

The Electoral Roll

- 2.1 The Australian democratic process ideally requires that all qualified electors cast their ballot, at each federal election, for both the House of Representatives and the Senate. So basic is this requirement considered, that for those entitled to do so, enrolling to vote and attending the polls are prescribed by law.¹
- 2.2 The integrity of the electoral system demands that persons not entitled to vote are excluded from voting, and that entitled voters cast ballots only for the appropriate Division, State and Territory.
- 2.3 As it would be practically impossible to verify everyone's entitlement to vote on election day, there is a mechanism for registering this entitlement – the electoral roll. Consequently, to be eligible to vote in a federal election a person not only has to be qualified to do so by virtue of their age and citizenship,² but must also be validly registered on the electoral roll.³
- 2.4 Pursuing the objectives of both maximising voting by those entitled to do so, and ensuring that only entitled people vote in the appropriate electorate and that opportunities for electoral manipulation are minimised, requires careful balance. The electoral roll has to have

1 *Commonwealth Electoral Act 1918*, section 101.

2 *Commonwealth Electoral Act 1918*, section 93. Subsection 93(8) sets out exceptions to this entitlement to vote, relating to persons of unsound mind, persons serving a prison sentence of five years or longer and persons convicted of treason or treachery.

3 See discussion of provisional voters at paragraph 2.124, in relation to those electors who on polling day cannot be found on the electoral roll but who claim to be eligible to vote at the election in question.

both high integrity and a high level of completeness. Public confidence in the electoral process can be eroded by either the fact or the perception that the roll's management and processes permit inappropriate voting or electoral manipulation, or that they unwarrantedly exclude people who are entitled to vote. This needs to be taken into account when examining issues regarding the electoral roll and its administration.

2.5 Submissions made to this inquiry on matters relating to the electoral roll and enrolment processes focussed on four issues:

- that current processes for managing the electoral roll cannot guarantee its integrity, leaving it open to manipulation, and that anecdotally, such manipulation does occur and that therefore the system needs to be changed;
- that while the current enrolment system strikes an acceptable balance between integrity and completeness, much can be done to improve it;
- that enrolment is biased against certain classes of voters obstructing their ability to translate entitlement to vote into enrolment (namely overseas voters, Aboriginal and Torres Strait Islanders and the homeless); and
- that specific enrolment procedures need to be changed, in particular:
 - ⇒ the proof of identity requirements;
 - ⇒ the duration of the close of rolls period; and
 - ⇒ the enrolment of provisional voters.

2.6 The Committee believes that, given appropriate processes and procedures, there is no irreducible tension between maximising eligibility to vote and meeting demands for a roll of high integrity.

2.7 The Committee is of the view that while there is no viable comprehensive alternative to the current enrolment system, there are clearly areas where the system can be positively and productively modified.

2.8 While the Committee was not presented with evidence of any widespread malpractice, it does not believe it is sufficient to assert that the absence of such evidence proves that the integrity of the roll is high. It is fundamental that the electoral system should seek to

achieve the highest degree of integrity and inclusiveness and demonstrate that this is the case.

Enrolment at the 2001 federal election

- 2.9 For the 2001 federal election, over 12.5 million Australians were eligible to vote.⁴ A person was eligible to vote if they were over the age of 18,⁵ were either an Australian citizen or a British subject enrolled before 26 January 1984, and had lodged a valid enrolment form prior to the close of rolls at 8pm, 15 October 2001. Australian citizens living overseas and not on the electoral roll, but who would be eligible if they were in Australia, may apply to register as Eligible Overseas Electors if they have been outside Australia for less than two years. This is subject to two conditions: they must have left Australia for their own or their spouse's career or employment purposes and intend to resume residence in Australia within six years of departing.⁶
- 2.10 Approximately 600,000 more electors were enrolled to vote for the 2001 election than for the 1998 federal election. Enrolments increased in all States and Territories, except Tasmania, where enrolments decreased by 922. Table 2.1 (below) presents enrolment figures for both the 1998 and 2001 federal elections, by State and Territory.

