by the SmartRoll process. The AEC contacts these people as part of its CRU process, advising them to complete and submit an enrolment or change of address form in order to be placed on the Commonwealth electoral roll. Eighty per cent of people contacted in September 2011 failed to respond to the AEC by the end of February 2012.⁴⁶

2.38 The AEC stressed its commitment to best practice data collection and use.⁴⁷ For example, data intended for use will comply with the whole-of-government National Identity Security Strategy.⁴⁸ According to the AEC:

The level of information and documentation required by the third party will provide the AEC with confidence that the person is who the third party identifies the person as being. The AEC will use data from third party sources where processes are employed that are comparable to, if not stronger than, those contained in the evidence of identity provisions of the *Commonwealth Electoral Act 1918*.⁴⁹

2.39 The proposed section 103B does not assume the data will automatically be used to enrol an elector. The direct enrolment process will involve the AEC communicating with electors to advise of its intention to add eligible electors to the roll and again once they have been added or if, for some reason, the decision was made not to add them. The elector will be contacted at the address at which the third party data sources indicate is the elector's current residential address.

45 Professor Brian Costar, Coordinator, Democratic Audit of Australia, *Committee Hansard*, 29 February 2012, Canberra, p. 5.

46 Australian Electoral Commission, *Submission 4.1*, p. 7.

47 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 9

48 Australian Electoral Commission, *Submission 4*, p. 5.

49 Australian Electoral Commission, *Submission 4*, p. 5.

- 2.40 In the case of non-enrolled eligible electors, the AEC will receive third party data and contact the elector at their residential address.
- 2.41 The APF expressed concern about the suitability of address data that will be obtained from third party sources. It asserted that:
- ...the person's ability to prevent an inappropriate enrolment is undermined because the notice is sent to an address that, in a proportion of cases, is inappropriate, thereby denying the individual the opportunity to correct the error.⁵⁰
- 2.42 As discussed earlier, the AEC will use the third party data sources it already uses for the CRU and objection processes. The AEC will also be conducting a series of checks before proceeding to direct enrolment. As a result, the AEC will be confident that the person is an eligible elector and has resided at the relevant address for at least one month.
- 2.43 The committee also discussed effective methods to communicate with already enrolled electors for the direct update process. While this is most relevant to the previous Bill⁵¹ considered by the committee, it is worthwhile addressing the matter here.
- 2.44 The direct update process proposed in section 103A of the maintaining address Bill will generally involve the AEC (a) receiving third party data that indicates an elector has moved, (b) contacting the elector at their 'new' (current) residential address to advise of the intention to update their address on the roll, and (c) contacting the elector at the new address to advise that their enrolment details have been updated, or of the AEC's decision not to update. This second contact is not necessary if the elector responds to the AEC to confirm the new enrolment details. There is also the option of the elector to 'opt-out' if they can satisfy the AEC that the update is not appropriate, for example if it is only a temporary address change.
- 2.45 Similar to the case of direct enrolment, the AEC does not propose to take action to directly update an enrolled elector's address details unless it is satisfied of their identity, eligibility and current address.
- 2.46 When questioned by the committee as to why the AEC does not contact an elector's old address, the AEC stated that such an approach was not cost-effective:

50 Australian Privacy Foundation, *Submission 3*, p. 5.

51 Electoral and Referendum Amendment (Maintaining Address) Bill 2011

If we wrote to the old address when we have credible, reliable information provided by Centrelink, or Australia Post or roads and traffic authorities that the person is now living at another address, it would be an absolute waste of taxpayer's money to write to the old address.⁵²

2.47 The APF also expressed concern that the AEC be authorised to use an electronic address to contact electors without them having to consent to this method of contact.⁵³

2.48 As specified in proposed subsection 103B(8), enabling the AEC to also issue electronic notifications 'does not limit the ways a notice may be given'.

2.49 The ANAO has previously suggested that, rather than compromising the integrity of the roll, the updating of an elector's details from third-party sources could potentially assist in roll accuracy. The ANAO stated:

Given concerns about potential enrolment frauds, there could be advantages in using third party data from sources where the individual's identity had been verified to update the roll.⁵⁴

2.50 The Democratic Audit of Australia provided the committee with an article that concluded:

After all, if the data sources are trustworthy enough to get a person de-enrolled then they must be trustworthy enough to get them re-enrolled.⁵⁵

Conclusion

2.51 The AEC has extensive experience in using third party data for roll management. The AEC will use third party data sources that have been tried and tested in the existing CRU and objection processes. It has selected agencies that will provide reliable data. The AEC will then conduct further checks to ensure key elements of identity, eligibility and residency are met before an elector is enrolled. No evidence was provided to the committee which demonstrated poor data management or use by the AEC in the past. The committee also noted the evidence provided by the APF on 'data scrubbing' and will seek more information on this and

52 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 16

53 Australian Privacy Foundation, *Submission 3*, p. 5.

54 ANAO Audit Report No. 42 2001-02, *Integrity of the Electoral Roll*, p. 53.

55 Democratic Audit of Australia, *Submission 1*, Attachment A, p. 2.

how it applies to the data being used by the AEC for roll administration purposes.

- 2.52 Many people understand that their information is shared between government agencies. It is reasonable for electors to expect some degree of data sharing for roll management purposes. The AEC noted that in a report on community attitudes to privacy, support for government agencies being able to cross reference or share information had increased from 71 per cent in 2004 to 80 per cent in 2007.⁵⁶
- 2.53 In cases of direct roll update, it would be redundant to require the AEC to write to electors at both their 'new' and 'old' addresses to advise when address updates are proposed and then actioned. It would be neither a cost-effective nor time efficient activity for the AEC.
- 2.54 It is logical that the AEC should have the option to communicate with electors by electronic means. In particular, given that a significant number of eligible electors missing from the roll are under 30 years of age, utilising this widely used medium for these electors is appropriate.

Extending AEC enrolment powers

Background

- 2.55 The powers provided in the Bill to enrol eligible voters without claim and to reinstate voters to the roll in certain circumstances extends the AEC's current enrolment powers. The Electoral Commissioner will determine the third party sources to be used for direct enrolment of eligible electors.
- 2.56 When it previously considered direct enrolment and update options, committee recommendations proposed that approved agencies should be subject to Ministerial approval⁵⁷ or be made a disallowable instrument⁵⁸.

