

Introduction

Referral of the Bill

- 1.1 On 29 November 2012 the Selection Committee referred the Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012 (the Bill) to the Joint Standing Committee on Electoral Matters (the committee) for inquiry and report.
- 1.2 The Bill was introduced into the House of Representatives on the same day by the Minister for Defence, the Hon Stephen Smith MP, on behalf of the Special Minister of State, the Hon Gary Gray AO MP.
- 1.3 The Selection Committee outlined the following reasons for referral:
REASONS FOR REFERRAL/PRINCIPAL ISSUES FOR
CONSIDERATION:
To further scrutinise the Bill to ensure consideration is given to any unintended consequences.¹

Overview and purpose of the Bill

- 1.4 The Bill is described in the Explanatory Memorandum (EM) as implementing the Government's response to recommendations 3, 9, 10, 11, 15, 29 and 30 of the committee's report entitled *The 2010 Federal Election: Report on the conduct of the election and related matters*.²

1 House of Representatives Selection Committee, *Report No. 73*, 29 November 2012, p. 4.

2 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [3].

1.5 These recommendations are:

■ **Recommendation 3**

The Committee recommends that relevant legislation governing the protection of personal data collected by the Australian Taxation Office (ATO), which would prevent the ATO from providing enrolment relevant data to the Australian Electoral Commission (AEC), be amended to allow such data to be shared with the AEC for the purposes of facilitating enrolment.

■ **Recommendation 9 (unanimous)**

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended, wherever appropriate, to specifically provide that a ballot box containing votes cast by electors may not be opened before the close of polling other than in accordance with the relevant provisions of the Act.

■ **Recommendation 10**

The Committee recommends 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*Commonwealth Electoral Act 1918* for an applicant for a pre-poll ordinary vote to complete and sign a certificate be repealed.

■ **Recommendation 11**

The Committee recommends that section 200D of the *Commonwealth Electoral Act 1918* be amended to provide that an application for a prepoll vote cannot be made before the Monday, 19 days before polling day.

■ **Recommendation 15 (unanimous)**

The Committee recommends that subsection 184(5), and any other relevant provisions, of the *Commonwealth Electoral Act 1918* be amended to provide that the deadline for the receipt of postal vote applications be 6 pm on the Wednesday, three days before polling day.

■ **Recommendation 29 (unanimous)**

The Committee recommends that section 72, and any other relevant sections, of the *Commonwealth Electoral Act 1918* be amended to provide that, where an augmented Electoral Commission has formed an opinion that its proposed redistribution is significantly different to the Redistribution Committee proposal, a further fixed period be provided during which the actions required by subsection 72(13) of the Act are to be undertaken.

■ **Recommendation 30 (unanimous)**

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that, where a further fixed period is provided during which the actions required by subsection 72(13) of the Act are to be undertaken, the number of days specified in subsection 72(2) of the Act also be increased by the same number of days provided for in the further fixed period.³

1.6 The Bill amends the *Commonwealth Electoral Act 1918* (the Electoral Act), the *Referendum (Machinery Provisions) Act 1984* (the Referendum Act), and the *Taxation Administration Act 1953* (the Taxation Administration Act).⁴

1.7 The Bill contains provisions that:

- set out the procedures to be followed when a ballot-box is opened prematurely, that is, before the close of the poll, other than in accordance with the relevant provisions of the Electoral Act and Referendum Act;
- require ballot papers included in a ballot-box that is opened prematurely to be excluded from scrutiny;
- remove the requirement under the Electoral Act and Referendum Act for an applicant for a pre-poll ordinary vote to complete and sign a certificate;
- provide that pre-poll voting cannot commence earlier than 4 days after the date fixed for declaration of nominations for any type of election or by-election;
- brings forward the deadline for applications for postal votes by one day from the Thursday before polling day to the Wednesday before polling day;
- provide for further fixed periods of time to be provided to the augmented Electoral Commission (as defined in section 70 of the Electoral Act) to complete its inquiries into objections against proposed redistribution of electoral boundaries;
- amend the Taxation Administration Act to allow the Commissioner of Taxation and other taxation officers to provide some forms of taxpayer information to the Australian Electoral Commission for the purposes of administering the Electoral Act and Referendum Act; and
- make a number of related minor and technical amendments.⁵

3 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, pp. xx-xxvi.