Table 2.1 Enrolments as at the close of rolls, 1998 and 2001

State/Territory	Number of Electors		Difference		State's percentage of national voters
	7 September, 1998	15 October, 2001	n	%	%
New South Wales	4 031 749	4 204 383	+172 634	+4.3	33
Victoria	3 056 887	3 218 746	+161 859	+5.3	25
Queensland	2 177 556	2 319 481	+141 925	+6.5	18
Western Australia	1 140 845	1 200 438	+59 593	+5.2	10
South Australia	1 006 398	1 034 377	+27 979	+2.8	8
Tasmania	329 751	328 829	-922	-0.3	3
Australian Capital Territory	208 684	219 876	+11 192	+5.4	2
Northern Territory	104 755	110 501	+5 746	+5.5	1
National Total	12 056 625	12 636 631	+580 006	+4.8	100

4 AEC, *Electoral Pocketbook*, Commonwealth of Australia, July 2002, p. 37.

5 People may enrol when they turn 17, but they are not eligible to vote until they are 18 years old. *Commonwealth Electoral Act 1918*, section 100.

Source AEC submission 147, p 20.

- 2.11 As noted in chapter one, the electoral roll is not 100 per cent complete. It is estimated that at the 2001 federal election, 550,000 Australians – approximately four per cent of those who were entitled to vote – could not have done so because they were not enrolled.⁷

Integrity and completeness of the electoral roll

- 2.12 The integrity and completeness of the electoral roll has been a contentious issue, examined by the Committee and its predecessors over a number of years, through a number of inquiries.⁸
- 2.13 In this inquiry, once again, many submissions were received from political parties, interested groups and individuals, concerning the appropriateness and reliability of the system used by the AEC for managing the electoral roll and the validity and accuracy of the roll itself.

The enrolment process

- 2.14 The key process whereby the integrity and completeness of the roll is pursued is the continuous roll update process, or CRU.
- 2.15 The CRU process was introduced in 1999 after the AEC terminated its traditional ‘habitation reviews’; that is, nationwide doorknocks held at least once every two years to check that people were correctly enrolled.
- 2.16 Increasing population mobility, rising costs and the difficulties encountered in conducting the habitation reviews, together with the

6 *Commonwealth Electoral Act 1918*, section 94A.

7 Submission (AEC, no. 147), p. 20.

8 See previous reports by the Joint Standing Committee on Electoral Matters: *The Integrity of the Electoral Roll: Review of ANAO Report No.42, 2001-2002*, (October 2002); *User Friendly, Not Abuser Friendly: Report of the Inquiry into the Integrity of the Electoral Roll* (May 2001); *The 1998 Federal Election* (June 2000); *The 1996 Federal Election* (June 1997); *The 1993 Federal Election* (November 1994); *The Conduct of Elections: New Boundaries for Cooperation* (September 1992); *Aboriginal and Islander Electoral Information Service* (September 1991); *1990 Federal Election* (December 1990); *The 1987 Federal Election* (May 1989); and Joint Select Committee on Electoral Reform, *The Operation During the 1984 General Election of the 1983-84 Amendments to Commonwealth Electoral Legislation* (December 1986); *First Report* (September 1983).

rapid advance of data-matching processes over the previous decade, convinced the AEC to move in 1999 to the new CRU system.

- 2.17 Like the previous roll management system based on habitation reviews, CRU supplements 'autonomous' enrolment and re-enrolment, that is, electors advising the AEC of their enrolment status or applying to enrol either in person at an AEC Divisional Office, or by post.
- 2.18 CRU differs from its predecessor system in that it uses, among other things, regular data-matching processes, rather than static habitation reviews, to update the roll and check it for accuracy, clean it of errors and prompt new applications for enrolment where appropriate.

CRU activities

- 2.19 CRU is the combination of a number of electoral roll activities including:
- data-matching of AEC information against data from external agencies to identify:
 - ⇒ electors who change address;
 - ⇒ new electors (youths coming of age and new citizens); and
 - ⇒ people to be removed from the roll (for example, deceased electors);
 - data-mining conducted on the AEC's computerised 'roll management system' (RMANS) and its in-built 'Address Register' to identify addresses which may need updating;
 - including enrolment forms in mail-outs undertaken by various State and Territory agencies, for example, change of address for motor vehicle licences;
 - a limited number of targeted doorknocks where there has been no response to mail-outs generated by CRU data-matching and data-mining; and
 - AEC attendance at Citizenship ceremonies to encourage new citizens to enrol.⁹
- 2.20 CRU activities instigate a significant proportion of all enrolment forms processed, although the precise figure has varied since the