56 Australian Electoral Commission, *Submission 2 to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill*, p. 10; Wallis Consulting Group Pty Ltd, *Office of the Privacy Commissioner Australia: Community Attitudes to Privacy 2007*, August 2007, pp. ii and 40.

57 Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto*, June 2009, Commonwealth Parliament of Australia, Recommendation 10, p. 114.

58 Legislative instruments (legislation made by a delegated authority and not directly by an Act of Parliament) must be tabled in each House of Parliament and, in most cases, can be disallowed by either House. This provides a parliamentary check for decisions made by those to whom certain powers have been delegated. Joint Standing Committee on Electoral Matters,

Analysis

- 2.57 The APF expressed concern about the Bill granting the Electoral Commissioner greater enrolment powers, arguing that it represented 'a move, from an obligation to enrol, to imposed enrolment, with very broad and uncontrolled powers granted to a public servant'.⁵⁹
- 2.58 The Electoral Commissioner determining the agencies from which third party data will be received is in keeping with the current arrangements for the CRU process.
- 2.59 The AEC acknowledged that making the third party data sources subject to Ministerial approval or by regulation would 'clearly demonstrate the support of political stakeholders for the use of particular third party data sources'.⁶⁰
- 2.60 The AEC is recognised as an independent body. Therefore, it is appropriate to delegate these powers to it. The AEC submitted that:
- ...the proposed process would reinforce the longstanding convention whereby the AEC is independent of the Executive arm of Government in exercising electoral powers. Electoral rolls compiled and maintained by an independent and impartial electoral authority such as the AEC, which has the legislated authority to use information gained through roll maintenance activities to initiate the addition or deletion of names from the roll, provides an objective means for enabling the impartial and non-partisan management of the electoral roll.⁶¹
- 2.61 Existing review mechanisms (parliamentary and committee scrutiny) and opportunities for internal review of direct enrolment decisions, as outlined in the Bill, will ensure that there are checks in place.

Conclusion

- 2.62 In its report on the 2010 federal election the committee moved away from the idea of Ministerial approval of agencies, and recommended that the AEC was best placed to determine the agencies from which data would be sourced. At the time it also suggested that the list of agencies could be

The 2010 Federal Election: Report on the conduct of the election and related matters, June 2011, Commonwealth Parliament of Australia, p. 36.

59 Australian Privacy Foundation, *Submission 3*, p. 3.

60 Australian Electoral Commission, *Submission 4*, p. 8.

61 Australian Electoral Commission, *Submission 4*, p. 8.

made a disallowable instrument to provide another check as to the suitability of sources.

- 2.63 The AEC is the appropriate body to determine which agencies can supply data that is best suited for roll administration – direct enrolment and update – purposes.
- 2.64 The committee is confident that the AEC has given appropriate consideration to the third party data sources, and is reassured that the AEC will be using data sources that have already been tried and tested in the existing CRU process.

Signatures

Background

- 2.65 Currently, enrolment is elector initiated and applications for enrolment must be signed. However, enrolled electors can update their enrolment details online. In the case *Getup Ltd v Electoral Commissioner* [2010] FCA 869, the Federal Court found that electronic signatures are acceptable for enrolment purposes.
- 2.66 Electors are required to sign a special declaration envelope when making a declaration vote in cases when they cannot be found on the roll or have been marked as having voted. The AEC will have the option to compare the signature on the envelope with that on the original enrolment application if there are concerns about the person's identity.

Analysis

- 2.67 Under direct enrolment the AEC will be adding eligible electors to the roll without a claim from that person, and accordingly there will be no application or signature on record for directly enrolled electors. Discussion during the inquiry included whether no longer having a signature available for comparison, or as evidence of electoral fraud, would pose problems for the AEC.⁶² The AEC advised the committee that handwritten signatures were no longer viewed as crucial to the enrolment process. It stated that:

62 *Committee Hansard*, 29 February 2012, Canberra, pp. 8-9.

When we were doing the preparation for the GetUp! case in 2010...the evidence and the material that we looked at just made it very clear that we needed to move away from handwritten signatures, that they are not the best evidence in relation to the identity of a person and, particularly, in relation to court proceedings.⁶³

2.68 More generally in relation to signatures, the AEC observed that:

By itself, a signature has no intrinsic value as far as establishing or confirming the identity of an individual is concerned. It has to be compared with something. Certainly, we are finding that signatures change over time. So if you have an enrolment form that was done 10 or 15 years ago, you will find that the signature is different. I would suspect that even your signature has changed in the last 10 years. So the comparison is not particularly reliable at this stage.⁶⁴

2.69 For direct enrolment purposes, the AEC argued that:

The mechanisms that are being used by Centrelink and roads and traffic authorities are considerably more reliable because they are based on a gold standard, if you like, of proof of identity as agreed by both Commonwealth and states and that is the reliance on multiple original documents.⁶⁵

Conclusion

2.70 Modern data sharing and matching practices have meant that signatures are no longer the crucial verifying element they once were. There are various checks that will be employed firstly by the source agencies and secondly by the AEC before data is utilised for direct enrolment purposes. There will also be internal and external review mechanisms in place.

63 Mr Paul Pirani, Chief Legal Officer, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 9.

64 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 9.

65 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 9.

Human rights and privacy

Background

2.71 Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires that when a bill is introduced it should be accompanied by a statement of compatibility that includes an 'assessment of whether the Bill is compatible with human rights'.⁶⁶

2.72 The Special Minister of State concluded that:

The Bill is compatible with human rights because it advances the realisation of Article 25 of the ICCPR [International Covenant on Civil and Political Rights] by ensuring that all Australian citizens can vote in elections.⁶⁷

Analysis

2.73 The APF asserted that the EM 'stretches ICCPR Article 25 beyond its actual intent, and it fails to consider the directly relevant Article 17',⁶⁸ which includes that '[n]o one shall be subjected to arbitrary or unlawful interference with his privacy'.⁶⁹

2.74 Article 25 of the ICCPR provides that:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

66 *Human Rights (Parliamentary Scrutiny) Act 2011*, part 3, s 8.

