

Submission

on the

***Electoral and Referendum Amendment
(Improving Electoral Administration) Bill 2012***

to the

Joint Standing Committee on Electoral Matters

Department of House of Representatives

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1. Introduction

On Thursday, 29 November 2012 the Selection Committee referred *the Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012* to the Joint Standing Committee on Electoral Matters for inquiry and report.

The Committee has invited interested persons and organisations to make submissions by Friday, 21 December 2012.

The Bill would amend the *Commonwealth Electoral Act 1918* and *Referendum (Machinery Provisions) Act 1984* to abolish the requirement for voters lodging a pre-poll vote to sign a declaration that they are entitled to such a vote; to vary the timing for pre-poll voting and for postal voting applications and several other matters. Additionally the Bill would amend the *Taxation Administration Act 1953* to allow the Australian Taxation Office to supply personal details of taxpayers to the Australian Electoral Commission for the purpose of amending the electoral roll or for automatically enrolling persons as voters.

FamilyVoice Australia is a national organisation which, among other things, has a longstanding interest in democracy, the rule of law, constitutionalism and the separation of powers. It is independent of all political parties.

This submission addresses selected provisions of the Bill.

2. Abolishing pre-poll vote certificate for ordinary voters (Schedule 1, Items 12 and 40)

Ordinary pre-poll voting was first used at the 2010 federal election.

According to the Australian Electoral Commission, in that election some “996 875 home division pre-poll votes were cast, representing 28.5 per cent of all early votes cast in the election”.¹ Ordinary pre-poll voting facilitated the counting of additional votes on election night.

Ordinary pre-poll voting at federal elections is available to voters who meet the conditions set out in Schedule 2 of the *Commonwealth Electoral Act 1918*. Essentially the conditions relate to an inability for various justifiable reasons not to be able to vote at a polling booth in the elector’s State or Territory on polling day.

Section 200DH of the *Commonwealth Electoral Act 1918* (and the corresponding section 73CH of the *Referendum (Machinery Provisions) Act 1984*) provides that before an ordinary polling vote is accepted the voter must complete and sign “a pre-poll vote certificate for ordinary voting” in the approved form.

The current approved form is available on the Australian Electoral Commission’s website.² It is a very simple form requiring surname, given name(s) and date of birth along with a signature to the following declaration:

I declare that:

- *I am entitled to a pre-poll vote, and*
- *the information I have given on this form is complete and correct.*

The majority of the Joint Standing Committee on Electoral Matters in its report on the 2010 federal election endorsed the Australian Electoral Commission's view that "*the practice of requiring electors to complete and sign a declaration when casting ordinary votes was an unnecessary step*" and supported the suggestion "*that removing this requirement could potentially speed up the issuing process*".³

The majority recommended that "the requirement at section 200DH of the *Commonwealth Electoral Act 1918* for an applicant for a pre-poll ordinary vote to complete and sign a certificate be repealed".⁴

However, Opposition members in their dissenting report noted that:

... section 200DH of the Commonwealth Electoral Act 1918 being repealed will increase the likelihood of voter fraud and threaten the integrity of the Electoral roll. Providing a signature when placing a pre-poll vote is not an onerous responsibility for the elector and these Committee members believe there is not only no reason to repeal this section of the Electoral Act but doing so could lead to an increase in fraudulent voting.

Pre-poll ordinary voting has so far only been used at one federal election so it is premature to vary the procedures without good reason. The Australian Electoral Commission's view that requiring a voter to sign a declaration that they are entitled to a pre-poll vote is "unnecessary" is not persuasive. Dispensing with the requirement for pre-poll voters to sign a certificate confirming their entitlement to a pre-poll vote, could encourage other voters to misuse this option for trivial reasons, such as avoiding queues on polling day.

Early voting in various forms is a useful means of maximising the vote from those who really cannot vote on polling day. However, it is not in the overall interest of the democratic process to unnecessarily increase the percentage of voters who vote early before an election campaign has run its full course.

Recommendation 1:

In order to minimise the opportunity for fraud and to preserve the integrity of the electoral roll, the requirement for voters making a pre-poll ordinary vote to sign a declaration that they are entitled to make such a vote should be retained in both the Commonwealth Electoral Act 1918 and Referendum (Machinery Provisions) Act 1984. For this reason, items 12 and 40 and consequential amendments should be removed from the Bill.