4 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [2].

- 1.8 In his second reading speech, the Minister stated that the Bill ‘will substantially improve the interactions that Australians have with elections and referendums’.⁶
- 1.9 The EM notes that ‘costs associated with implementation of the measures contained in this Bill will be absorbed by the Australian Electoral Commission from existing resourcing’.⁷
- 1.10 The EM also incorporates a statement of compatibility with human rights that concludes:
- The Bill is compatible with human rights because it does not limit the right to vote contained in Article 25 of the ICCPR. To the extent that it contains provisions that indirectly limit this right (provisions dealing with the ballot papers), those provisions are nevertheless reasonable for the purposes of paragraph 10 of General Comment 25, on the basis that they are necessary to ensure the integrity of the voting process and will only apply in very limited circumstances. The Bill does not limit the right to privacy contained in Article 17 of the ICCPR. However, to the extent that they limit the right to privacy, those limitations are not arbitrary or unlawful. They are reasonable, necessary and proportionate to achieving the legitimate aim of enabling the Electoral Commissioner to directly enrol a person and update a person’s enrolment.⁸
- 1.11 Schedules 1 and 2 of the Bill are each in two parts. Part 1 of each schedule contains the amendments and part 2 contains the application provisions for these amendments. Schedule 1 contains the main provisions of the Bill except for the postal voting amendments which are in Schedule 2.

Premature opening of a ballot box

- 1.12 The Bill sets out new procedures to be followed if ballot boxes are opened before the close of the poll, other than in accordance with the Electoral Act.

5 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [2].

6 The Hon Stephen Smith MP, Minister for Defence and Deputy Leader of the House, *House of Representatives Hansard*, 29 November 2012, p. 6.

7 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [2].

8 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [6].

- 1.13 Item 24 of the Bill inserts a provision (section 238B) before section 239. Under section 238B, an officer who becomes aware of an unauthorised opening of a ballot box will seal the ballots in a parcel to give to the Divisional Returning Officer (DRO). None of these sealed ballots will be counted. Item 32 inserts an equivalent provision (section 41AB) before section 41A of the Referendum Act.
- 1.14 Consequential and other technical amendments to the Electoral Act are made by items 25 and 26 and to the Referendum Act by items 49 and 50. These new procedures will also apply to a poll taken in Antarctica.
- 1.15 At the 2010 federal election, ballot boxes containing pre-poll ordinary votes were opened prematurely at pre-poll voting centres (PPVCs) at Oaklands Park in the division of Boothby (SA) and at Blackwater and Emerald in the division of Flynn (Qld).⁹
- 1.16 The AEC became aware of this breach shortly after polling day and issued media releases declaring the seriousness of the matter. The AEC engaged the services of a former Electoral Commissioner, Mr Bill Gray AM, to undertake an urgent examination of the facts surrounding each incident and to report his findings and recommendations.¹⁰
- 1.17 In his report, which is provided at Appendix C, Mr Gray concluded that the incidents were polling official errors, not tampering, and therefore recommended:
- That the training materials and working manuals for the OIC [Officer in Charge] of a PPVC be reviewed with a view to highlighting the necessity to ensure that all procedures and practices are consistent with the requirements of the Electoral Act. In particular, the need to ensure the integrity of the ballot papers and ballot boxes should be given special prominence in training materials and in working manuals used at a PPVC.
 - That a highly visible stick-on label be attached to each ballot box used in a PPVC at the time it is first sealed (perhaps adjacent to each side seal), that makes clear that the ballot box is not, on any account, to be opened.
 - That the record of ballot boxes and security seals form be routinely examined by divisional staff either when visiting a PPVC or by means of a fax or scanned copy in relation to PPVCs located in country

9 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 46.