67 Explanatory Memorandum, Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012, p. 3.

68 Australian Privacy Foundation, *Submission 3*, p. 3.

69 UNHCHR website, ICCPR, Article 17, <<http://www2.ohchr.org/english/law/ccpr.htm>>, accessed 2 March 2012.

- (c) To have access, on general terms of equality, to public service in his country.⁷⁰

2.75 The EM outlined that:

In effect, Article 25 guarantees the right of all Australian citizens to take part in the conduct of public affairs, and to vote and to be elected at genuine periodic elections. The Bill contributes to the realisation of Article 25 of the ICCPR by facilitating enrolment for eligible Australians and protecting the right to vote for people who have been removed from the electoral Roll by error or mistake of fact.⁷¹

2.76 It is both a right and an obligation for eligible people to enrol and vote in Australia. The AEC observed that:

It is an entitlement, yes, but it is also an obligation. And as an administrator responsible for implementing that legislation, I need to find ways to implement that particular part of the act.⁷²

2.77 The changes to the CRU and objection processes will assist eligible electors to be placed on and remain on the electoral roll and exercise their right (and meet their obligation) to select their representatives.

2.78 The AEC maintained that the changes proposed are in accordance with Article 17 of the ICCPR, stating that as enrolment is 'compulsory under the CEA [the Electoral Act], the collection and use of personal information does not intrude to an unreasonable extent on the personal affairs of the individual'.⁷³

2.79 The AEC advised the committee that appropriate privacy principles will be observed, including complying with the Privacy Commissioner's data matching guidelines, *The use of data matching in Commonwealth administration – Guidelines*. The AEC outlined that:

As the decision making process involves 'personal information', the AEC will comply with the various relevant requirements contained in the *Privacy Act 1988* which include, that a record

70 UNHCHR website, ICCPR, Article 25, <<http://www2.ohchr.org/english/law/ccpr.htm>>, accessed 2 March 2012.

71 Explanatory Memorandum, Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012, p. 2.

72 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 6.

73 Australian Electoral Commission, *Submission 4.2*, Attachment C, pp. 11-12.

keeper must take reasonable steps to ensure that before 'personal information' is used it is accurate, up to date and complete.

...Each element of the test in item 4 of Schedule 1 to the Bill (that is, that the person is entitled to enrolment, has lived at an address for at least one month, and that the person is not enrolled) will need to be examined against the requirement contained in the *Privacy Act 1988*. In addition, the AEC intends that the data matching undertaken with the data from third party sources will comply with the Privacy Commissioner's data matching guidelines, *The use of data matching in Commonwealth administration – Guidelines*.⁷⁴

- 2.80 At the committee's request, the AEC provided a draft copy of the Privacy Impact Assessment (PIA) for the proposed 'Direct Enrolment and Update' activities.⁷⁵ The AEC engaged to 'work with third party suppliers of data to ensure the privacy notice issued by the third party agency provides sufficient disclosure to the individual of how the AEC will use the information in relation to Direct Enrolment and Update'.⁷⁶ The AEC suggested that the third party's privacy notice could include a statement as follows:

The Australian Electoral Commission ('AEC') is authorised to collect from us information about you, such as name, date and place of birth and address and contact details for the purposes of maintaining the electoral Roll. This information will be used to ascertain your eligibility for enrolment as an elector and to contact you about proposed action to be taken by the AEC to appropriately update the electoral Roll. For further information call 13 23 26 or visit www.aec.gov.au/privacy.⁷⁷

- 2.81 At the roundtable discussion, the APF asserted that it was not aware of the AEC having consulted with any civil liberties organisations on the changes proposed in the Bill.⁷⁸ In response, the AEC submitted:

In relation to privacy issues that arose during the drafting of the Bill, the AEC consulted with the staff of the Australian Information Commissioner (OAIC) and the privacy policy areas of the Attorney-General's Department (AGD). The AEC did not consult the Australian Privacy Foundation or other non-

74 Australian Electoral Commission, *Submission 4*, pp. 7-8.

75 Australian Electoral Commission, *Submission 4.2*, Attachment C.

76 Australian Electoral Commission, *Submission 4.2*, Attachment C, p. 11.

77 Australian Electoral Commission, *Submission 4.2*, Attachment C, p. 12.

78 Dr Roger Clarke, Chair, Australian Privacy Foundation, *Committee Hansard*, 29 February 2012, Canberra, p. 2.

government civil liberties organisations. As non-government organisations, it is not appropriate that these organisations be involved in confidential consultations regarding proposed legislation. However, the AEC's Chief Legal Officer, Mr Paul Pirani, contacted Mr Nigel Waters of the APF late last year to provide a high level outline of the implications of the relevant Committee recommendations.⁷⁹

- 2.82 In drafting the PIA, the AEC consulted with the Office of the Australian Information Commissioner, the privacy policy area of the Attorney-General's Department, the Department of Finance and Regulation, and the Department of the Prime Minister and Cabinet.⁸⁰
- 2.83 In Victoria and New South Wales, jurisdictions which both have privacy regimes, direct enrolment mechanisms are already in operation.
- 2.84 In terms of privacy concerns, the special category of silent electors is an important consideration. The APF raised the potential for direct enrolment to negatively affect people with privacy or safety concerns 'who are going to be seeking to not have that address publicised'.⁸¹
- 2.85 The AEC advised the committee that silent electors will be excluded from the direct enrolment and update processes, and explained that:

...the processes that have been designed for both direct update and direct enrolment take into account the silent elector status in two ways. Firstly, if a person already has silent elector status, they would be excluded from any direct action by the commission. If we were aware of a change of address, we would treat them normally – as we currently do with the CRU process – and simply write to them and ask them to update their details.

We also have in place that, if an address is one in which a silent elector is recorded as living, we would be conscious of that and exclude any person who is now moving to or registered at that address. We would accept that there is a potential for that address to include others. For instance, you might have a family member who is of a different surname using that same address. That would also be excluded from any direct action.⁸²

79 Australian Electoral Commission, *Submission 4.2*, p. 2.

80 Australian Electoral Commission, *Submission 4.2*, p. 2.

81 Dr Roger Clarke, Chair, Australian Privacy Foundation, *Committee Hansard*, 29 February 2012, Canberra, p. 6.

82 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, pp. 12-13.