⁹ AEC, *Annual Report 2000-01*, Commonwealth of Australia, October 2001, pp. 25-27; and *Annual Report 2001-02*, Commonwealth of Australia, September 2002, pp. 26-28.

inception of the CRU in 1999. The AEC's 2001-02 Annual Report stated that during that year, over 2.5 million enrolment forms were processed. Of these, nearly 1.18 million (46.8 per cent) enrolment forms were processed as a result of CRU activities.¹⁰ This compares with approximately 70 per cent of all enrolment activity in the 2000-2001 financial year, and 41 per cent in the 1999-2000 financial year.¹¹

- 2.21 Table 2.2 provides a breakdown of all enrolments processed by the AEC for the 2001-02 financial year. The majority (53.1 per cent) of all enrolment forms processed are those provided to the AEC by individuals, either in person at an AEC Divisional Office, or by mail through Australia Post. A third of enrolment forms (36.6 per cent) are prompted by AEC data-matching activities.

Table 2.2 Enrolment forms processed, 2001-02

Enrolment Activity	Number of enrolments processed	Percentage of all enrolments processed
*Enrolment reminder mailings sent as a result of data-matching and data-mining	920 927	36.6
*State and Territory agencies' activities	187 630	7.5
*Targeted fieldwork	28 232	1.1
*Attendance at Citizenship ceremonies	42 437	1.7
Enrolment by electors at Divisional Offices or by post	1 335 827	53.1
Total	2 515 053	100

Source AEC, *Annual Report 2001-02, Commonwealth of Australia, September 2002, p. 26.*

Note * Denotes CRU activity

CRU data-mining

- 2.22 The most significant new components of CRU are data-mining and data-matching. Where other elements of the CRU, such as attendance at Citizenship ceremonies, have played a major role in the AEC's electoral roll maintenance for some time, data-mining and data-matching are the key innovations.
- 2.23 In 1997, the AEC moved to an address-based enrolment system. Accompanying this change was the inclusion of an Address Register in the AEC's computerised roll management system. This Register identifies each separate address, and lists a range of attributes for each known address including a land use code, occupancy status, an

10 AEC, *Annual Report 2001-02, Commonwealth of Australia, September 2002, p. 26.*

11 AEC, *Annual Report 2000-01, Commonwealth of Australia, October 2001, p. 25;* and *Annual Report 1999-2000, Commonwealth of Australia, September 2000, p. 25.*

enrolment limit, the last review date, and whether the address is 'enrollable', that is valid for enrolment.¹²

2.24 An important component of CRU then, is the examination and updating of this existing AEC data, known as data-mining. The AEC has argued that this kind of 'global-level' analysis is undertaken to 'uncover aberrant data on the roll, which can direct fieldwork in a more cost efficient manner'.¹³ For example, the AEC can identify:

addresses that are incorrectly described or duplicated, those that have a high number of enrolments and/or an abnormally high turnover of electors, and those that have two or more groups of electors resident with different family names. [Data-mining of the] Address Register also makes it less likely that a person can apply for enrolment at a non-existent address or a non-residential address, and ensures that official correspondence, including postal ballot papers, is sent to the correct postal address.¹⁴

2.25 Data-mining primarily uses two RMANS databases:

- the 'vacant address' database (valid addresses where no one is currently enrolled); and
- the 'melimit addresses' database (addresses where the number of electors or the number of surnames enrolled at an address exceeds predetermined limits, usually because electors have moved without updating their enrolment and new electors have moved into that address).¹⁵

2.26 The AEC conducts mail-outs to these addresses and may follow up unanswered letters with doorknocks. The AEC reported that over 300,000 addresses were visited under this program during 2000-01.¹⁶

CRU data-matching

2.27 Another component of CRU activities is data-matching. This is defined as the 'large scale comparison of records or files of personal information, collected or held for different purposes, with a view to

12 AEC submission to the JSCEM: *User Friendly Not Abuser Friendly, Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, p. S509.

13 AEC submission to the JSCEM, *User Friendly Not Abuser Friendly, Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, p. S509.