10 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 46.

regions. This practice should be included in the operating manuals for DROs and their staff.¹¹

- 1.18 In its report on the 2010 federal election, the committee notes that these recommendations were supported by the Liberal Party of Australia and the Australian Labor Party stating:

While submitters were troubled that the incidents had occurred, most were of the view that the AEC took appropriate steps to ensure that the events were reported in a transparent manner and that prompt action was taken to investigate and address the causes.¹²

- 1.19 In its submission to the 2010 federal election inquiry, the AEC advised that the three person Electoral Commission met formally and accepted all three recommendations in the Gray report. The AEC recommended:

...that the Commonwealth Electoral Act and the *Referendum (Machinery Provisions) Act 1984* should be amended to specifically provide that a ballot box may not be opened before the close of polling other than in accordance with the provisions of the Commonwealth Electoral Act, and that a savings provision in the event of an official error be included.¹³

- 1.20 The committee agreed in its 2010 federal election report that the Electoral and Referendum Acts should be amended so that a ballot box may not be opened before the poll closes (Recommendation 9). The committee did not agree however that a savings provision is necessary stating that '...the AEC must ensure that circumstances such as those that occurred in Boothby and Flynn do not reoccur.'¹⁴

Pre-poll voting arrangements

- 1.21 The Bill provides that applicants for a pre-poll ordinary vote will no longer need to complete and sign a certificate. In his second reading speech, the Minister commented that 'this requirement is not consistent with other forms of ordinary voting which only require a verbal

11 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, pp. 46-47.

12 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 12.

13 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 47.

14 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 49.

- declaration, does not serve a useful purpose and will be omitted by this bill'.¹⁵
- 1.22 This provision of the Bill implements recommendation 10 of the committee's report on the 2010 federal election.¹⁶
- 1.23 Item 12 repeals paragraph 200DH of the Electoral Act requiring an applicant for a pre-poll ordinary vote to complete and sign a certificate. Items 8 to 11, 13 to 23, and 27 and 28 are consequential to item 12. Many of these items replace the term 'issuing officer' with 'voting officer'. This is because the concept of an issuing officer is no longer relevant if certificates are no longer required. An issuing officer is a subset of voting officer.¹⁷
- 1.24 Item 40 repeals section 73CH of the Referendum Act requiring an applicant for a pre-poll ordinary vote to complete and sign a certificate. Items 29 to 31, 35 to 39, 41 to 48 and 51 and 52 are consequential to item 40, including the substitution of 'issuing officer' for 'voting officer'.¹⁸
- 1.25 The 2010 federal election was the first to have pre-poll ordinary voting. The committee notes in its report on the 2010 election that despite the mishandling of pre-poll votes in Boothby and Flynn, pre-poll ordinary voting proceeded without incident in all other locations.¹⁹
- 1.26 In its submission to the 2010 federal election inquiry, the AEC notes the overall success of pre-poll ordinary voting and that 996 875 home division pre-poll votes were cast in 2010, representing 28.5 per cent of all early votes in this election.²⁰
- 1.27 The AEC further submitted to the 2010 federal election inquiry that including those home division pre-poll votes cast as ordinary votes, it counted more than 11 million votes on polling night, which is around one million more votes than were counted on polling night at the 2007 federal election.²¹

15 The Hon Stephen Smith MP, Minister for Defence and Deputy Leader of the House, *House of Representatives Hansard*, 29 November 2012, p. 6.

16 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 50.

17 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [9].

18 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [13].

19 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 48.

20 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 47.

21 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 48.