- 2.86 The AEC indicated that currently around 85 000 people are silent electors.⁸³ It further advised that:

In the data that the AEC receives from other agencies, if people are in some way flagged on those systems as what we would describe as silent, we do not actually receive that data. Those agencies have their own screening processes to ensure that that status is protected and never flows to us in the first place.⁸⁴

- 2.87 In responding to the APF's assertion that silent elector status could be difficult to obtain, the AEC observed that:

Basically they simply need to provide a statutory declaration about the circumstances they are suggesting require silent elector status. My evidence earlier was that we are very conscious of the potential for the disclosure of address of silent electors and in this direct update and direct enrolment process we will exclude anybody where there is any potential for us to be disclosing inappropriately. That includes people who are already silent electors and people who are living at or going to an address which was otherwise a silent elector address. It is a very protected system to avoid the sorts of concerns that you have raised.⁸⁵

- 2.88 The AEC noted that few applications for silent elector status are refused. In the last 12 months, of the 5 016 applications considered by the AEC, 140 were rejected. The AEC indicated that applications that are refused fall broadly into two categories: (a) applications failing to satisfy technical requirements by supplying the relevant forms, or (b) not meeting the section 104(2)(b) test of their personal or family's safety being at risk. Unsuccessful applications may request a review of the decision.⁸⁶

Conclusion

- 2.89 Providing the AEC with the ability to directly enrol and accept provisional votes into the count under certain circumstances, is in keeping with article 25 of the ICCPR that people have the right to participate in selecting their representatives.

83 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 13.

84 Mr Pablo Carpay, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 13.

85 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 13.

86 Australian Electoral Commission, *Submission 4.2*, p. 3.

- 2.90 In Australia, facilitating eligible electors to be placed on and remain on the roll is particularly important as it also assists these electors to meet their enrolment and voting obligations.
- 2.91 In consultation with the Australian Privacy Commission, the AEC is taking into account privacy considerations arising from the Bill's implementation. The AEC has provided the committee with a draft copy of the Privacy Impact Assessment on direct enrolment and update, and has committed to observing appropriate Information Privacy Principles and data matching guidelines when directly enrolling eligible electors.

Declaration votes and objections

Background

- 2.92 Declaration votes include absent, pre-poll (early) votes made outside the elector's division, and provisional and postal votes. At a polling place a person may be required to cast a declaration vote if their name and/or address details cannot be found on the electoral roll, or if they have already been marked off the roll as having voted. The person can complete a ballot paper, but instead of going into the ballot box, the vote goes into a sealed envelope that the person signs to 'declare' that they are entitled to vote. Declaration votes are considered separately and subjected to a number of checks before they can be admitted to further scrutiny and potentially be counted.
- 2.93 At the 2010 federal election over 280 000 pre-poll, absent and provisional votes were fully or partially rejected because the people casting the vote were not enrolled or not enrolled correctly.⁸⁷
- 2.94 The *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* changed the Electoral Act so that 'provisional votes cast by people who had been removed from the roll by objection on the basis of non-residence [are] inadmissible to the election count'.⁸⁸ Previously, the AEC had some discretion in admitting certain provisional votes and reinstating these people on the roll.

87 Australian Electoral Commission, *Submission 2* to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, p. 9.

88 Australian Electoral Commission, *Submission 87* to the JSCEM inquiry into the conduct of the 2010 federal election and matters related thereto, p. 85.

2.95 Legislative changes in 2006 also introduced the requirement that provisions voters had to provide proof of identity either on the day or within seven days. This requirement also contributed to the reduction in the number of provisional votes accepted at the 2007 and 2010 federal elections. The proof of identity restriction was removed by the *Electoral and Referendum Amendment (Provisional Voting) Act 2011*.

2.96 The Special Minister of State stated in his second reading speech on the Bill that:

The second way in which the bill will protect elector participation is by ensuring that certain people who have been removed from the electoral roll by objection action will have their votes admitted to further scrutiny.⁸⁹

2.97 Schedule 2 of the Bill proposes to amend how these declaration votes will be treated. The EM stated:

The Bill removes this limitation to ensure that an administrative error or mistake of fact does not hinder an otherwise eligible elector from exercising the right to vote at an election.⁹⁰

Analysis

2.98 The AEC noted that many electors do not understand that their declaration vote may not be accepted. It commented that:

People objected off the roll, or people attempting to vote for an address they are not enrolled for will not necessarily understand the impact that this may have on their ability to cast a vote that is counted.⁹¹

2.99 In its submission to inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, the AEC addressed the likely link between removal by objection and the full or partial rejection of certain declaration votes at the last federal election due to non-enrolments and incorrect enrolments, stating:

It is not unreasonable to suggest that a proportion of these individuals were otherwise qualified persons who were effectively

89 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 9.

90 The Hon Gary Gray AO MP, Special Minister of State, *House of Representatives Hansard*, 15 February 2012, p. 10.

91 Australian Electoral Commission, *Submission 2 to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011*, p. 9.

disenfranchised by prescriptive legislative requirements that they did not clearly understand.⁹²

- 2.100 The AEC confirmed that the acceptance of provisional votes dropped significantly at the last two federal elections:

If you look at the number of reinstatements in 2001 and 2004, prior to the legislation, there were 59,802 in 2001 and 61,451 in 2004. That dropped to 3,052 in 2007 and 1,460 in 2010.⁹³

- 2.101 The Democratic Audit of Australia argued that:

Under the current legislation, the Australian Electoral Commission is very good at taking people off the roll; it is not very good at putting them back on.' That is not their fault, that is a problem of the legislation, which I believe, what I will call the address bill and the participation bill, the current bill that you are considering, sets out to address.⁹⁴

- 2.102 When it considered the issue of reinstating eligible electors to the roll in its inquiry into the conduct of the 2010 federal election, the committee concluded that the reinstatement provisions would provide relief to affected electors to 'ameliorate the objection processes mandated by the legislation'.⁹⁵

- 2.103 Schedule 2 of the Bill proposes changes to how declaration votes will be treated:

The proposed amendments provide that where a declaration voter who is entitled to vote has been omitted from the electoral roll and the omission was due to an error or mistake of fact, then his or her votes may progress to further scrutiny in certain circumstances:

- if his or her address at the time of voting is in the same division for which he or she was enrolled immediately prior to the omission, his or her House of Representatives, Senate and/or referendum votes will progress to further scrutiny;
- if his or her address at the time of voting is in the same State or Territory for which he or she was enrolled immediately prior to

92 Australian Electoral Commission, *Submission 2 to the JSCEM inquiry into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011*, p. 9.

93 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 15.

