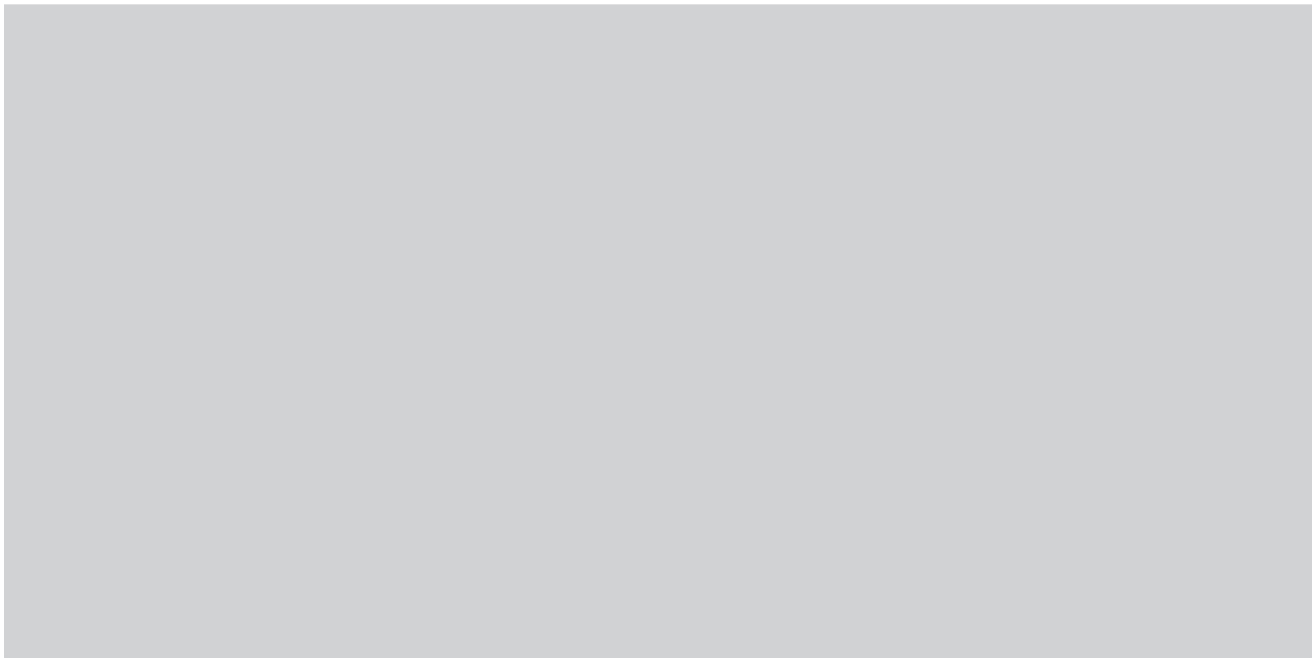


AEC Supplementary Submission to the
Joint Standing Committee on Electoral
Matters
Inquiry into the
NSW Parliamentary Electorates and
Elections Amendment (Automatic
Enrolment) Bill 2009



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1: Introduction

1.1 On 1 December 2009, the Special Minister of State requested the Joint Standing Committee on Electoral Matters (JSCEM) to undertake an inquiry into the New South Wales (NSW) Parliamentary Electorates and Elections (Automatic Enrolment) Bill 2009 (Automatic Enrolment Bill) which was enacted on 14 December 2009.

1.2 The Australian Electoral Commission (AEC) provides this supplementary submission in response to a request from the Inquiry Secretary, dated 4 February 2010, in which he sought further information on those provisions of the *NSW Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009* (the Automatic Enrolment Act) that the AEC recommends for adoption by the Commonwealth.

1.3 The Automatic Enrolment Act amended the *Parliamentary Electorates and Elections Act 1912* so as to:

- a. provide for a form of automatic enrolment of electors on the rolls for State parliamentary and local government elections, and
- b. allow persons eligible to enrol in an electoral district to enrol and cast a provisional vote in an election for that district on polling day, provided the person can produce a driver licence or a New South Wales Photo Card issued by the Roads and Traffic Authority, and
- c. centralise the processing of postal vote applications and allow such applications to be made on-line, and
- d. provide that pre-poll voting places may be operated outside the State (for example, in interstate capital cities and overseas), and
- e. make miscellaneous amendments to improve the conduct of State parliamentary elections under the *Parliamentary Electorates and Elections Act 1912*.