- 1.28 The committee comments in its 2010 federal election report that:
- Issuing pre-poll votes as ordinary votes and counting them on polling night removes the need for the votes to be placed in envelopes and transported to the divisional offices. Further, it takes away the requirement for them to be put through time consuming preliminary scrutiny procedures, thus speeding up the count and allowing more resources to be devoted to other tasks.²²
- 1.29 The Liberal Party of Australia welcomed the new pre-poll arrangements which allowed pre-poll votes cast in their home division to be counted on election night. The Liberal Party stated:
- It is undoubtedly advantageous that a significant number of votes are able to be included in the results on the night. Our scrutineers confirmed that, on the whole, the count of pre-poll votes proceeded smoothly and without disruption to the count of ordinary votes.²³
- 1.30 The AEC submitted to the 2010 federal election inquiry that the practice of requiring electors to complete and sign a declaration when casting ordinary votes was an unnecessary step. It suggested that removing this requirement could potentially speed up the issuing process. The AEC also noted that written declarations are no longer required in a number of state and territory jurisdictions, with no issues of integrity having been reported.²⁴
- 1.31 In making recommendation 10 in its majority report on the 2010 federal election, the committee notes:
- ... the obvious success of the move to issuing pre-poll ordinary votes, and is confident that there is no justifiable reason for retaining the written declaration for pre-poll votes issued as ordinary votes.²⁵
- 1.32 However the committee acknowledges in relation to the written declaration requirements for pre-poll that:
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22 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 47.

23 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 48.

24 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 48.

25 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 49.

Opposition Committee members feel that section 200DH of the Commonwealth Electoral Act 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 Opposition members believe there is not only no reason to repeal this section of the Commonwealth Electoral Act but doing so could lead to an increase in fraudulent voting. Opposition Committee members therefore reject Recommendation 10.²⁶

- 1.33 The Bill also provides that pre-poll voting cannot commence earlier than four days after the declaration of nominations for an election or by-election.²⁷
- 1.34 In his second reading speech, the Minister stated that:
- Depending on the type of election, whether it is for the House of Representatives or the Senate or both, the act currently provides different days for the commencement of pre-poll voting and very minimal times are provided for the Australian Electoral Commission to print and distribute ballot materials to early voting centres across Australia in time for polling to commence. This is a sensible small amendment which provides a consistent time frame for when pre-poll voting can commence.²⁸
- 1.35 Items 6 and 7 amend subsections 200D(4) and (5) of the Electoral Act to delay the making of pre-poll applications until the fourth day after nominations are declared.²⁹ Items 33 and 34 make equivalent amendments to subsections 73B(4) and (5) of the Referendum Act so that if a referendum is held in conjunction with an election, voting for both will commence at the same time.³⁰
- 1.36 This provision of the Bill implements recommendation 11 of the committee's report on the 2010 federal election in which the committee

26 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 50.

27 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [8].

28 The Hon Stephen Smith MP, Minister for Defence and Deputy Leader of the House, *House of Representatives Hansard*, 29 November 2012, p. 6.

29 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [8].

30 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [13].

concluded that ‘an application for a pre-poll vote should not be made prior to the Monday, 19 days before polling day’.³¹

- 1.37 The AEC recommended changing the timetable for the commencement of pre-poll voting in its submission to the 2010 federal election inquiry. The AEC commented on the logistical difficulties in distributing more than 43 million ballot papers along with Senate group voting ticket booklets. The AEC further submitted that just 24 hours is available after the deadline for the lodgement of group voting tickets before pre-poll voting can commence.³²
- 1.38 The committee states in its 2010 federal election report that it ‘understands the complexities involved in preparing, printing and distributing ballot papers in the short window of opportunity that exists following the deadline for the lodgement of group voting tickets’.³³

Postal voting deadline

- 1.39 The Bill provides that the deadline for the receipt of applications for postal votes will be brought forward by one day to 6 pm on the Wednesday three days before polling day.
- 1.40 This amendment is described in the EM as:
- ...a practical amendment that reflects the reality that there is limited chance of electors receiving postal voting materials that are sent out after the current deadline of 6pm on the Thursday before polling day. The existing deadline is potentially misleading to electors who might expect that as long as they have met the deadline, they will receive their postal voting materials in time for them to be able to cast their vote before the close of polling.³⁴
- 1.41 Item 1 (Schedule 2) amends subsection 184(5) of the Electoral Act by omitting the words ‘Thursday that is 2 days’ and substituting ‘Wednesday that is 3 days’. This item therefore brings forward the deadline for applications for postal votes by one day. Items 2 and 3 are consequential

31 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 50.