94 Professor Brian Costar, Coordinator, Democratic Audit of Australia, *Committee Hansard*, 29 February 2012, Canberra, p. 4.

95 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, June 2011, Commonwealth Parliament of Australia, p. 94.

the omission from the electoral roll but in a different division, his or her House of Representatives vote will be excluded, but the Senate and/or referendum votes will progress to further scrutiny; and

- if his or her address at the time of voting is in a different State or Territory for which he or she was enrolled immediately prior to the omission from the electoral roll, all votes will be excluded.⁹⁶

2.104 The AEC will be able to admit votes and add eligible electors to the roll in cases where:

- the person has made a declaration vote;
- the declaration vote satisfies the requirements of Schedule 3 of the Electoral Act or Schedule 4 of the Referendum (Machinery Provisions) Act;
- the person is entitled to be enrolled for the division; and
- the person was omitted from the electoral roll for the division due to an error by an officer or to a mistake of fact.⁹⁷

2.105 The proposed amendments will also remove the restriction on people objected from the roll being reinstated to the roll and their votes admitted to scrutiny. The change will mean that removal under the objection process will not preclude eligible electors being placed on the roll without having to reapply. Objections off the roll can now be regarded as an 'error or mistake of fact'.⁹⁸

Conclusion

2.106 Direct enrolment will help to reduce the number of eligible electors missing from the roll. The complementary power for the AEC to stop objection actions and update enrolment details, as outlined in the Electoral and Referendum Amendment (Maintaining Address) Bill 2011, will also help to reduce the number of eligible electors removed from the roll under the objection process.

2.107 The possibility of reinstatement will provide eligible electors – who have neglected their enrolment – a safety net. The process will not be automatic, as Schedule 3 of the Electoral Act will still set out requirements that must be met before they can be reinstated to the roll and their vote fully, or partially, admitted to the count. It is an appropriate safety net for those

96 Australian Electoral Commission, *Submission 4*, p. 9.

97 Australian Electoral Commission, *Submission 4*, p. 9.

98 Australian Electoral Commission, *Submission 4*, p. 12.

electors who have clearly demonstrated their intention to vote by attending a polling place and making a declaration vote.

Overall conclusion

- 2.108 Getting eligible electors onto the roll is only part of the picture when ensuring an elector's franchise. Declining elector turnout and vote formality are also areas of concern. What the Bill provides are mechanisms to help assist eligible people to be placed on and remain on the roll.
- 2.109 There is a duality that exists in Australia's electoral system in that enrolling and voting are both rights and obligations. Enrolling and updating address details are not difficult and it is reasonable that Australians take responsibility for enrolling and voting.
- 2.110 The process outlined in the Bill will not be automatic. There are checks in place to verify a person's identity, eligibility and residential details. The AEC will also be communicating with prospective electors before they are enrolled.
- 2.111 The AEC has acknowledged that direct enrolment is not a panacea to achieving roll completeness. The committee agrees that direct enrolment will 'add to the tools that have been available to the Electoral Commission in a way which reflects modern expectations, modern technology and modern demographics'.⁹⁹
- 2.112 Third party data is currently being used by the AEC in the CRU and objection processes to remove people from the roll. This Bill provides a positive extension to existing arrangements in that it will allow the AEC to include eligible unenrolled voters on the roll. Direct enrolment is a tool to enhance the completeness, accuracy and currency of the roll. It will provide a service to eligible electors and provide the AEC with greater flexibility in its administration of the roll.
- 2.113 The third party data sources that the AEC will rely on have been tried and tested in the existing CRU and objection processes.
- 2.114 The committee also considered the question of who should be vested with the power to determine the third party data sources appropriate for electoral purposes. Previous suggestions included making the third party sources subject to Ministerial approval, or to be determined by the AEC

99 Mr Ed Killesteyn, Electoral Commissioner, Australian Electoral Commission, *Committee Hansard*, 29 February 2012, Canberra, p. 16.

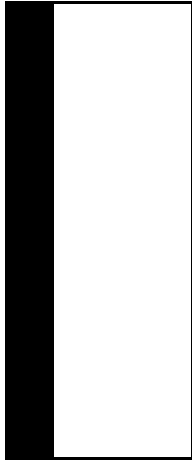
and made a disallowable instrument. However, the option that has been pursued of vesting power with the Electoral Commissioner allows the process to be flexible and responsive, and maintain a distance from questions of political bias or interference.

- 2.115 Direct enrolment will help reduce the number of eligible electors missing from the roll. Once direct enrolment and address update is operating the number of people removed by the objection process will also decrease. This will go some way to addressing the number of declaration votes that were fully or partially rejected at the last election due to non-enrolment or incorrect enrolment. The changes to the treatment of declaration votes – and the ability for the AEC to reinstate electors to the roll who were objected off the roll – will also provide an important safety net. There will be additional protection for people who turn up to vote believing they are enrolled but find they are no longer on the roll.
- 2.116 It is appropriate that the AEC should have the tools and flexibility to maintain a complete and accurate roll. Accordingly, the committee supports the passage of the Bill.

Recommendation 1

- 2.117 **That the House of Representatives pass the Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012 as proposed.**

Daryl Melham MP
Chair
14 March 2012



**Dissenting report – The Hon Bronwyn
Bishop MP, The Hon Alex Somlyay MP,
Senator Scott Ryan and Senator Simon
Birmingham**

Joint Standing Committee on Electoral Matters

Dissenting Report - Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012

Introduction

Coalition Members and Senators strongly disagree with the Labor and Green members of the Joint Standing Committee on Electoral Matters that the *Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012* (i.e. automatic enrolment) be passed by the Parliament. The Coalition has long opposed moves by the Labor Party and the Greens to introduce automatic enrolment and notes that this Bill is being introduced solely to improve the electoral prospects of both Labor and the Greens. This follows similar moves by the former Labor Governments in NSW and Victoria prior to their last state elections.

This legislation will severely damage the integrity of the Electoral Roll by adding new electors who may not be entitled to vote without their knowledge and potentially without their consent, should the elector not receive the Australian Electoral Commission's notice of enrolment. The Coalition believes it is an elector's individual responsibility to enrol to vote, notify the AEC if they change address and then to vote at elections. These are not onerous responsibilities and should remain with the individual elector, not the Australian Electoral Commission. Coalition Members and Senators have consistently made this point since the JSCEM 2007 Federal Election Inquiry.

