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Joint Standing Committee on Electoral Matters
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**Inquiry by the Joint Standing Committee on Electoral Matters into the NSW
Parliamentary Electorates and Elections Amendment (Automatic Enrolment)
Bill 2009**

I am pleased to provide the Australian Electoral Commission's submission to the
Committee's Inquiry.

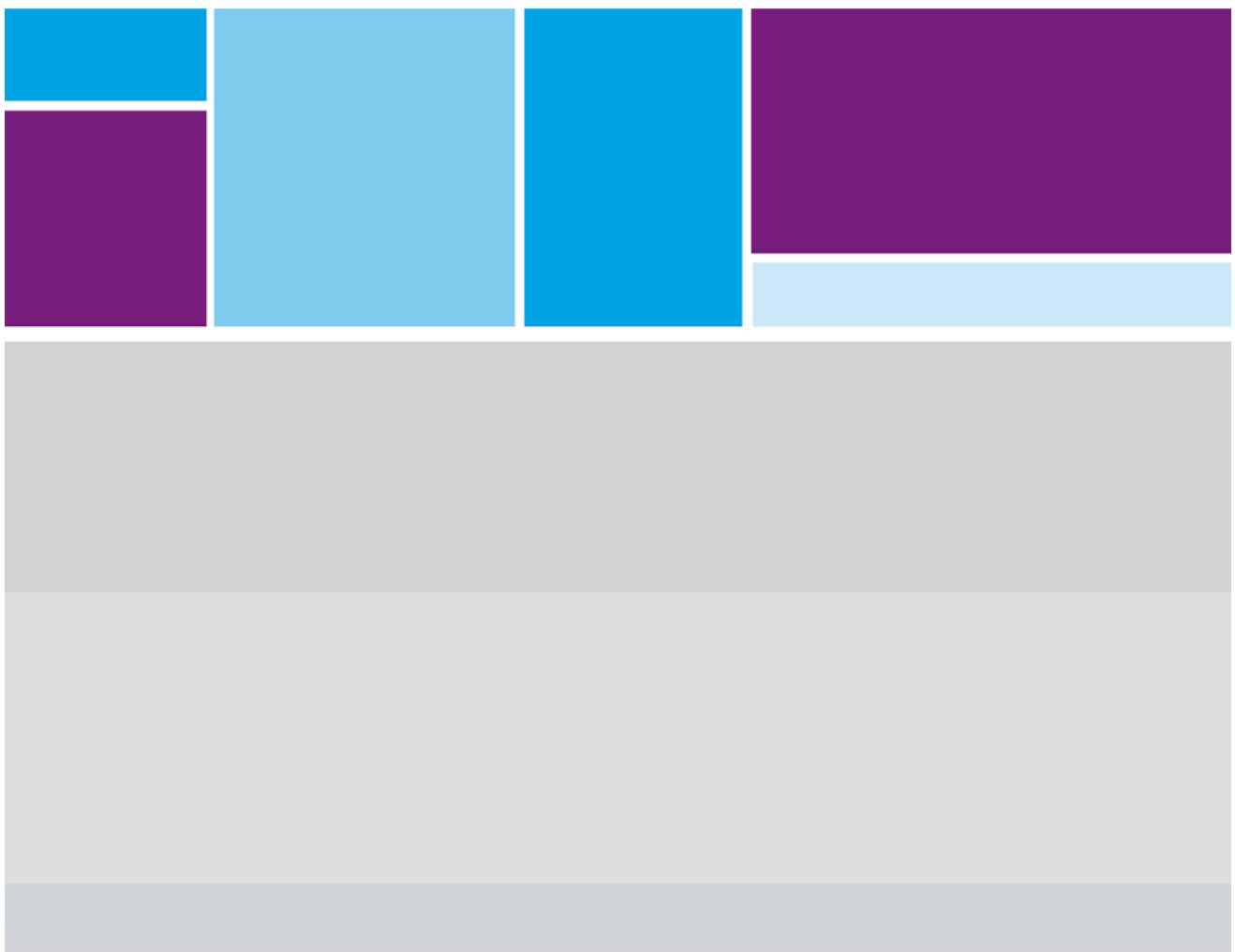
Yours sincerely

Ed Killesteyn
Electoral Commissioner

22 January 2010

AEC 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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AEC

Australian Electoral Commission

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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 Parliamentary Electorates and Elections (Automatic Enrolment) Bill 2009, which was introduced into the NSW Parliament on Thursday 12 November 2009; was passed on 1 December 2009; and received Assent on 14 December 2009.

1.2 The Australian Electoral Commission (AEC) provides this submission in response to an invitation issued by the JSCEM on 11 December 2009. The submission provides the AEC's views on consequences of the Automatic Enrolment Act for the enrolment of NSW residents for the purposes of Commonwealth elections.

1.3 The AEC is strongly supportive of measures which seek to facilitate higher levels of participation in the electoral process. Measures such as automatic enrolment based on third party data, of the type for which provision is made in the NSW legislation, or automatic update of enrolment details based on such data, as recommended by the Joint Standing Committee on Electoral Matters, are positive initiatives from the perspective of facilitating enrolment.