32 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 48.

33 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 50.

34 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [16].

- to item 1 and make the same substitution to subsection 188(4) of the Electoral Act.³⁵
- 1.42 Item 4 also substitutes 'Wednesday that is 3 days' in subsection 55(5) of the Referendum Act so that the PVA deadline is also one day earlier in referendum polls. Items 5 and 6 are consequential to item 4 and make the same substitution to subsection 61(2B).³⁶
- 1.43 Postal voting continues to increase at every election. The AEC submitted to the 2010 federal election inquiry that it issued 133 832 more postal votes in 2010 than it did in 2007. The AEC further advised in that submission that for the 2010 election it received 821 836 postal vote applications (PVAs) in addition to 209 426 GPVs registered, totalling 1 031 262 applications in all. The AEC also issued 957 322 postal voting packs (PVPs) in 2010, with another 9 252 PVPs issued at overseas posts.³⁷
- 1.44 In its submission to the 2010 federal election inquiry, the AEC stated:
- Under current arrangements, an application for a postal vote may be made up until 6 pm on the Thursday before polling day. Statistics for the 2010 federal election show that PVPs sent in response to PVAs received on the Thursday before polling have a limited chance of being received by the voter in time for them to complete and return them to the AEC, whereas a far higher percentage of those issued in the 24 hour period prior to that are received back in time to be admitted to the count. The AEC is concerned that by having a deadline so close to polling day electors may be misled into thinking that they will receive their ballot papers in time to complete and return them before the close of polling, when the reality it is that in many cases they will not.³⁸
- 1.45 The AEC submitted to the 2010 federal election inquiry that the cut off time for PVAs should be one day earlier, consistent with the current provision in New South Wales.³⁹ The committee agreed in its 2010 federal election report (Recommendation 15).⁴⁰

35 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, pp. [16-17].

36 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [17].

37 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 54.

38 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 57.

39 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 58.

40 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 62.

- 1.46 Opposition members of the committee expressed reservations, asserting that:

...moving the day for postal vote applications to be received from 6 pm Thursday before polling day to 6 pm Wednesday before polling day will disadvantage postal voters by giving them less time to send in their application. Postal voters are well aware that there can be a delay in processing forms and leaving it late could mean they don't receive their ballot papers on time. However, it is better to focus on the efficiency of the AEC in processing these forms rather than giving electors less time to send in their application. The task of the AEC is to serve voters, not to make their own job easier.⁴¹

- 1.47 These amendments will apply to any elections or referendums for which the writs are issued on or after 1 January 2014.⁴²

Electoral boundary redistributions

- 1.48 The Bill provides that the augmented Electoral Commission will have additional fixed periods to consider further objections to proposed electoral boundary redistributions.⁴³ This is in response to recommendations 29 and 30 of the committee's report on the 2010 federal election.

- 1.49 In its submission to the 2010 federal election inquiry the AEC notes:

...the difficulties encountered delivering a redistribution according to the timetable specified in the Commonwealth Electoral Act, in situations where the proposed redistribution formed by the augmented Electoral Commission differs significantly from that proposed by the Redistribution Committee.⁴⁴

- 1.50 The redistribution process is commenced by a body comprising the Electoral Commissioner, the Australian Electoral Officer for the State and the Surveyor-General and Auditor-General for the State; which under subsection 60(2) of the Electoral Act is described as the Redistribution
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41 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 58.

42 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [17].

43 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, pp. [7-8].

44 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 155.