The Coalition also notes the extensive privacy implications that this legislation raises and has been virtually ignored by the Labor Party and Greens. As with the *Electoral and Referendum Amendment (Maintaining Address) Bill 2011*, Dr Roger Clarke of the Australian Privacy Foundation provided the Committee with valuable information about the individual privacy concerns that this Bill raises. The Coalition has very real concerns about electors having their details published on the Electoral Roll without their knowledge and without the opportunity to apply for silent elector status.

Integrity of the Electoral Roll

It is imperative that the Roll which is used to elect our Parliamentarians is accurate and reliable, particularly in the wake of the 2010 Federal Election where no political party won a majority of seats in the House of Representatives and results in a number of individual electorates came down to only a few hundred votes. Where the responsibility for enrolling and updating individual elector details is taken from the individual and given to the AEC, as this Bill will do, the potential for errors to occur is significant. It also opens up the Roll to fraud.

Labor and Green Members of JSCEM as well as the Australian Electoral Commission seem to consistently downplay the issue of the integrity of the Electoral Roll. The Hon. Bronwyn Bishop MP, Shadow Special Minister of State, noted during the JSCEM roundtable hearing on 29 February 2012 that it was of critical importance from a legal point of view that the Electoral Roll be reliable and accurate, and drew attention to Professor Graeme Orr's book *The Law of Politics* and quoted from page 71:

*"Like other official public registers, such as land registers, a chief feature of electoral rolls is their finality. The purpose of a roll is to be a definitive statement of the entitlement to vote"—leaving aside the provisional provisions—"Thus there is a rule that the roll is conclusive evidence of the entitlement to vote. Reinforcing this is the secondary rule in almost all jurisdictions that a court of disputed returns is not to inquire into the correctness of the roll."*¹

Again Professor Orr in his chapter on "Enrolment and the Roll" cites *Perkins vs Cusack* (1930):

*"The Federal Court of Disputed Returns faced a petition claiming that many people on the roll for the seat of Eden-Monaro whose real place of living was outside of that electorate. Even though it was alleged that some enrolled electors lived at addresses that lay outside the divisional boundaries, Starke J refused to allow any evidence to be tendered that might contradict the face of the roll."*²

The Coalition notes that this Bill goes further than the Labor and Greens recommendation in the JSCEM report on the inquiry into the 2010 Federal Election. In this inquiry Labor and Greens members recommended that data sources used by the AEC to automatically enrol electors should be subject to disallowance by Parliament. This Bill and the *Electoral and Referendum Amendment (Maintaining Address) Bill 2011* gives sole discretion to the AEC:

*"The Committee recommends that, wherever appropriate, the Commonwealth Electoral Act 1918 should be amended to allow the Australian Electoral Commission (AEC) to directly enrol eligible electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument."*³

¹ The Hon. Bronwyn Bishop MP, JSCEM Roundtable Hearing Hansard, 29 February 2012, p. 4 quoting Dr Graeme Orr, *The Law of Politics, Elections, Parties and Money in Australia*, Federation Press, 2010, p. 71

² Dr Graeme Orr, *The Law of Politics, Elections, Parties and Money in Australia*, Federation Press, 2010, p. 71

The Australian Electoral Commission has outlined their process to automatically enrol new electors, which clearly shows that if an individual they believe to be eligible does not respond to their contact, they will be put on the Electoral Roll automatically:

“the AEC would receive data from a third party data source, conduct a data matching process including a check of the eligibility of individuals to enrol, notify eligible individuals and, after a period of 28 days, make additions to the electoral roll and inform electors of the AEC’s action.”⁴

Essentially, individuals are put on the Roll if the AEC believes they are eligible after consulting various “data sources”. Neither this Bill nor the *Electoral and Referendum Amendment (Maintaining Address) Bill 2011* specifies what data sources is required for the AEC to consider what constitutes reliable nor are there any restrictions on which data sources the AEC can use to enrol an elector. There is no provision specifying the standard of proof that the AEC needs to be able to enrol an elector. This Bill leaves all these decisions to the AEC, which Coalition Members and Senators believe is far beyond their jurisdiction.

The AEC states in its submission that it would use Centrelink and state government Roads and Traffic Authority information⁵ and has previously stated that information from Australia Post would also be used. The use of these agencies is not legislated, but are merely stated as the source the AEC considers reliable without providing any evidence to establish the reliability of this information. In reality, the AEC could use any data source it sees fit, including records from the Tax Office or Medicare. The Coalition has previously highlighted in its dissenting reports to the JSCEM inquiries into the 2010 Federal Election and the *Electoral and Referendum Amendment (Maintaining Address) Bill 2011* about the extraordinary risk using these agencies given the high number of duplicate records:

“The reliance on external data sources that have been collated and that are utilised for other purposes does not make them fit for use in forming the electoral roll. As outlined in the previous report into these proposals, a 1999 report by the House of Representatives Standing Committee on Economics, Finance and Public Administration: Numbers on the Run – Review of the ANAO Report No.37 1998-99 on the Management of Tax File Numbers, found that:

There were 3.2 million more Tax File Numbers than people in Australia at the last census; There were 185,000 potential duplicate tax records for individuals; 62 per cent of deceased clients were not recorded as deceased in a sample match.

³ JSCEM Report, *The 2010 Federal Election, Report on its conduct and related matters*. Recommendation 1

⁴ Australian Electoral Commission, Submission 4, Joint Standing Committee on Electoral Matters, *Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012*, p. 4

⁵ Australian Electoral Commission, Submission 4, Joint Standing Committee on Electoral Matters, *Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012*, p. 5

Similarly, an ANAO Audit Report (No.24 2004–05 Integrity of Medicare Enrolment Data) stated that ‘ANAO found that up to half a million active Medicare enrolment records were probably for people who are deceased’”⁶

The Coalition has great concern that individuals not entitled to vote may be added to the Roll because of this Bill. It is clear that members of the community who are not Australian citizens or are under 18 or are not living at the address the AEC believes or are otherwise ineligible to vote may be incorrectly added to the Electoral Roll under this Bill. The AEC has stated they will use birth certificate and passport information to further ascertain a person’s eligibility to be on the Roll, however, this runs into difficulties if a person uses different spelling for their name, has changed their name or if there are other inconsistencies between their address details and other eligibility information. Coalition Members and Senators note that under this Bill, there is actually no legislative requirement for the AEC to check whether a person is over 18 or an Australian citizen before they are added to the Roll, meaning any process used to ascertain an individual’s eligibility could be changed without notice.