1.4 However, different enrolment regimes at the Commonwealth and State level will lead to roll divergence over time, giving rise to the potential for elector confusion and dissatisfaction.

1.5 First, Commonwealth legislation, at present, only permits the AEC to use third party data to 'encourage' eligible persons to enrol or update their enrolments. Where they fail to do so, the AEC will send follow up correspondence seeking compliance. Where such measures do not result in timely compliance, the AEC is obliged to use such data to initiate objection action to remove from the Commonwealth roll those electors identified as no longer having an entitlement to enrolment at their current enrolled address.

1.6 It is likely that some electors will believe, or expect, that by being enrolled on the NSW roll they will be enrolled for federal elections. The fact that they are not may only become apparent when they are refused a vote at a federal election. The potential for elector confusion is therefore increased, as electors added to the NSW roll, or those who have their electoral details updated by the New South Wales Electoral Commission (NSWEC) using the processes specified in the NSW legislation, will not be similarly added to or updated on the Commonwealth roll, unless they complete and submit to the AEC an enrolment form that is compliant with the Commonwealth legislation. Further, electors who have complied with the NSW legislation or had their enrolment details updated, but have not done so for federal elections, may still be removed by objection from the

Commonwealth roll because of their (possibly) unintentional non-compliance with the Commonwealth regime.

1.7 Secondly, the Automatic Enrolment Act enables electors to enrol up to and on Election Day (a fixed date); with votes being cast as declaration votes, and counted once the voter's entitlement to enrol for NSW elections has been confirmed by the NSWEC.

1.8 In contrast, at federal elections those who attempt to enrol on Election Day will not be enrolled for the election, nor will their votes be counted, unless their absence from the roll is due to an error or mistake by the AEC. This will create quite different entitlement regimes, with the potential for elector confusion and dissatisfaction with federal electoral processes.

1.9 Thirdly, in the absence of parallel measures at the Commonwealth level, there is every prospect that other jurisdictions with which the Commonwealth has joint roll arrangements will seek to implement similar reforms. That may make the ideal of even rudimentary harmonisation of electoral systems even more difficult to achieve.

1.10 We must not underestimate the threat to our democratic model presented by declining enrolment participation. The AEC is of the view that decisive action is required to arrest the evident decline in enrolment participation. While there is no single remedy which will bring about a sustainable and ongoing increase in enrolment participation, we do need to extend the range of tools in our toolset and be flexible enough to change them as necessary in order to keep with the times.

1.11 The NSW Automatic Enrolment Act represents an approach to addressing enrolment decline. The AEC recommends that the Joint Standing Committee give consideration to recommending that the Commonwealth include similar provisions in the Commonwealth Electoral Act to provide a capacity for the AEC to continue to maintain electoral rolls now and into the future using modern methods and processes, whilst maintaining high levels of stakeholder trust in the electoral roll.

2: Electoral rolls and enrolment processes

What are electoral rolls?

2.1 At their simplest, electoral rolls are listings of those who are enrolled to vote in particular areas or places. In most cases electoral rolls are used for the purpose of facilitating elector participation in elections, although over time, they have also been used for other purposes.

2.2 Electoral rolls maintained with a high degree of integrity are fundamental tools for ensuring elections can objectively be considered to be free and fair. The Commonwealth electoral roll is a tool used to ensure that citizens qualified to vote, and only those who are qualified to do so, are able to vote at Commonwealth elections (and, to the extent that it is used for other elections, at those).

2.3 Electoral rolls compiled in advance of an election, with a close of rolls that precedes the election, enable questions about citizens' eligibility to vote to be resolved before the poll. Early resolution of such questions, along with early planning for the conduct of elections allows electors to participate in well planned, orderly elections, and to cast their votes in an atmosphere relatively free of dispute.

2.4 Electoral rolls maintained and provided by independent and impartial electoral authorities, with the legislated authority to add or delete names as a result of information gained through roll maintenance activities, provide a means for ensuring transparent and fair electoral process. Allowing challenges to decisions made by those electoral authorities about who is on the roll ensures that they make reasonable decisions in such a way as to ensure proper and lawful process.

2.5 Similarly, electoral rolls that are well maintained allow electoral authorities to plan for the effective conduct of elections, with information regarding the locations and concentrations of voters being a crucial tool for providing polling facilities where and when they are required by voters.

2.6 Electoral rolls which are systematically made available for inspection by stakeholders with an interest in their accuracy are important tools for ensuring continued public confidence in the integrity of electoral processes.

Electoral roll integrity

2.7 The AEC's General Enrolment Manual describes electoral roll integrity as having the following elements:

- **Entitlement** – the individual meets all legislative qualifications for enrolment on the electoral roll, information provided by the individual is tested to detect and prevent enrolment fraud;
- **Accuracy** – the individual is enrolled for the address at which they are entitled;
- **Completeness** – all individuals who are entitled to enrolment are enrolled;
- **Processing correctness** – information provided by individuals and organisations is entered correctly and completely on the roll, addresses are correctly and completely described, classified and aligned; and
- **Security** – the electoral roll is protected from unauthorised access and tampering

2.8 In Australia, trust in Commonwealth electoral rolls has several sources. First, there is a general trust that enrolment data, once provided to the AEC and in whatever form, will be processed accurately, with no improper interference. Secondly, even without a formal process for public display of a preliminary roll (as is done in many countries), a considerable degree of transparency in the enrolment process is provided by the fact that enrolment data is systematically made available to a range of stakeholders with an interest in its accuracy, in particular, parliamentarians and political parties. Finally, the introduction of proof of identity (POI) requirements has given some observers greater confidence in the accuracy of the data held on the roll.

