

Electoral and Referendum Amendment (Improving Electoral Procedure) Bill 2012

Introduced into the House of Representatives on 27 June 2012

Portfolio: Special Minister of State

Committee view

1.2 The committee seeks clarification from the Special Minister of State regarding the basis for the nominator thresholds and deposit amounts set by this bill before forming a view as to whether the bill is compatible with human rights as defined in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Purpose of the bill

1.3 This bill amends the *Commonwealth Electoral Act 1918* (the Electoral Act) and the *Referendum (Machinery Provisions) Act 1984* (the Referendum Act) to:

- remove the prescription relating to how postal votes are processed currently set out in the Electoral Act and the Referendum Act. The amendments will also seek to allow for technological developments over time;
- increase the sum to be deposited by or on behalf of a person nominated as a Senator from \$1000 to \$2000;
- increase the sum to be deposited by or on behalf of a person nominated as a Member of the House of Representatives from \$500 to \$1000;
- increase the number of nominators required by a candidate for the Senate or the House of Representatives who has not been nominated by a registered political party from 50 to 100 electors;
- require unendorsed candidates for the Senate who have made a request to be grouped to each be nominated by 100 unique electors; and
- make a number of minor and technical amendments.

Compatibility with human rights

Right to take part in public affairs and elections (Article 25 ICCPR)

1.4 The statement of compatibility states that the bill engages Article 25 of the ICCPR and that the bill contributes to the realisation of the right by facilitating on-line postal vote applications and the use of new technologies.

1.5 The statement of compatibility also notes that while the bill does impose deposit and nominator thresholds that must be met by candidates, these measures are considered to be reasonable and balanced against the need to provide a ballot paper that is easy to use and readable.

Any Member or Senator who wishes to draw matters to the attention of the committee under the *Human Rights (Parliamentary Scrutiny) Act 2011* is invited to do so.

1.6 The bill increases the deposit that must be paid to the AEC upon nomination of all candidates and also increases the number of electors who must nominate a candidate for election who is not endorsed by a registered political party. The committee notes that the statement of compatibility states that the amendments seek to address two main concerns arising from the increasingly large number of Senate groups contesting elections relating:

- the impact on formality due to the increased complexity of the ballot paper; and
- practical issues associated with printing the ballot paper, particularly readability.

1.7 The current requirement for 50 nominators for unendorsed candidates has been in place since 1998 and the deposit amounts were last changed in 2006. The statement of compatibility states that since the current requirements for nominator thresholds were changed in 1998 and 2006 respectively, both the Australian populations and average weekly earnings have increased. The statement of compatibility states it is timely to increase the figures at this stage 'to balance a workable and timely electoral environment against the rights of individuals to take part in elections'.

1.8 The UN Human Rights Committee has stated in its General Comment 25 that conditions relating to deposits should be reasonable and not discriminatory, and that if a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy.

1.9 The committee considers that further clarification is required of the considerations taken into account in arriving at the conclusion that the nominated thresholds and deposit amounts are reasonable and do not act as a barrier to candidacy.