Committee. Under section 70 the redistribution process is concluded by a body comprising the Redistribution Committee with the addition of the Chairperson of the Electoral Commission and another member of the Electoral Commission. This is the 'augmented Electoral Commission'.⁴⁵

- 1.51 The AEC submitted to the 2010 federal election inquiry that the period during which the augmented Electoral Commission is required to consider objections to the Redistribution Committee's proposed redistribution, hold an inquiry into the objections, form its own proposed redistribution and call for further objections, then hold a further inquiry into the further objections and make a final decision, is not sufficient.⁴⁶
- 1.52 The Electoral Act specifies a maximum of 60 days after the period for comments has ended for the augmented Electoral Commission to complete inquiries into initial and further objections to a redistribution.⁴⁷ The AEC recommended an increase of 42 days to allow the augmented Electoral Commission to adequately discharge its duties.⁴⁸
- 1.53 Initial objections to the Redistribution Committee proposal will still be considered by the augmented Electoral Commission no later than 60 days after the end of the initial comments period.
- 1.54 Items 1-4 of the Bill amend section 72 of the Electoral Act and provide an additional seven days for further objections to be received by the augmented Electoral Commission if it announces a redistribution proposal (in which initial objections are considered) that is 'significantly different' from that of the Redistribution Committee. An additional 14 day period is then provided for consideration of further objections.⁴⁹
- 1.55 The committee agreed in its 2010 federal election report that '...the timetable should be varied according to circumstances'. However, the committee further stated that it:

... has not formed a firm view about how many days should be provided additional to the sixty day period already specified following the end of the comments period on objections. The Committee therefore does not seek to specify the number of days,

45 Australian Electoral Commission (AEC), *Submission 3*, p. 13.

46 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 155.

47 Section 72(2) of the *Commonwealth Electoral Act 1918*.

48 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 155.

49 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, pp. [7-8].

preferring that the additional period be the subject of further discussion between the AEC and the responsible Minister.⁵⁰

Use of taxpayer information

- 1.56 The Bill amends the Taxation Administration Act to allow the Commissioner of Taxation and other taxation officers to provide some forms of taxpayer information to the Australian Electoral Commission for the purposes of administering the Electoral Act and Referendum Act.
- 1.57 In his second reading speech, the Minister said:
- In the 2010 joint standing committee report, the committee made three recommendations related to maintaining the electoral roll. This Bill includes the last of those three measures: a recommendation to allow the Australian Taxation Office to provide enrolment relevant personal information to the Australian Electoral Commission.
- Although it is a small amendment on the face of this Bill, it is another important step in assisting the Australian Electoral Commission to deliver the most inclusive electoral roll and the government is proud to be able to deliver this change.⁵¹
- 1.58 The last of these measures cited by the Minister, which is implemented by the Bill, is Recommendation 3 (see paragraph 1.5).
- 1.59 Item 53 introduces a new exception to section 355-25 of Schedule 1 to the Taxation Administration Act. Subject to a range of specific exceptions to facilitate efficient and effective government administration and law enforcement, this section makes it an offence for taxation officers to record or disclose protected information.⁵²
- 1.60 The new exception ensures that it will not be an offence for a taxation officer to make a record for, or a disclosure to, the Electoral Commissioner if the record or disclosure:
- is of information that the Commissioner of Taxation has obtained since the commencement of this item; and

50 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 157.

51 The Hon Stephen Smith MP, Minister for Defence and Deputy Leader of the House, *House of Representatives Hansard*, 29 November 2012, p. 6.

52 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [15].