2.9 When taken together, the elements of electoral roll integrity set out at paragraphs 2.7 and 2.8 above provide a basis for considering whether the current enrolment regime will be sufficient to maintain stakeholders' existing high levels of trust and confidence in the electoral rolls. In order to ensure roll integrity the AEC, as a matter of course, will continue to test every enrolment claim to ensure entitlement; will ensure roll accuracy and processing correctness; and will maintain appropriate security of the electoral roll.

Declining electoral participation

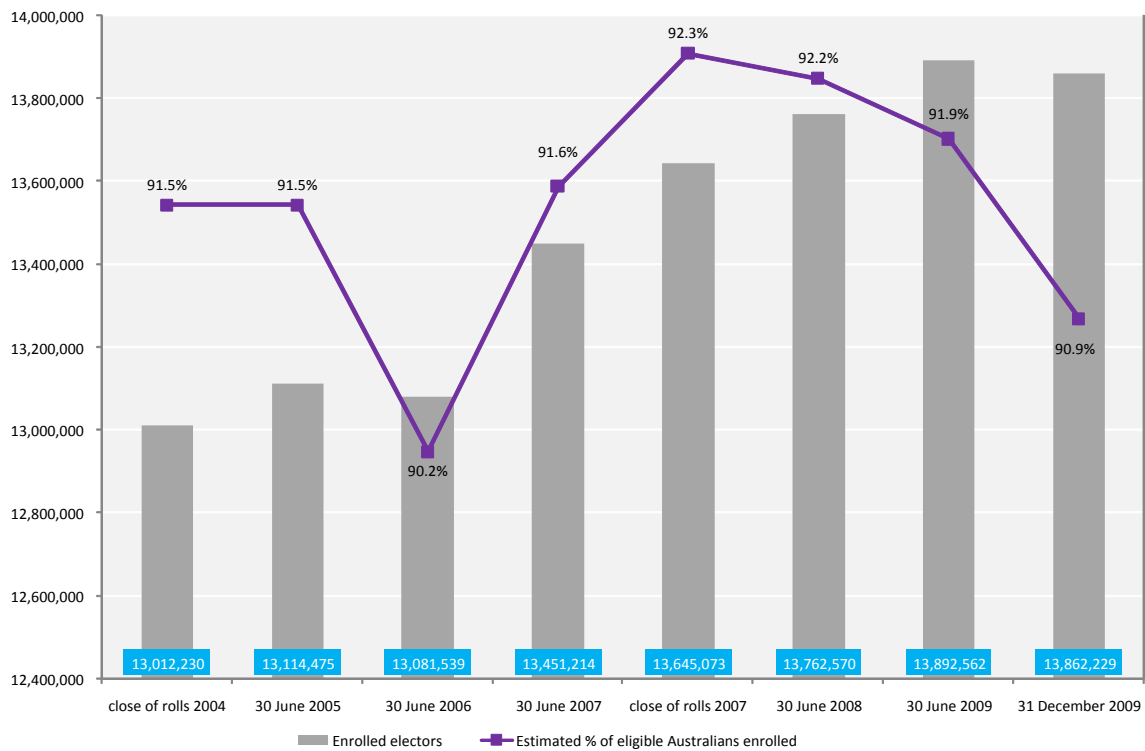
2.10 One element of roll integrity (as defined above) which is becoming increasingly difficult for all electoral authorities to maintain, and which threatens to undermine the confidence of stakeholders, is roll completeness. Electoral roll completeness appears to be increasingly compromised by a sustained trend of decline in the proportion of eligible citizens who are enrolled and/or who maintain their electoral enrolments.

2.11 The AEC views declining enrolment participation rates as a most serious threat to Australia's democratic model. Declining enrolment participation (if left unchecked) has the

potential to erode perceptions about the legitimacy of election results, if, as a consequence of decline, enough people who are qualified to exercise the franchise are denied the opportunity to do so, or are not actively encouraged to do so.

2.12 In order to understand the magnitude of the decline, it is necessary to estimate the number of citizens eligible to enrol and to determine the proportion of those over time who have done so. Figure 2.1 below shows the number of enrolled electors and estimated eligible enrolled population for the period from the close of rolls at the 2004 federal election to the end of December 2009.