1.4 In respect of dot points a. and b. above, the AEC recommends that similar provisions be incorporated into the *Commonwealth Electoral Act 1918* (the Electoral Act), in line with the discussion below.

1.5 In respect of dot points c. to e. above, the AEC notes that the Automatic Enrolment Act serves to bring elements of the New South Wales legislation into line with existing Commonwealth provisions, or, where relevant, it picks up recommendations made by the JSCEM in its Inquiry into the 2007 federal election and matters related thereto which are supported by the AEC. It is suggested that the JSCEM does not need to address these provisions in its report.

1.6 Further discussion on automatic enrolment and election-day enrolment are contained in the following sections.

2: Automatic enrolment of electors

Why automatic enrolment?

2.1 The AEC supports automatic enrolment of electors based on trusted third party data. The AEC notes that the NSW automatic enrolment provisions are a key part of a package of reforms designed to assist NSW electors to meet their electoral obligations and exercise their electoral franchise.

2.2 The AEC sees considerable merit in introducing into the Electoral Act similar provisions allowing for the automatic enrolment of first time enrolees where the AEC has established confidence in the bona fides of data provided to the AEC for the purpose of enrolment by trusted agencies.

2.3 In the AEC's view, automatic enrolment is one of a range of important tools necessary if we are to arrest the decline in enrolment participation. The AEC considers that automatic enrolment would prove especially valuable in assisting to increase the proportion of younger Australians on the electoral roll, with the 17 to 39 cohort being the least represented group. Enrolment acknowledgement advices sent as a result of those enrolments could also serve as catalysts for further engagement with the electoral process.

2.4 In addition to its potential for increasing electoral participation and ensuring the franchise was available to those entitled to exercise it; automatic enrolment would prove both increasingly cost effective and less resource intensive than current methods of enrolment. This has the potential to allow for the refocussing of some resources toward encouraging an understanding of our electoral system and the benefits of electoral participation through integrated civics education in primary and secondary schools. Further the AEC could make use of otherwise fully utilised resources with a view to increasing rates of formality rates for votes actually cast.

2.5 To ensure integrity, internal operating procedures would ensure that additions to the electoral roll would be made on the basis of third party data only where the AEC has established confidence, firstly, in the integrity of the data to be used and secondly, that the data relates to the person to be enrolled. Should legislation be enacted, the AEC's approach to the implementation of automatic enrolment would be to proceed with an abundance of caution, conservatism and carefully designed business rules that result in roll growth with integrity.

2.6 As a matter of course, the AEC sends enrolment acknowledgement advices to newly enrolled electors and to those for whom enrolment updates are processed. The AEC would continue this practice, with the acknowledgement advice also serving as a secondary enrolment integrity check.

2.7 It is expected that a significant percentage of those who the AEC seeks to enrol automatically, especially those in the 17 to 39 years of age cohort, presently believe that their electoral enrolment has already been effected or would be effected automatically by the AEC, on the basis of their interactions with other Government agencies. Automatic enrolment would serve to make this belief a reality.

2.8 The introduction of automatic enrolment at the Commonwealth level would build on the reform agenda already mapped out by the JSECM and would immediately complement legislation currently in force in New South Wales. The AEC has been advised that legislative change at the Commonwealth level would automatically flow through to Queensland, the Northern Territory and the Australian Capital Territory, where legislation picks up the enrolment provisions of the Electoral Act. Together with NSW this would ensure that automatic enrolment would be available for around 55 per cent of Australian electors.¹ However amendments would be required to the relevant legislation in Victoria, South Australia, Western Australia and Tasmania to bring those states into line.

