



10 November 2021

Committee Secretary
Joint Standing Committee on Electoral Matters
Department of the House of Representatives
PO Box 6021
CANBERRA ACT 2600

Via email: em@aph.gov.au

Dear Secretary

Thank you for the opportunity to make a submission to the Joint Standing Committee on Electoral Matters (JSCEM) inquiry into the Morrison Government's proposed changes to the Candidate Qualification Checklist (the Qualification Checklist).

Labor supports the implementation of Recommendation 1 of JSCEM's report on the conduct of the 2019 federal election and matters related thereto. To the extent the Government's proposed amendments to the Qualification Checklist go beyond what was previously recommended by JSCEM in December 2020, Labor does not support those changes.

Context

The 2019 election was the first election after the so-called "dual citizenship crisis" during the 45th Parliament. One of the ways in which the Parliament responded to this crisis was by requiring candidates for the 2019 election to complete a qualification checklist. Those documents were then made available on the Australian Electoral Commission's website.

As set out in JSCEM's report on the conduct of the 2019 federal election:

1. the Qualification Checklist "worked well in the 2019 election, with significantly fewer issues arising about the possible credentials of candidates"; and
2. to date, no senator or member of the House of Representatives has been found to be ineligible during the term of this Parliament.

However, JSCEM also acknowledged that some candidates in the 2019 election had failed to disclose information that was "highly relevant to ascertaining a candidate's citizenship status" because the Qualification Checklist did not make the provision of that information mandatory.

Against that background, JSCEM recommended a few minor amendments to the Qualification Checklist:

1. make it mandatory for candidates to provide information about the date and country of birth for the candidate, their parents and grandparents (being information that is “highly relevant to ascertaining a candidate’s citizenship status”);
2. where this information is not known, require a candidate to explain why the information is not known; and
3. where an exact date of birth is not known, allow the candidate to provide the year of birth instead.

The changes recommended by JSCEM strike an appropriate balance between the need to ensure that candidates are eligible to sit in the Parliament, the need to ensure that it is not unduly difficult for candidates – including independents and candidates from minor parties – to nominate for the Senate or the House of Representatives and the personal privacy of the candidate and the candidate’s family members (including spouses and former spouses).

Accordingly, Labor supports JSCEM’s proposed changes to the Qualification Checklist.

The proposed new Qualification Checklist

The Government’s proposed new Qualification Checklist goes beyond what was recommended by JSCEM in its report on the conduct of the 2019 federal election.

Instead of making it mandatory for candidates to provide information that JSCEM found to be “highly relevant to ascertaining a candidate’s citizenship status” (i.e. the date and country of birth for the candidate, their parents and grandparents), which Labor supports, the Government’s new Qualification Checklist would make it mandatory for candidates to provide detailed information about a range of matters irrespective of whether that information has, or could conceivably have, any relevance to a candidate’s citizenship status. This includes personal information about current and former spouses.

For example, it is highly unlikely that the citizenship status of a former spouse will – in and of itself – have any relevance to a candidate’s own citizenship status. And yet the Government’s proposed new Qualification Checklist would require all candidates to disclose information about their former spouses, including in circumstances where there may be very good reasons why a candidate would not wish to contact a former spouse to ascertain that information (including, for example, because of a history of family violence).

The proposed new Qualification Checklist would also require candidates to offer what is effectively a legal opinion on whether a grandparent or spouse (for example) is or was a foreign citizen and the precise period during which foreign citizenship was held, even if that information could not possibly have a bearing on the candidate’s own citizenship status. This was not recommended by JSCEM either.

Conclusion

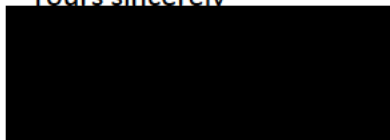
The Government’s proposed new Qualification Checklist would make it more difficult for candidates to nominate for the Senate or the House of Representatives and require the public disclosure of personal information that is irrelevant to a candidate’s eligibility to sit in the Parliament, without any obvious – let alone commensurate – benefit to the public or the electoral process. Instead, it would create a further barrier to entry for candidates which may potentially restrict the diversity of our elected representatives.

It is of concern to Labor that last minute and potentially unnecessary changes to the checklist are occurring while the Morrison Government also seeks to push through voter identification laws in the final sitting

periods of the 46th Parliament. Successful electoral reform should improve the way our democracy functions rather than create barriers to participation.

We suggest that JSCEM reiterate Recommendation 1 of its report on the conduct of the 2019 federal election and reject any changes that to the Qualification Checklist that go beyond the minor improvements outlined in that recommendation.

Yours sincerely



Paul Erickson
National Secretary