Figure 2.1 Number of enrolled electors and estimated eligible enrolled population, close of rolls 2004 to 31 December 2009



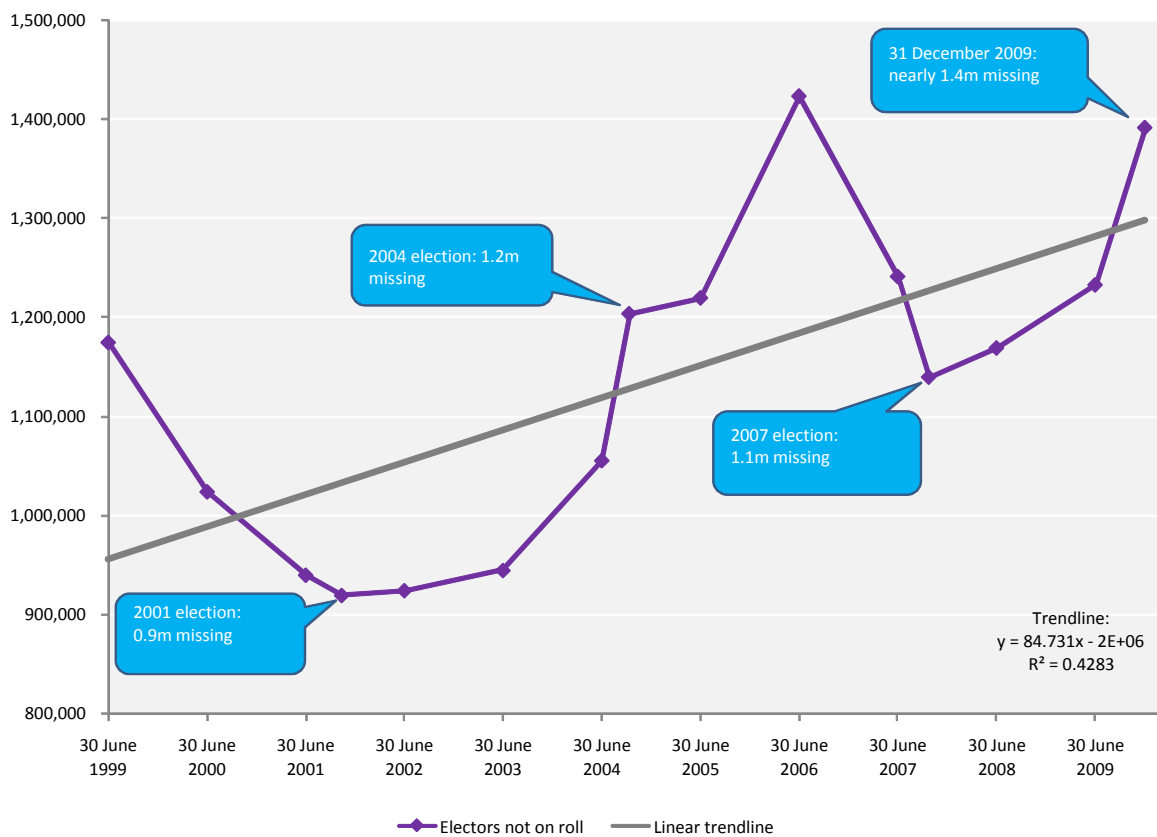
2.13 The number of electors on the Commonwealth electoral roll at the close of rolls for the 2007 federal election was 13,645,073 (estimated as 92.3% of eligible electors) and at 31 December 2009 there were 13,862,229 (estimated as 90.9% of eligible electors) on the roll.

2.14 The significant downward trend in the percentage of enrolled electors as a proportion of the eligible population since the 2007 election is evident in Figure 2.1 above, and has occurred despite routine enrolment stimulation and roll maintenance activities undertaken in this period.

2.15 Whilst the number of enrolled electors generally continues to increase over time, electoral roll growth has not matched growth in the number of persons in the community who are eligible to enrol. The percentage of eligible persons who are enrolled has in fact been in long-term decline.

2.16 Figure 2.2 below shows the decline in participation in another light, indicating that the number of eligible persons who are not on the electoral roll has trended upward from June 1999 to December 2009.

Figure 2.2 Number of eligible persons not on roll, showing trend line, 30 June 1999 to 31 December 2009



2.17 As can be seen above, although federal elections usually generate increases in enrolment (and a corresponding fall in electors not on the roll), this effect does not consistently translate into ongoing enrolment growth. Since 2001 there have been two federal elections (October 2004 and November 2007), but the upward trend in the number of electors not on the roll continues.

2.18 Enrolment decline is not only a Commonwealth issue but one which affects all Australian (and indeed many international) jurisdictions. In the AEC’s view, declining enrolment participation rates, in part caused and perpetuated by enrolment processes

based on antediluvian mechanisms and overly prescriptive legislation, present a most serious threat to Australia's democratic model.

2.19 As at 31 December 2009 an estimated 1.39 million eligible Australians (equivalent to around 15 Commonwealth electoral divisions) are effectively excluded from our democratic processes because they are not on the electoral roll.

Addressing enrolment decline – international commentary

2.20 Enrolment decline is not confined to Australia; it appears to be of concern in many countries and jurisdictions, resulting in calls for measures to increase participation amongst particular cohorts including youth as well as calls in some quarters for an automatic enrolment regime similar to that recently instituted in NSW. Some relevant quotes are reproduced below, and are referenced for ease of use.