2.9 In submissions to the *Electoral Reform Green Paper – Strengthening Australia’s Democracy*, comments supporting the introduction of automatic enrolment were lodged by the Chief Minister of the Northern Territory, Electoral Commission of Queensland, Victorian Electoral Commission, Electoral Commission New South Wales, and the Australian Electoral Commission.

2.10 In order to ensure that automatic enrolment did not unintentionally limit the ability of electors to effectively exercise the franchise, it would be necessary at the Commonwealth level to provide safety nets ensuring that those, who for whatever reason might have been enrolled incorrectly, do not suffer penalty for non-voting in respect of an incorrect address, or are prevented from voting at the address where an entitlement actually exists.

2.11 The Electoral Act has historically contained safety nets designed to protect the franchise. These have included reinstatement to the electoral roll and savings provisions which have served to enable otherwise informal votes to be considered formal. Election-day enrolment is a further safety net which could prove valuable in ensuring the franchise and is further discussed below.

¹ At the end of December 2009 there were 13,862,229 electors on the Commonwealth Electoral Roll of which 54.8% (7,592,698) were enrolled in New South Wales, Queensland, the Northern Territory and the Australian Capital Territory.

3: Election day enrolment

A further safety net

3.1 Under the New South Wales package, any person entitled to enrolment, who is in possession of a driver licence card or identity card issued by the Roads and Traffic Authority, and who attends a polling place² for the purposes of voting, but who is not enrolled, will be enrolled and allowed to cast a provisional vote in respect of the address listed on the card. If they are not in possession of one of the above cards, enrolment will not be effected. Provisions for election day enrolment are seen as a part of package of measures facilitating enrolment and delivery of the franchise.

3.2 Taken together, on line update and automatic update of the roll, as already recommended by JSCEM, and automatic enrolment as is now being considered, both of which allow enrolment and evidence of identity checks to be undertaken simultaneously, in combination with traditional roll maintenance activities, will over time, render last-minute enrolment processing redundant. However, until such times as we can be confident that every person who is entitled to be enrolled is enrolled, and that all additions, deletions and amendments to the electoral roll can be made in real time in every circumstance, in advance of election day, the necessity to provide adequate safety nets will remain.

3.3 In much the same way that reinstatements to the electoral roll have served as a safety net in the past, election day enrolment will serve to ensure the franchise for those who require a safety net into the future.

3.4 The AEC recommends that enrolment on election day be permitted at the Commonwealth level for electors seeking to enrol within the State or Territory. The model should allow the AEC to enrol an elector on election day in accordance with existing enrolment provisions and issue a provisional declaration vote on production of satisfactory evidence of identity. The AEC does not consider that proof of address should be required as it is not required of electors enrolling to vote at any other time. However, before the enrolment was confirmed, checks would be made post election day to ensure that the enrolment is for a valid address and the vote would only be admitted to the count in those cases where the AEC was satisfied that an entitlement to vote actually existed.

3.5 Electors who had been removed from the electoral roll in error, or who had been enrolled in error at an address different to that, at which they were entitled, should also be permitted to cast a declaration vote, with that entitlement subject to verification post polling day. Where the AEC was satisfied that an entitlement to vote actually existed, the vote would be included in the count and the electoral roll updated.

² Noting that this includes early voting as well as voting at a polling place on polling day.

3.6 Election day enrolment raises the question of the relevance of a formal close of rolls point. If electors are able to enrol on election day, then they should be able to enrol up until election day. Effectively, the 'close of rolls' becomes the date on which the AEC ceases processing to enable preparation of the lists of voters, whether in hard-copy or electronic form, in time for commencement of voting. Electors enrolling after the cut-off date but before election day would cast a provisional vote which would be verified post election day.

4: Recommendations

4.1 The AEC recommends that the *Commonwealth Electoral Act 1918* be amended to allow the AEC to automatically enrol electors on the basis of data provided by trusted agencies.

4.2 The AEC recommends that the *Commonwealth Electoral Act 1918* be amended to allow for electors to enrol on election day and cast provisional votes on production of suitable evidence of identity to the AEC.

4.3 The AEC recommends that complementary amendments be made to the *Referendum (Machinery Provisions) Act 1984* as appropriate.