The first obligation of the AEC is to uphold the integrity of the Roll. The AEC has instead focused on maximising the number of people on the Electoral Roll at the expense of that obligation. Dr Roger Clarke of the Australian Privacy Foundation told JSC EM on 29 February 2012 that the intention of the AEC should be to maximise the opportunity for people to enrol, not to do it on their behalf:

“I believe part of the problem is that the presumption is that there is a desire to maximise the number of people on the rolls. I do not believe that is an appropriate objective. The notion of the vote is a right—it is an entitlement—and turning it into an obligation, which is what that entails, I just do not believe is appropriate in a democratic process. The intention should be to maximise people’s opportunity to enrol and to vote, and this goes well beyond that.”⁷

The AEC has not advised how many errors they expect to occur as a result of automatic enrolment but have simply played down the prospect of errors occurring. Coalition Members and Senators are very concerned with this lax attitude to the integrity of the Electoral Roll and believes the AEC should focus on encouraging individual electors to be responsible for their own enrolment, rather than doing it for them.

⁶ <http://www.aph.gov.au/house/committee/em/elect10/report/Dissenting.pdf>, p. 183

⁷ Dr Roger Clarke, JSC EM Roundtable Hearing Hansard, 29 February 2012, p. 6

Privacy Concerns

Coalition Members and Senators also note the risks relating to the privacy of individual electors raised during this inquiry and the previous inquiry into the *Electoral and Referendum Amendment (Maintaining Address) Bill 2011*. Dr Roger Clarke from the Australian Privacy Foundation told the JSC EM Roundtable hearing on 29 February 2012 that he was particularly concerned about the lack of consultation about the Bill, was not aware of any privacy assessments taking place and believed that the outcome of the inquiry appeared to be predetermined:

*"We are not aware of any risk assessment having been performed. We were not aware of any privacy impact assessment having been performed. We were not aware of consultation processed which the Electoral Commissioner has just referred to. We are not aware of the APF or any of the civil liberties organisations being involved in any of those. We have checked back through our records and confined our evidence of that in our own records.....Finally, the outcome of the inquiry does appear to be predetermined. The inquiries being held by the same committee came forward with a related proposal, and when we sought further time to address this matter we were told that, 'The committee was merely focusing on the adequacy of the bill in achieving its policy objectives.' This sounds rather less than substantive consideration of the matter."*⁸

On top of the AEC not performing an adequate risk assessment relating to individual privacy, Dr Clarke expressed his concern about a number of aspects of the Bill. In particular, this Bill and the *Electoral and Referendum Amendment (Maintaining Address) Bill 2011* enables electors to be placed on the Electoral Roll without their knowledge and for their address details to then be made available to members of the public who can view the Roll. This is of particular concern to those who are victims of domestic violence, those involved in custody disputes or for other reasons want their address suppressed because of safety fears. Coalition Members and Senators note when electors are added to the Roll without their knowledge or consent they are unable to apply for their address details to be suppressed. Dr Clarke spoke about this matter during the Roundtable hearing on 29 February 2012:

*"But there are a lot of other frustrations and fears amongst electors who are unable to suppress information which is sensitive, particularly their address. Those are additional concerns. There are people who are going to be moving address, who are going to be seeking to not have that address publicised, and it is going to turn up on the electoral roll against their wishes and, in some cases, against their knowledge. Those are things that have to be balanced against the preference of some people to impose a responsibility to vote and a responsibility to enrol. I believe there is a lot of balancing that needs to be done, and we do not believe that this is anything like the balanced approach."*⁹

⁸ Dr Roger Clarke, JSC EM Roundtable Hearing Hansard, 29 February 2012, p. 2

As such, the Coalition believes that electors should have the opportunity to apply for silent elector status before being added to the Electoral Roll. Coalition Members and Senators note that this arrangement is currently in place where electors have responsibility for their own enrolment and for updating their details.

Fraudulent Voting

Coalition Members and Senators are disappointed with the Australian Electoral Commission's attitude to fraudulent voting and have consistently noted the AEC's failure to prosecute any cases of fraudulent voting, despite their being over 20,633 multiple votes at the 2007 Election. At present an elector must fill out an enrolment form to be added to the Electoral Roll, however, if they are automatically enrolled there is no specific record to refer to of why they were enrolled in the first place.

On 29 February 2012, Senator Scott Ryan raised a valid point about how this legislation will make it harder for the Director of Public Prosecutions to prosecute cases of fraudulent voting. When electors are put on the roll automatically, potentially without their knowledge or consent, there will no longer be a signature available for the returning officer to compare if an elector is making a declaration vote. Senator Ryan noted that this will be one less piece of evidence that the DPP will have available if they were attempting to prosecute a case of fraudulent voting:

*"We currently have a signature on a form with an enrolment. We have had a number of discussions in this committee and the Senate committee the AEC comes before in estimates about the difficulty proving certain electoral offences and the burden of evidence required for the DPP to take action. I am concerned that, if we move to what I am going to continue to call automatic enrolment – simply because I think it is automatic in the sense that it does not require action from an elector – we are going to lack that signature from a voter. That worried me. If there are cases of potential electoral fraud, that is one less piece of evidence the commission will have in its armoury. You currently have a form that you can compare signatures to if, for example, people are using declaration votes and have to sign the envelope. That will not be available under these provisions."*¹⁰

⁹ Dr Roger Clarke, JSCem Roundtable Hearing Hansard, 29 February 2012, p. 6

¹⁰ Dr Roger Clarke, JSCem Roundtable Hearing Hansard, 29 February 2012, p. 7

Problems in NSW

The previous NSW Labor Government introduced automatic enrolment prior to the 2011 State Election and the result has been that a large number of electors automatically added to the state's Electoral Roll failed to turn up to vote at the 2011 Election. Mr Antony Green, who has previously appeared before JSCEM in a private capacity, noted that the turnout for first time new enrolments in NSW was only 64.3% out of a total of 18,996.¹¹ Mr Green noted in this article that *"Turnout is normally lower amongst 18 and 19 year olds than the rest of the electorate, but not as low as 64.3%"*. This suggests that a large number of automatic enrolments weren't properly notified about their enrolment or potentially never received any correspondence from the NSW Electoral Commissioner. That is a large number of errors occurred thereby diminishing the integrity of the Roll.