3. Pre-poll applications: timing (Schedule 1, items 6, 7, 33 and 34)

The current provisions allow for applications for pre-poll voting to be made as early as the second day after nominations are declared for a federal election involving a Senate election or on the day after nominations are declared for a House of Representatives only election.

This timetable is impractical as it does not allow sufficient time for the printing of ballot papers. The Bill would amend the provisions to postpone applications until four days after nominations are declared.

Election timetables can vary such that the period between the declaration of nominations and polling day can be as short as 22 days or as long as 30 days.⁵

In its review of the 2010 election, the Joint Standing Committee on Electoral Matters recommended that the *Commonwealth Electoral Act 1918* be amended to provide that an application for a pre-poll vote cannot be made more than 19 days before polling day.⁶

The Opposition members in their dissenting report preferred amending the Act so that an application for a pre-poll vote cannot be made more than 12 days before polling day. They noted that “*allowing pre-poll voting for 19 days prior to Election Day takes the focus of polling day itself, which is where the overwhelming majority of votes should be cast.*”⁷

The amendments in items 6 and 7 of Schedule 2 would result in an application for a pre-poll vote being able to be made as early as 26 days before an election in the case of the longest possible election timetable.

The election timetable allows time for all candidates and parties to put their case to the voters. Measures which result in a larger and larger percentage of voters voting well before polling day and the conclusion of the election campaign period are not desirable as they reduce the opportunity for candidates and parties to persuade voters to support them.

The Opposition recommendation that applications for a pre-poll vote open no sooner than 12 days prior to polling day is appropriate.

Recommendation 2:

Items 6, 7, 33 and 34 of Schedule 1 of the Bill should be amended so as to provide that applications for pre-poll voting may be made no earlier than 12 days before polling day for federal elections and for referendums.

4. Australian Taxation Office data and the electoral roll (Schedule 2, item 53)

Item 53 of Schedule 1 of the Bill would amend the *Taxation Administration Act 1953* to allow the Australian Taxation Office to provide name and address data of taxpayers to the Australian Electoral Commission for the purposes of automatic enrolment of a person apparently not on the electoral roll or change of address for a person already on the roll.

Automatic enrolment and change of address were introduced into the *Commonwealth Electoral Act 1918* by the *Electoral and Referendum Amendment (Protecting Elector Participation) Act 2012* which came into effect on 25 July 2012.

Opposition members in their dissenting report on the 2010 federal election raised several valid concerns about automatic enrolment using data collected by other government agencies for unrelated purposes, including:

- The findings of 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*, 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; and 62 per cent of deceased clients were not recorded as deceased in a sample match.
- The current ‘paper trail’ that sees electors initiate enrolment with a signed form provides a unique security feature to address any questions regarding roll integrity. The placement of people on the roll automatically will undermine this important element of roll integrity.

- Given the relatively light identification requirements present in the Australian electoral system, removing this security feature only weakens one of the few critical protections for the integrity of the roll and its policing.⁸

Additionally there are broader privacy concerns about data collected by a government agency for one purpose – taxation – being used for another purpose – enrolment as an elector. There is no inherent connection between these two purposes.

Given the evidence cited above about widespread data errors or confusion in data held by the Australian Taxation Office the potential for corrupting the electoral roll with incorrect data is not negligible.

Recommendation 3:

Since it is not appropriate to use data from the Australian Taxation Office for the purpose of automatic enrolment or address changes on the electoral roll, Item 53 of Schedule 1 of the Bill should be removed.

5. Endnotes

1. Joint Standing Committee on Electoral Matters, *The 2010 Federal Election : Report on the conduct of the election and related matters*, p 47:
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/ect10/report/final%20report.pdf
2. http://www.aec.gov.au/About_AEC/cea-notices/files/2010/ef-10-gazettal.pdf
3. Joint Standing Committee on Electoral Matters, *The 2010 Federal Election : Report on the conduct of the election and related matters*, p 48:
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/ect10/report/final%20report.pdf
4. *Ibid.*, recommendation 10 on p 50.
5. See table at: http://aec.gov.au/Elections/referendums/Referendum_Dates_and_Results.htm
6. Joint Standing Committee on Electoral Matters, *The 2010 Federal Election : Report on the conduct of the election and related matters*, Recommendation 11 on p 50:
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/ect10/report/final%20report.pdf
7. *Ibid.*, p 188.
8. *Ibid.*, p 183-184.