- is for the purpose of administering the Electoral Act or the Referendum Act.⁵³
- 1.61 This will allow the ATO to provide otherwise protected information (such as the names and addresses of taxpayers) to the AEC to maintain the veracity of the electoral roll. However, this exception will not apply to information collected by the ATO before this provision comes into effect.
- 1.62 Related to this provision is Recommendation 1 of the 2010 federal election report:
- The Committee recommends that, wherever appropriate, the Commonwealth Electoral Act 1918 should be amended to allow the Australian Electoral Commission (AEC) to directly enrol eligible electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument.⁵⁴
- 1.63 Recommendation 1 was implemented by the *Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012*, which was the subject of inquiry and report by the committee. The recommendation by the committee in that report was that the Bill be passed as proposed.⁵⁵
- 1.64 The *Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012* thus empowers the AEC to directly enrol eligible electors using information about these individuals from another agency. This ability was dependent on the commencement of the *Electoral and Referendum Amendment (Maintaining Address) Bill 2011*. That Bill enabled the Electoral Commissioner to directly update address details using reliable outside information and was also the subject of inquiry by the committee.⁵⁶
- 1.65 In its report on the 2010 federal election, the committee comments on the maintenance of the electoral roll and notes concerns that enrolment participation rates have declined. This is 'despite ongoing efforts on the

53 Explanatory Memorandum, Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. [15].

54 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 36.

55 Joint Standing Committee on Electoral Matters, *Advisory Report on the Electoral and Referendum Amendment (Improving Electoral Participation) Bill 2012*, March 2012, Recommendation 1, p. 42.

56 Joint Standing Committee on Electoral Matters, *Advisory Report on the Electoral and Referendum Amendment (Maintaining Address) Bill 2011*, February 2012.

part of the AEC to arrest it using measures currently permitted under the Commonwealth Electoral Act'.⁵⁷

- 1.66 Recommendations 1, 2 and 3 of the report on the 2010 federal election addressed enrolment decline. The committee stated:

The majority of the Committee accepts that the Commonwealth should adopt a model that allows direct enrolment of electors on the basis of accurate and reliable data provided to the AEC, and the direct update of enrolment details based on that same data wherever required.⁵⁸

- 1.67 In contrast, Opposition members of the committee have taken the view:

...that the only data that should be truly relied upon is an individual elector's enrolment form when they join the roll or update their details. They felt that relying on any other information would dramatically reduce the integrity of the roll.⁵⁹

- 1.68 In making recommendation 3 in its 2010 federal election report, the committee noted:

...the assistance being provided to the AEC by the ATO in notifying people who have advised the ATO of a change of address that they should also update their enrolment details. The Committee is also aware that cooperation beyond that is limited, as data sharing arrangements between the AEC and the ATO are not currently permissible. The Committee believes that if the ATO were permitted to share enrolment relevant data with the AEC it would provide a genuine and lasting improvement to roll maintenance processes and roll integrity.⁶⁰

Other amendments

- 1.69 Item 5 amends subsection 185(3)(b) of the Electoral Act. This provides that silent electors under section 104 of the Electoral Act (ie persons whose addresses have been excluded from the roll for personal or family safety reasons) who are registered general postal voters (GPVs) will have their

57 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 28.

58 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 35.

59 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 35.

60 Joint Standing Committee on Electoral Matters, *The 2010 Federal Election: Report on the conduct of the election and related matters*, 2011, p. 36.

GPV registration automatically carry across with any change of enrolment.⁶¹

- 1.70 This amendment complements provisions in the previous *Electoral and Referendum Amendment (Improving Electoral Procedure) Bill 2012* that silent electors who change address will have their registration as a silent elector automatically carried across with their transfer of enrolment.

Date of effect

- 1.71 The measures in Schedule 1 of the Bill will commence on the day after the Act receives Royal Assent. The measures in Schedule 2 will commence on 1 January 2014.

Objective and conduct of the inquiry

- 1.72 The objective of the inquiry is to investigate the adequacy of the Bill in achieving its policy objectives and, where possible, identify any unintended consequences.
- 1.73 Details of the inquiry were placed on the committee's website. On 6 December 2012 the Committee Chair, Daryl Melham MP, issued a media release announcing the inquiry and seeking submissions. The committee received five submissions. These are listed at Appendix A.
- 1.74 A public hearing was held in Canberra on 4 February 2013. A list of the witnesses who appeared at the hearing are available at Appendix B. Submissions and the transcript of evidence are available on the committee's website at: www.aph.gov.au/em.

61 Explanatory Memorandum, *Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012*, p. [8].