2.21 The Pew Centre on the States notes:

“Arizona, Kansas and Washington have implemented registration that can be completed entirely online, and a cadre of other states are in the process of implementing online registration systems in the coming years; Minnesota uses the National Change of Address database to automatically update registrations when voters move; Michigan and Delaware link their registration lists to a voter's motor vehicle file; and Canada utilizes existing government databases to populate and regularly update the rolls with eligible voter information.”¹

2.22 USPIRG, the federation of State Public Interest Research Groups, called for modernisation in a press release dated 21 July 2009:

“The time to modernize America's antiquated and inefficient voter registration system is now...In order to turn first time voters into lifelong voters, we need a registration system that is modern, easy to use, cost-effective and reliable...Young voters need faith in a working elections system, but unfortunately our outdated registration system continues to deny people their right to vote...It's time to make the registration process more accountable, efficient, and based on ongoing database updates, rather than dependent on pen and paper forms.”²

2.23 In 2009, the Brennan Centre for Justice at New York University School of Law, a non-partisan public policy and law institute that focuses on fundamental issues of democracy and justice made this observation regarding voter registration in the US:

“Since the Florida election debacle in 2000 laid bare the way Americans cast and count votes, lawmakers and officials at federal, state, and local

¹ The Pew Centre on the States, *Bringing Elections into the 21st Century: Voter Registration Modernization*, p.4, accessed 13 January 2009 at http://www.pewcenteronthestates.org/uploadedFiles/Voter_Registration_Modernization_Brief_web.pdf.

² Federation of State Public Interest Research Groups, media release, accessed 13 January 2009 at <http://www.uspirg.org/newsroom/voting/voting-news/washington-d.c.-modernizing-voter-registration-systems-to-increase-the-youth-vote>.

levels have made fitful progress toward building a modern and democratically inclusive election system. But the promise of a renewed democratic system has not been fully realized. Too often, when it comes to our election system, policymaking has devolved into partisan wrangling or become bogged down in arcane technicalities.

Today we have the opportunity for a major breakthrough for effective democracy. The 2008 election saw a record number of new voters. New election technology and the implementation of a recent federal law in the states make it possible to overcome the challenges with our voter registration system – the single greatest cause of voting problems in the United States. We can now truly modernize the voter registration process by upgrading to a system of voter registration modernization – a system where all eligible citizens are able to vote because the government has taken the steps to make it possible for them to be on the voter rolls, permanently. Citizens must take responsibility to vote, but government should do its part by clearing away obstacles to their full participation. The current voter registration system – which is governed by a dizzying array of rules and is susceptible to error and manipulation – is the largest source of such obstacles.

In 2001, a task force for a commission chaired by former Presidents Jimmy Carter and Gerald Ford concluded: “The registration laws in force throughout the United States are among the world’s most demanding ... [and are] one reason why voter turnout in the United States is near the bottom of the developed world.” Currently, eligible voters are not placed on electoral rolls unless they first take the initiative to register and satisfy state-imposed requirements for voter registration. State officials must expend substantial resources manually processing each voter registration form, one-by-one, applying rules and procedures that vary from jurisdiction to jurisdiction. Eligible citizens’ voter registrations may be rejected if technical requirements are not met or cancelled without notice. Political operatives may attempt to block certain citizens from the voter rolls by challenging their registrations or seeking to impose new technical hurdles to registration. Once they have registered, voters must start the process all over again virtually every time they move. The result is a system in which many eligible citizens are unable to vote”³.

2.24 In a separate 2009 report entitled *Expanding Democracy: Voter Registration around the World*, the Brennan Centre for Justice published a list showing how 16 countries or jurisdictions deal with voter registration. That list, reproduced overleaf, shows that a number of countries and jurisdictions routinely utilise data from government agencies to maintain central databases of eligible electors.

³ Brennan Centre for Justice, *Voter Registration Modernisation – Policy Summary*, p.1, accessed on 13 January 2009 at http://brennan.3cdn.net/b75f13413388b2fccc_ynm6bn112.pdf