Coalition Members and Senators note that this would also do significant damage at a Federal level, where the response rate to correspondence from the AEC is abysmally low. Mr Ed Killesteyn, Chief Electoral Commissioner, noted on 8 February 2012 that there is a response rate of only 20 per cent for letters sent out by the AEC:

*"The evidence is already there in terms of the research that we have done, Senator, that people generally do not respond to the CRU letters. Our response rate at the moment is about 20 per cent."*¹²

This means there is an 80 per cent failure rate for state enrolees to comply with Federal law. This is a serious deterioration of the integrity of the Roll. Coalition Members and Senators are concerned that a number of electors who are added to the Electoral Roll without their knowledge would potentially receive a fine for not voting, which is particularly concerning because a number of electors enrolled automatically may not even be entitled to be on the Roll in the first place.

As noted by the Hon. Bronwyn Bishop MP, a court *"is not to inquire into the correctness of the roll"*, meaning those who have been enrolled automatically may have difficulty removing themselves from the Roll even if they do not have the right to vote. In *Re Berrill's Petition* in 1975 Mrs Berrill complained that there had been the wrongful removal or absence of many electors from their sub-divisional roll:

"A three-judge bench of the High Court sitting as the Court of Disputed Returns rejected the claim on jurisdictional grounds, citing the prohibition on going behind the roll. Stephen J noted that this did not mean errors in the roll were completely unreviewable. Rather, the prohibition assumes errors on the roll ought be put in order before an election"

¹¹ Mr Antony Green, 16 July 2011, *NSW Automatic Enrolment and its Challenge for the Commonwealth* <http://blogs.abc.net.au/antonygreen/2011/07/nsw-automatic-enrolment-and-its-challenge-for-the-commonwealth.html>

¹² Mr Ed Killesteyn, JSCEM Public Hearing Hansard, 8 February 2012, p. 4

rather than risking ‘dislocation of the democratic process’ through legal challenges to the roll during the campaign or after the election.”¹³

The AEC has admitted that it does not prosecute cases of people who have failed to put themselves on the Electoral Roll, as is the individual’s legal obligation, whilst under this legislation those not entitled to be on the Electoral Roll could potentially be fined for failing to vote. It must also be noted that the failure to comply with the Electoral Act and notify the AEC of a change in address is a strict liability offence and yet once again the AEC fails in its obligation to act to enforce the law. Instead it sees this legislation as relieving it of its obligations.

Conclusion

Coalition Members and Senators realise that this Bill is being introduced by Labor and the Greens solely to increase their electoral advantage, despite the severe risk it contains to the integrity of the Electoral Roll and significant concerns about individual privacy. The Coalition notes the complete disregard displayed by Labor, the Greens and the AEC to maintaining the integrity of the Electoral Roll and notes that the reliability of the Roll is paramount not only to ensuring valid elections take place but also in a legal capacity.

The Coalition disagrees with the blank cheque this legislation gives the Australian Electoral Commission to decide what information sources it uses to add people to the Electoral Roll. This legislation does not require the AEC to justify the use of a particular data source or the potential for Parliament to disallow the use of particular data sources. This is in contravention to the Labor and the Greens recommendations to the inquiry into the 2010 Federal Election. Furthermore, this legislation does not state the level of proof required for the AEC to add a person on the Electoral Roll, merely that the AEC write to the elector asking if they have an objection and then notifying them of their enrolment, a process which in NSW led to only 64.3% of those automatically enrolled showing up to vote, compared to an overall turnout of 92.3% for the 2011 NSW State Election¹⁴.

The Coalition notes that this legislation will make it even more difficult for the DPP to prosecute cases of electoral fraud, with there no longer being a requirement for an individual elector to provide a signature when enrolling. This poses a further risk to the integrity of the Electoral Roll and the potential for an increase in fraudulent voting.

¹³ Dr Graeme Orr, *The Law of Politics, Elections, Parties and Money in Australia*, Federation Press, 2010, p. 72

¹⁴ Mr Antony Green, 16 July 2011, *NSW Automatic Enrolment and its Challenge for the Commonwealth* <http://blogs.abc.net.au/antonygreen/2011/07/nsw-automatic-enrolment-and-its-challenge-for-the-commonwealth.html>

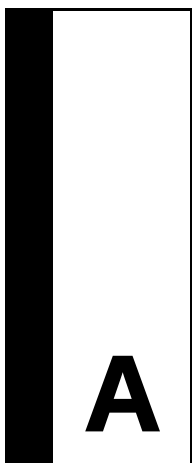
As such, Coalition Members and Senators believe that this legislation should be rejected by the Parliament and for the responsibility of enrolling to remain with individual Australian citizens and not be given to the bureaucracy.

The Hon Bronwyn Bishop MP
Shadow Special Minister of State

The Hon Alex Somlyay MP
Deputy Chair – JSCEM

Senator Scott Ryan

Senator Simon Birmingham

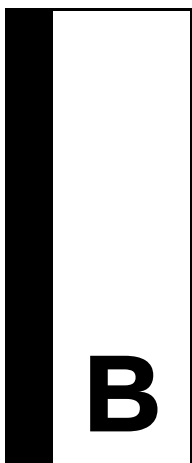


Appendix A – Submissions

No.

1. Democratic Audit of Australia
2. Australian Labor Party
3. Australian Privacy Foundation
- 3.1 Supplementary to submission 3:
Australian Privacy Foundation
4. Australian Electoral Commission
- 4.1 Supplementary to submission 4:
Australian Electoral Commission
- 4.2 Supplementary to submission 4:
Australian Electoral Commission

Total submissions = 7



Appendix B – Hearing and witnesses

Wednesday, 29 February 2012—Canberra

Australian Electoral Commission

Mr Ed Killesteyn, Electoral Commissioner

Mr Thomas Rogers, Deputy Electoral Commissioner

Mr Pablo Carpay, First Assistant Commissioner

Mr Paul Pirani, Chief Legal Officer

Ms Marie Neilson, Assistant Commissioner, Elections Branch

Mr Andrew Gately, Assistant Commissioner, Roll Management

Australian Privacy Foundation

Dr Roger Clarke, Chair

Democratic Audit of Australia

Professor Brian Costar, Coordinator

