



Australian Government

Australian Government response to the
Joint Standing Committee on Electoral Matters report:

*Advisory report on the Referendum (Machinery Provisions)
Amendment Bill 2022*

MAY 2023

Introduction

On 1 December 2022, the Government introduced the *Referendum (Machinery Provisions) Amendment Bill 2022* (the Bill). The Bill proposes to amend the *Referendum (Machinery Provisions) Act 1984* to ensure a consistent voter experience across elections and referendums.

On 13 February 2023, the Joint Standing Committee on Electoral Matters (JSCEM) tabled a report titled *Advisory report on the Referendum (Machinery Provisions) Amendment Bill 2022*.

The Bill passed both Houses on 23 March 2023 and was assented to on 27 March 2023.

The Government's formal response to the recommendations of the Report follows below.

Government Response to the Joint Standing Committee on Electoral Matters report: Advisory report on the Referendum (Machinery Provisions) Amendment Bill 2022

Majority:

#	Recommendation	Government Response
1	<p>The Committee recommends that the Australian Government strengthen the opportunities for enfranchisement and participation in the referendum, including considering possible amendments to the <i>Referendum (Machinery Provisions) Amendment Bill 2022</i>, to allow the Australian Electoral Commission to support increased enrolment and participation, particularly of Aboriginal and Torres Strait Islander people, including in remote communities.</p>	<p>Supported</p> <p>The Government supports the Committee’s recommendation to strengthen opportunities for enfranchisement and participation in the referendum, particularly of Aboriginal and Torres Strait Islander people, including in remote communities.</p> <p>The Government introduced amendments to the <i>Referendum (Machinery Provisions) Amendment Bill 2022</i> to expand the mobile polling period for standalone referendums from 12 days to 19 days, which were supported by the Parliament. Mobile polling is the primary voting mechanism for people living in remote locations. This will support the Australian Electoral Commission (AEC) to conduct voting services in remote parts of Australia over an additional time period, to increase participation and ensure all voters have the chance exercise their right and obligation to vote.</p> <p>The Government has also made the <i>Electoral and Referendum Amendment (Enrolment Enfranchisement) Regulations 2023</i> (the Regulations) to expand the forms of identification a voter is able to produce in order to enrol or update their enrolment to include Medicare numbers and Australian citizenship notice numbers. This will allow those individuals who have previously faced barriers to enrolment as a result of not having the required evidence of identification documents to participate in elections and referendums.</p> <p>The Government will consider further measures to support enfranchisement by JSCEM and will consider further measures following JSCEM’s inquiry into the 2022 federal election.</p>

#	Recommendation	Government Response
2	<p>The Committee recommends that the Australian Government ensure appropriate structures and mechanisms are put in place, including considering possible amendments to the Referendum (Machinery Provisions) Amendment Bill 2022, to ensure:</p> <ul style="list-style-type: none"> • clear, factual and impartial information is made accessible to all voters as part of the referendum process; and • clear, factual and impartial information is provided in appropriate formats for Aboriginal and Torres Strait Islander voters, and people from culturally and linguistically diverse backgrounds. 	<p>Supported- in part</p> <p>The Government supports the Committee’s recommendation to ensure appropriate structures and mechanisms are put in place to allow all voters access to clear, factual and impartial information about the upcoming referendum. The Government also notes the important contribution of non-Government players in providing voters with access to information as part of the referendum process.</p> <p>The accessibility of clear, factual and impartial information is critical to undermining the spread of misinformation, which continues to threaten the integrity of Australian electoral processes. The final Bill was amended to clarify the Government’s capacity to expend money in relation to neutral public civics education and awareness activities. The Government does not, however, intend to fund ‘Yes’ or ‘No’ campaigns.</p> <p>The Government also amended the <i>Referendum (Machinery Provisions) Amendment Bill 2022</i> to remove the temporary suspension of a pamphlet containing arguments for and against a proposal to alter the Constitution. This will mean the Electoral Commissioner will distribute a ‘Yes’ and ‘No’ pamphlet with arguments authorised by parliamentarians to all Australian households where at least one elector resides by no later than 14 days before voting day. The AEC will make translation services available for the pamphlet to ensure information about the referendum is available in appropriate formats for people from culturally and linguistically diverse backgrounds. The extent of the translation services will be influenced by many factors, a number of which are outside the control of the AEC.</p> <p>The Government notes the AEC’s planned communication campaign aims to build awareness and understanding of the purpose and process of referendums. The campaign will, to the extent possible, use tailored approaches for a broad range of audiences including culturally and linguistically diverse voters and Aboriginal and Torres Strait Islander peoples.</p>