14 AEC submission to JSCEM *User Friendly Not Abuser Friendly inquiry* (2001), as above.

15 AEC, *Annual Report 2001-02*, Commonwealth of Australia, September 2002, p. 27.

16 AEC, *Annual Report 2000-01*, Commonwealth of Australia, October 2001, p. 26.

identifying matters of interest'.¹⁷ Under CRU, existing (RMANS) data is matched against data provided by Commonwealth and State and Territory agencies.

2.28 The data sources used for CRU data-matching are listed below:

Table 2.3 Data sources used for CRU data-matching

Commonwealth data sources	State/Territory data sources*
Australia Post	Boards of Studies
Centrelink	Fact of death files
Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) citizenship database	Land Administration Motor Transport Authorities Power and water companies Public housing State Revenue Offices Rental Bond Authorities

Source ANAO, Integrity of the Electoral Roll, Audit Report no. 42, 2001-02, p. 44. See also JSCEM 2001. User Friendly, Not Abuser Friendly: Report of the Inquiry into the Integrity of the Electoral Roll, Parliament of Australia, May 2001, pp. 26-27; and AEC Submission no. 200, pp. 3-10.

Note * Not all State and Territory jurisdictions make all of these data sources available; see paragraph 2.43 below.

2.29 Every month, the AEC's Head Office uploads all the data obtained from external agencies (both Commonwealth and State) and runs a computer program which matches the external data with RMANS data, by address. The data-matching program firstly discards all those addresses which show a perfect match between AEC and external data. The program then generates reports for each of the 150 federal Divisions, listing those addresses which show a potential change to the electoral roll.¹⁸ The system generates the appropriate form letter to be sent to each mismatched address record. These letters are sent from Head Office.

2.30 If, for example, the report generated by the data-matching process shows that there may be a new person living at a particular address (as indicated, for instance, by a change-of-address form provided by that elector to Australia Post), the AEC sends a letter and enrolment form to the occupant at the identified address, inviting that person to

17 Office of the Federal Privacy Commissioner, *The use of data-matching in Commonwealth administration – guidelines*. Sydney, Australia, February 1998, p. 3.

18 These reports may be checked by staff in Divisional Offices on the basis that they have the local knowledge to assess the validity of (mis)matches.

update his or her enrolment details. As individuals respond to the letters the roll is updated.¹⁹

- 2.31 However, this kind of CRU mail-out is not necessarily appropriate for all electorates, particularly rural or regional electorates where mail may be difficult to deliver or undeliverable in some areas. For example, CRU mail-outs are not conducted in some areas of the Divisions of Kalgoorlie (in Western Australia), Barker and Grey (in South Australia).²⁰ By way of checking that the roll did not contain the names of deceased electors, for example, in 2001-02 the AEC purchased the national 'Fact of Death File', a compilation of data on deaths from all State and Territory births, deaths and marriages registries and data-matched this file against its RMANS system. This check is now undertaken each quarter.²¹

Direct enrolment

- 2.32 Some long-standing AEC activities are now embraced in CRU. For example, AEC Divisional staff have attended Citizenship ceremonies so as to collect pre-printed enrolment cards and provide advice to new electors.
- 2.33 Other direct enrolment strategies include:
- the provision of enrolment cards and electoral information in results packages sent to final year students in Queensland by the Board of Secondary School Studies;
 - the use of a common change-of-address form for State government transactions; and
 - the Victorian Electoral Commission's practice of sending birthday cards with an enrolment card to all 18 year olds.²²

19 ANAO, *Integrity of the Electoral Roll: Audit Report No. 42, 2001-02*, Commonwealth of Australia, 2002, p. 39.

20 In Kalgoorlie, over one-third of addresses are excluded from CRU mail-outs; in Barker approximately 40 per cent are excluded; and in Grey just under 30 per cent are excluded. AEC correspondence to Committee secretariat, 13 June 2003.

21 AEC, *Annual Report 2001-02*, Commonwealth of Australia, September 2002, p. 25.

22 AEC submission to the JSCEM: *User Friendly Not Abuser Friendly, Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, pp. S511-12. See also pp. 28-29 of the JSCEM report.