Country / Province	Primary Method(s) of Registering Voters
Argentina*	Local election officials add eligible citizens to the voter rolls from a national list of all citizens maintained by a federal agency.
Australia*	Election officials gather information from other government agencies to identify voting eligible individuals who are unregistered, and mail these individuals registration materials.
Austria	Local election officials automatically generate voter lists from larger population databases maintained at the municipal level. Inclusion on the municipal database is mandatory.
Bahamas	Eligible individuals must initiate their own voter registrations in-person at a local election office.
Belgium*	Local election officials automatically generate voter lists from larger population databases maintained at the municipal level. Inclusion on the municipal database is mandatory.
Belize	Eligible individuals must initiate their own voter registrations in-person at a local election office.
Burundi	Eligible individuals must initiate their own voter registrations in-person at a local election office.
Canada	Election officials use information collected from other government agencies to add eligible citizens to the rolls. If more information is required, election officials mail individuals pre-printed registration forms, with postage-paid return envelopes.
Canada: British Columbia	Election authorities automatically add voters to the rolls from motor vehicle agency records and the federal voter rolls. Voters may also register online and at the polls.
Canada: Ontario	Election authorities automatically add voters to the rolls from provincial property tax lists and the federal voter rolls. Voters may also register at the polls.
Canada: Québec	Election authorities automatically add voters to the rolls when they turn 18 years old, based primarily on information from the provincial health insurance agency. Voters may opt out of registration after receiving notice, and may also register at the polls.
Canada: Saskatchewan	Election officials go door-to-door registering eligible voters before each general election. Voters may also register at the polls.
France	Election officials automatically register 18 year olds using information compiled by the department of defense for military conscription purposes.
Germany	Local election officials automatically generate voter lists from larger population databases maintained at the municipal level. Inclusion on the municipal database is mandatory.
Great Britain	The government seeks out every eligible voter through an annual nationwide “canvass,” during which local officials mail or hand-deliver a form used for voter registration to each household.
Indonesia	The government conducts a nationwide enumeration by hiring temporary workers to go door-to-door, registering every eligible voter.
Mexico	Although most voters are required to register in-person at local election offices, the government deploys mobile units to register voters in rural areas and other places with historically low registration rates.
Peru*	The government registers all eligible voters using information from the national population database.
South Africa	Each voter must register in-person at a local election office or voting station. To facilitate registration, the government hires thousands of temporary workers to register voters out of temporary stations that will be used as polling places.
Sweden	The government automatically registers all eligible voters using information contained in the national population database.

* In these countries, voting is mandatory.

Source: *Expanding Democracy: Voter Registration around the World*, Brennan Centre for Justice, New York University School of Law, p.5

Automatic enrolment – a further tool

2.25 Commonwealth enrolment processes are fundamentally a product of our electoral history: they are based on a requirement that people fill out and submit enrolment forms whenever they acquire a qualification (or move) essentially because that was the only system that could have worked 100 years ago when the system was devised.

2.26 If the AEC were charged with creation of a new electoral enrolment system from scratch today, we would not devise a system predominately dependent on paper-based forms for enrolment and updates. We would adopt current technologies; optimise the benefit of existing, trusted data sets; and develop a range of interfaces designed for elector convenience. Our systems design would ensure we were capable of adapting to emerging technologies and, importantly, we would seek legislation that allowed rapid adjustment to new opportunities for efficient delivery of the franchise.

2.27 However, we are not faced with that opportunity; we must build on the existing system and do so in such a way as to maintain the considerable level of trust (which has been built incrementally over time) in the integrity of electoral rolls, both Commonwealth and State.

2.28 The AEC regards automatic enrolment as only one of a range of tools considered necessary to assist in addressing declining participation. It is not a panacea. Rather it should be considered as an adjunct to other tools and existing processes. This is important as different people have different preferences for how they wish to interact with the AEC and with government. No single approach is likely to deliver sufficiently broad benefits.

2.29 Examination of enrolment participation demographic data suggests that automatic enrolment is likely to have the most impact in relation to youth enrolment. Table 2.1 clearly shows that under-enrolment is most pronounced in the 18 to 24 cohort. Conversely, more mature aged cohorts demonstrate higher electoral participation rates. Accordingly, the application of automatic enrolment provisions in combination with reliable data bases that are populated by youth oriented data are likely to have more success in facilitating increased enrolment than traditional methods.

Table 2.1: Electoral Participation Rates by Age

Age Cohort	Participation Rate
18 - 19	61%
20 - 24	84%
25 - 29	87%
30 - 34	88%
35 - 39	90%
40 - 44	91%
45 - 49	92%
50 - 54	94%
55 - 59	96%
60 - 64	98%
65 - 69	97%
70 - 74	97%
75 - 79	96%
80 - 84	96%
85+	94%

Source: EMIS KPI 1.2 Q2 2009-10

Paper based enrolment vs a data based model – implementation and integrity considerations

2.30 Any move to implement automatic enrolment at the Commonwealth level must be progressed carefully, in measured and cautious steps, to ensure that the high levels of roll integrity which currently exist are maintained.

2.31 It is also important to understand that under an automatic enrolment model, while the mechanisms through which the AEC received enrolment data might vary, the differences would in fact only represent variations in the specific method of receipt of that enrolment data. The handling, verification, authentication and storage of the data received would be the same.

2.32 In particular, regardless of whether data had been received by the AEC:

- hand-written on a form sent to the AEC for processing;
- via an internet submitted form (or indeed via a form faxed, or scanned and sent);
- or
- as a series of data fields in a file from a third party agency,

it would be subject to the same checking processes, and would be entered into the AEC's Roll Management System to form the enrolment record, only after all checks performed concluded that the data was correct and accurate.

2.33 In order to ensure that the roll remains of high integrity, the AEC has conducted a risk assessment of the handling of electronically received enrolment data. This assessment demonstrates that the receipt of data in an electronic format does not, in itself, reduce the integrity of the individual enrolment, and therefore of the electoral roll as a whole. In this process it is important that the AEC has also assessed the risks inherent in the paper-based enrolment process, to enable an effective comparison and contrasting of the models and the risks that each presents.