#	Recommendation	Government Response
3	Subject to recommendations 1 and 2, the Committee recommends that the <i>Referendum (Machinery Provisions) Amendment Bill 2022</i> be passed.	<p>Supported</p> <p>The Government supports this recommendation. Referendums are an integral part of our democracy and a decision to change our Constitution is a significant national event. The passage of the Bill is an important milestone in the process of delivering the Government’s commitment to holding a referendum in 2023 and the Government notes the amendments passed both Houses.</p> <p>The Government notes the recommendations of JSCEM’s inquiry into the Bill and thanks its members for their continued consideration of matters relating to electoral laws and practices.</p>

Minority:

#	Recommendation	Government Response
1	I support the establishment of an Independent Panel as the ‘structure or mechanism’ recommended in Recommendation 2. Many witnesses (e.g., Appleby, Kildea) suggested an Independent Panel be appointed, to determine the wording of the referendum question, to ensure that clear, factual and impartial information is made accessible and to address misinformation during the lead-up to the referendum.	Noted See response to Recommendation 2 of the Majority Report.

#	Recommendation	Government Response
2	<p>In relation to the referendum and in line with community expectations, I would support a more transparent financial disclosure recommendation, with more immediate (e.g., within 28 days) disclosure of donations above \$1,000. The Bill creates financial disclosure requirements in line with Part XX of the Electoral Act, with a threshold of \$15,200 and delayed annual disclosure. Every State and Territory has lower thresholds and more immediate disclosure than the Commonwealth. While the reduction in disclosure to \$1,000 creates additional obligations on entities that are supporting either campaign, it is appropriate to ensure that voters know who is funding each campaign before they vote.</p>	<p>Noted</p> <p>The Government has asked the JSCEM to consider the potential reforms to political donation laws, including ‘real-time’ disclosure and a reduction in the disclosure threshold to a fixed \$1,000 as a part of its inquiry into the 2022 federal election.</p> <p>The Government will consider any recommendations made by JSCEM following its inquiry in future referendums.</p>

#	Recommendation	Government Response
3	<p>Witnesses shared significant concerns about the potential for misinformation to affect the referendum process. The separate inquiry into the 2022 federal election is considering recommendations to support truth in political advertising. Given proposed timing, establishing a broader truth in political advertising regime before the referendum is unrealistic. Establishing an Independent Panel to fact-check information disseminated in the referendum would partially address this issue within the timing constraints.</p>	<p>Noted</p> <p>The Government notes the recommendation. Misinformation is an ongoing concern and threatens the integrity of Australian electoral processes.</p> <p>The Electoral Integrity Assurance Taskforce (EIAT) is critical to maintaining public trust in Australia’s democratic processes, giving assurance to the Australian Electoral Commissioner that electoral events are unaffected by interference. Addressing misinformation and disinformation that relates to election and referendum processes are central to the operations of EIAT member agencies.</p> <p>The Government has asked JSCEM to consider the potential for ‘truth in political advertising’ laws to enhance the integrity and transparency of the electoral system as part of its inquiry into the 2022 federal election.</p> <p>The Government will consider any recommendations made by JSCEM following its inquiry in future referendums.</p>

Dissenting:

#	Recommendation	Government Response
1	The Coalition supports Recommendation 1 of the Government's report, in particular changes which seek to increase enrolment and participation, particularly of Aboriginal and Torres Strait Islander people, including in remote communities.	See response to Recommendation 1 of the Majority report.
2	That clause 4 of the Bill relating to the suspension of Section 11 of the Act be removed, and the Government to provide an official pamphlet outlining both a 'Yes' and 'No' case on any proposed constitutional amendment.	See response to Recommendation 2 of the Majority Report.

#	Recommendation	Government Response
3	<p>That the Government create official ‘Yes’ and ‘No’ campaign entities to ensure the referendum is conducted as seamlessly as possible whilst ensuring misinformation is minimised. These official campaign entities would be vital in assisting the regulation of the referendum under the proposed donations and foreign interference laws.</p>	<p>Not Supported</p> <p>The Government does not intend to fund a ‘Yes’ and ‘No’ campaign for the forthcoming Voice Referendum.</p> <p>Government will consider any recommendations made by JSCEM on donation disclosure frameworks and foreign interference laws following its inquiry.</p>
4	<p>That the Government adequately fund and resource official campaign bodies and official communications for both ‘Yes’ and ‘No’ campaigns. These respective ‘Yes’ and ‘No’ campaigns should receive equal funding.</p>	<p>Not Supported</p> <p>The Government does not intend to fund a ‘Yes’ and ‘No’ campaign for the forthcoming Voice Referendum.</p>

#	Recommendation	Government Response
5	That the Bill be opposed in its current form, should the above amendments set out in Recommendations 2, 3, and 4 not be successful.	<p>Not Supported</p> <p>The Government does not support the recommendation.</p>