- 2.34 The AEC has argued that CRU strategies have ‘yielded considerable benefits in improving roll accuracy’²³ and considers that:

steady and consistent CRU activities are placing people on the electoral roll and keeping them there by reviewing elector movements and targeting addresses that are either vacant or where the number of electors exceeds the expected limit.²⁴

ANAO and previous Committee findings on the Continuous Roll Update program

- 2.35 CRU activities were originally examined in the previous Committee’s report on the integrity of the electoral roll, *User Friendly, not Abuser Friendly: Report of the Inquiry into the Integrity of the Electoral Roll*.²⁵ Pertinently, that report recommended that the AEC:

investigate and report on the financial cost, legal requirements, privacy implications and priorities for upgrading RMANS data-processing and expanding Continuous Roll Updating data-matching.²⁶

- 2.36 When the effectiveness of the CRU program was later examined by the ANAO in Audit Report No. 42 of 2001-02, *Integrity of the Electoral Roll*, the Auditor-General supported this recommendation, noting that while:

the CRU methodology is an effective means of managing the electoral roll, and is capable of providing a roll that is highly accurate, complete and valid, [the process has developed in an ad hoc manner,] without the benefits of strategic planning by the AEC to achieve a consistent national approach and to maximise its effectiveness’.²⁷

- 2.37 The ANAO was particularly concerned that there had only been ‘limited strategic direction and planning to reposition the AEC since its move from habitation reviews to CRU’, noting that co-operation and communication between stakeholders, and in particular, State and Territory electoral authorities required improvement. In this

23 AEC submission to the JSCEM: *User Friendly Not Abuser Friendly, Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, p. S506.

24 AEC, *Annual Report 2001-02*, Commonwealth of Australia, October 2002, p. 24.

25 JSCEM, *User Friendly, not Abuser Friendly: Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001.

26 JSCEM, *User Friendly, not Abuser Friendly: Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, p. 28.

27 ANAO, *Integrity of the Electoral Roll: Audit Report No. 42, 2001-02*, Commonwealth of Australia, 2002, p. 13.

respect, the ANAO concluded that the data used for CRU is not consistent across States and Territories, and stressed the need for the AEC to develop national standards for data used to update the roll, to identify gaps in CRU coverage, and to determine which data are required to address those gaps.²⁸

- 2.38 The ANAO made recommendations specifically directed at improving:
- the consistency of the CRU approach across all States and Territories, so as to achieve national standards and a timetable for national implementation of these standards (ANAO Recommendation 1);
 - the suite of data used by the AEC, so as to maximise the benefits of its data-matching activities in maintaining the electoral roll (ANAO Recommendation 2);
 - the arrangements between the AEC and its State and Territory counterparts for access to relevant data (ANAO Recommendation 3); and
 - the correspondence generated by the data-matching process, including a reference to citizens' legal obligation to enrol to vote (ANAO Recommendation 4).
- 2.39 The ANAO sought to validate the AEC's claims that the electoral roll is accurate and reliable by matching data on the electoral roll against the Medicare database. The ANAO concluded:
- that at the close of roll for the November 2001 election, the roll was over 96 percent accurate. The remaining four percent would require additional investigation to confirm their accuracy.²⁹
- 2.40 The ANAO Report was the subject of an inquiry by this Committee in 2002.³⁰
- 2.41 In that report, the Committee was concerned that the assertion of 96 per cent accuracy by the ANAO was potentially misleading. The Committee reported that:
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28 ANAO, *Integrity of the Electoral Roll: Audit Report No. 42, 2001-02*, Commonwealth of Australia, 2002, p. 13.

29 ANAO, *Integrity of the Electoral Roll: Audit Report No. 42, 2001-02*, Commonwealth of Australia, 2002, pp. 78-79.

30 JSCEM, *The Integrity of the Electoral Roll: Review of ANAO Report No. 42 2001-2002*, Parliament of Australia, October 2002.

In fact the independent data matching [by the ANAO] established only that the Electoral Roll was accurate to 96 percent as to names and dates of birth, that is, as to individuals entitled to be on it. It did not establish that people defined by name and date of birth were correctly enrolled in the State, the Division or at the address at which they resided. The Committee is of the view that, given the AEC's definition of accuracy, the ANAO should have sought to match not only names and birth dates, but also addresses. In the absence of such matching, the ANAO's conclusion of 96 percent accuracy is not proven.³¹