2.34 The current paper based enrolment model requires an elector to complete an enrolment form, and the AEC then receipts the form, validates the claim for enrolment, and updates the electoral roll. In completing this process the AEC ensures roll integrity through a combination of POI, data matching with existing records, data verification to cross check data entry accuracy, and sample based quality assurance and sample audit fieldwork to identify any systemic integrity issues.

2.35 The use of POI and data matching with existing records in particular serves to identify potential fraudulent enrolments. Australia Post management practices serve to manage risks associated with compromise of enrolment forms in transit to the AEC.

2.36 An automatic enrolment model would allow elector records to be updated based on external data sources. The AEC would receive various sources of external data, and based on matching across data sets and against the existing electoral roll would determine which elector records should be enrolled or updated. Depending on the nature and reliability of the source data sets, specific rules would be applied against each data set to ensure that an appropriate level of confidence existed to update an enrolment record. If that level of confidence was achieved the elector would be enrolled, or an existing elector record would be updated and the elector notified.

2.37 If the level of confidence to automatically enrol or update was not achieved, the AEC would still follow up the elector through other contact methods to determine if the roll should be updated. As with other models, a number of measures would be used to continue to ensure roll integrity through a combination of business rules applied to the incoming data, POI, data matching with existing records, and sample audit fieldwork to identify any systemic integrity issues. The use of business rules against source data, POI and data matching with existing records in particular would serve to identify potential fraudulent enrolment as a result of source data sets with their own integrity issues. Standard encryption and data handling techniques would be employed to protect source data in transit to the AEC.

3: The NSW Parliamentary Electorates and Elections (Automatic Enrolment) Act 2009

A brief outline

3.1 The enactment of the Automatic Enrolment Act 2009 means that NSW will no longer rely on the AEC to prepare and maintain rolls for NSW elections. Rather, the NSW Electoral Commissioner will use enrolment data supplied by the AEC along with other data obtained from NSW State Government agencies to create a comprehensive list of NSW electors from which electoral rolls will be generated for State and local government elections.

3.2 Among other things, the Automatic Enrolment Act allows the NSW Electoral Commissioner to enrol eligible NSW voters, and to update the details of voters who are already enrolled, based on reliable data received from other government agencies. Electors will be notified by the Electoral Commissioner before their details have been added or changed on the NSW roll, and will be given an opportunity to raise concerns before they are enrolled or their details are updated.

3.3 The NSW legislation will also give voters the opportunity, on provision of specified photographic identification, to enrol for the first time, re-enrol or update their enrolment details on polling day and still be able to cast a vote.

3.4 The legislation provides for a range of checks and balances designed to ensure that the NSW roll is up-to-date and accurate, that there is no weakening of integrity, and that elector privacy is balanced against electors' obligation to be enrolled.

Consequences for the enrolment of NSW residents for the purposes of Commonwealth elections

3.5 Unless the *Commonwealth Electoral Act 1918* (the 'Electoral Act') is also amended to add automatic enrolment as a further enrolment tool for federal elections, those NSW voters enrolled automatically by the NSWEC, or whose details are updated by the NSWEC in accordance with the new legislation, will not be enrolled or updated for the purposes of federal elections, unless they complete and submit a Commonwealth compliant enrolment form to the AEC, notwithstanding that they will be enrolled for State and local government elections.

3.6 NSW voters who enrol or update their enrolment using Commonwealth compliant enrolment forms, will continue to be enrolled on the Commonwealth roll by the AEC.

3.7 In order to encourage enrolment under the existing Commonwealth regime, the AEC presently uses an enrolment encouragement methodology known as Continuous Roll Update (CRU). CRU is a broad based methodology encompassing many facets; the most commonly understood being the use of a range of letters designed to encourage enrolment amongst electors in relation to whom the AEC holds or receives data indicating that they reside at a place where they are not currently enrolled. In the absence of any legislative ability to utilise such data to enrol or update enrolment details for those electors, the AEC is restricted to actively encouraging compliance.

3.8 The AEC uses data that it receives from a variety of sources to identify and contact electors in order to encourage them to enrol. Generally speaking, the data allows the AEC to target two categories of electors: potential electors (those not currently enrolled) and changes of address (those enrolled at an address other than their current residence).

3.9 Recent CRU activity in NSW shows that in the case of initial CRU letters encouraging enrolment, the AEC can expect a response rate of 27 per cent.

3.10 Under the Commonwealth Electoral Act, a Divisional Returning Officer (DRO) who has reasonable grounds for believing that an elector does not live at his or her enrolled address and has not lived there for a period of at least one month, is obliged to object to the enrolment of the elector (s114) and to initiate action to remove the elector from the roll.

3.11 Therefore, in cases where no response is received to initial CRU letters and the AEC has reason to believe that the elector is incorrectly enrolled at an old address, the AEC may commence a process to target non-respondents by sending a further letter known as a 'pre-objection letter' in an attempt to negate the need to take objection action. This pre-objection letter provides those electors with a further opportunity to enrol at their new address. Should the AEC receive no response to the pre-objection letter, objection action is initiated.

3.12 Past results from CRU activities in NSW are instructive in forecasting the likely potential for roll divergence between the Commonwealth and NSW rolls.

3.13 Over the last two mailings in which the AEC has sent initial CRU letters (totalling some 199,715 letters) to NSW electors, the response rate was 27 per cent (54,412 responses). After return to sender mail (letters returned unopened to AEC having not reached intended targets) and responses for which no enrolment or enrolment update action was required was taken into account, the AEC processed enrolment activity for

30,115 electors (15 per cent), and marked a further 9,073 electors (4.5 per cent) as requiring objection action.

3.14 In reality, this suggests that if the NSWEC provided the AEC with data for 200,000 electors that they had enrolled using the new legislation, the likely result would be that the AEC would be able to count on around 30,000 electors responding to initial CRU letters encouraging them to enrol on the Commonwealth roll.

3.15 The AEC would then send around 155,000 pre-objection letters to the remaining electors (those identified as requiring objection action and those who did not respond to initial CRU letters), again encouraging them to enrol or update their enrolment.

3.16 Data from the past two pre-objection letter mailings to NSW electors indicates that an active response rate of 34 per cent can be expected, with the result that around a further 52,500 enrolment transactions would be processed, leaving over 100,000 electors not on the Commonwealth roll, or requiring objection action to remove them from the roll.

3.17 The above scenario is based on actual response data and suggests that if the AEC were to use data provided by the NSWEC to target electors automatically enrolled (or updated) by the NSWEC, in the way that we are currently required to do, significant divergence of the rolls would be inevitable over time.

3.18 Differing enrolment requirements will lead to electors being confused regarding their Commonwealth enrolment status, with the probability that a large proportion of those subsequently targeted by the AEC would turn out to have expected that by having enrolled for NSW elections, they had also fulfilled their Commonwealth obligations.

3.19 In addition to the enrolment provisions discussed above, the Automatic Enrolment Act also contains provisions to modernise and improve postal voting, pre-poll voting and mobile polling. Many of these reflect recommendations made by the NSW Joint Standing Committee on Electoral Matters and a number are largely reflective of AEC-supported recommendations in the Commonwealth JSCEM's report on the 2007 federal election (including provisions allowing for online application for postal votes, and for home division pre-poll votes to be cast as ordinary votes).

3.20 The AEC is deeply concerned that in the absence of timely amendments to the Commonwealth Electoral Act, the NSW legislation will impact negatively on the Commonwealth electoral roll; with the problem being magnified should the NSW initiative result in other States and Territories adopting like arrangements, including measures similar to those proposed by the JSCEM following the 2007 federal election.

Joint Roll Arrangements

3.21 Joint Roll Arrangements (JRAs) are bilateral agreements between the Commonwealth and each State/ Territory for the preparation, alteration or revision of the electoral roll for use at Commonwealth, state or territory elections.⁴ JRAs have been utilised since 1908, when the first one was entered into with Tasmania. The remaining States and Territories subsequently entered into JRAs, with arrangements with all States and Territories in place since 1994, the ACT being the last jurisdiction to enter into one.

3.22 As JRAs are high level, perpetual agreements between the Governor-General and the relevant State Governor or Territory Administrator, the Commonwealth Electoral Act also allows for supplementary agreements to a JRA. These supplementary agreements allow the principles of the relationship between the electoral commissions to be established by their respective governments, and the commissions to determine the details of their working relationship and the activities to be performed.

3.23 Two styles of JRA are currently in use. The 'traditional' style is in place for New South Wales, Queensland, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory. Victoria and Western Australia have entered into 'principles based' JRAs, which are more flexible than the traditional style.

3.24 Different arrangements are in place for Victoria and Western Australia to reflect the fact that both maintain separate State electoral rolls independent from the Commonwealth roll. In those States, the AEC is responsible for the day-to-day collection and processing of enrolment forms, and then provides the data to the State electoral authority to allow it to update the State roll. Essentially, this means that separate State and Commonwealth rolls are maintained for both Victoria and Western Australia.

3.25 The primary value to electors of Joint Roll Arrangements (JRAs) is that electors need only complete one joint Commonwealth/State enrolment form to enrol for federal, State/Territory, and local government electoral purposes. With this current joint enrolment procedure, most electors would probably be unaware that they are subject to separate legislation, and that different electoral administration bodies are involved at federal and State/Territory levels.

3.26 AEC staff process completed enrolment forms in the AEC's electronic roll management systems so that federal, state and territory rolls can be kept up-to-date on a daily basis. This single point of data entry and maintenance of rolls for most jurisdictions provides significant personnel and systems efficiencies and economies for both the AEC

⁴ These arrangements are made under section 84 of the Commonwealth Electoral Act. Similar provisions have been in effect since 1905.

and State and Territory Electoral Commissions, and a more seamless experience for the elector.

3.27 The amended NSW Act continues to allow for the NSW Governor to arrange with the Governor-General for either or both of a joint enrolment process and the exchange of information necessary for the preparation, maintenance and revision of rolls. A new or revised JRA prompted by differences between Commonwealth and NSW requirements would mean that electors would need to satisfy two different sets of requirements and undertake different processes to be enfranchised. This will have impacts on the level of elector participation and engagement and may create confusion for NSW electors as to whether they are enrolled for Commonwealth elections.