- 2.42 The Committee also noted that 'assertions that the Roll is 96 per cent accurate do not necessarily imply four per cent inaccuracy.'³²
- 2.43 A key deficiency identified by the ANAO in the existing CRU process was that not all State and Territory jurisdictions give the AEC similar sets of data, which could be beneficial in the data-matching process.³³ While the Commonwealth data sources provide national information, the ANAO noted that these are not always as effective as State data sources in identifying electors who change address.³⁴ These State data sources have proven more difficult to access consistently. The ANAO found that only the Fact of Death File was consistently available across all States and Territories.³⁵ The Motor Transport agencies of Victoria,³⁶ Queensland, South Australia, the ACT and the Northern Territory provide data for CRU purposes. However, at the time of the ANAO's inquiry, data from NSW, Tasmania and Western Australia were not provided although access was being sought to Tasmanian and Western Australian data. Similarly, only Victoria and Queensland provide Rental Bond data to the AEC for data-matching purposes.³⁷ Of particular concern is that in the most populous State,

31 JSCEM, *The Integrity of the Electoral Roll: Review of ANAO Report No. 42 2001-2002*, Parliament of Australia, October 2002, p. xiii.

32 JSCEM, *The Integrity of the Electoral Roll* (2002), as above, p. xiii.

33 ANAO, *Integrity of the Electoral Roll: Audit Report No. 42, 2001-02*, Commonwealth of Australia, 2002, pp. 42-44.

34 ANAO, *Integrity of the Electoral Roll: Audit Report No. 42, 2001-02*, Commonwealth of Australia, 2002, pp. 42-43.

35 ANAO, *Integrity of the Electoral Roll* (2002), as above, p. 44.

36 CRU matching and mail-outs with this data source are undertaken by the Victorian Electoral Commission (see ANAO, *Integrity of the Electoral Roll*, as above, p. 44).

37 This inconsistency is significant because these two data sources were identified by the ANAO as being part of an 'optimal suite' of sources (ANAO, *Integrity of the Electoral Roll*, as above, p. 46).

New South Wales, the Fact of Death File is the only State data source available to the AEC for data-matching.³⁸

- 2.44 The ANAO concluded that there was ‘scope for the AEC to improve further the completeness of the roll’.³⁹

Issues raised in submissions and AEC responses

- 2.45 A number of submissions argued that there are deficiencies in the processes for maintaining the electoral roll.
- 2.46 For example, the Festival of Light argued that ‘waving the wand of fancy computer technology does not guarantee the integrity of the roll’. It questioned the accuracy of an electoral roll produced on the basis of data-matching, given that the government agency data used to match AEC enrolment records may not always be accurate or complete itself.⁴⁰ For example, it asserted that ‘many Australians are not yet on social security data sets’.⁴¹
- 2.47 In response, the AEC asserted that CRU is an important tool in managing the roll, given that only around 40 per cent of enrolments processed during 2000-01 were the result of the elector advising the AEC in the first instance.⁴² The AEC also countered questioning of the roll’s accuracy by citing the ANAO’s conclusion that, ‘overall, the Australian electoral roll is one of high integrity, and ... can be relied on for electoral purposes’.⁴³
- 2.48 The Council for the National Interest (Western Australia Committee) commented on the need to ‘amend and improve the Electoral Act’, specifically in relation to the electoral roll, recommending, among other things, that the AEC:
- undertake data-matching with the Australian Bureau of Statistics (ABS) to validate the electoral roll and isolate unregistered inhabitants;
 - undertake biennial habitation surveys to ‘re-check the rolls’; and

38 ANAO, *Integrity of the Electoral Roll* (2002), as above, p. 44.

39 ANAO, *Integrity of the Electoral Roll* (2002), as above, p. 85.

40 Submission (Festival of Light, no. 71), p 2.

41 Submission (Festival of Light, no. 71), p 2.

42 Submission (AEC, no. 174), p. 7.

43 ANAO, *Integrity of the Electoral Roll* (2002), as above, p. 11. See also AEC, submission no. 174, p. 7.

- receive regular advice from State Registrars of Deaths as to names which should be removed from the roll.⁴⁴
- 2.49 In response, the AEC indicated that it does not data-match names or addresses with specific ABS data because section 13 of the *Census and Statistics Act 1905* prohibits the ABS from releasing personal information that might identify the individuals providing the information.⁴⁵
- 2.50 The AEC noted, however, that the ANAO considered that data-matching of non-specific data from the Census would be beneficial in targeting areas for further CRU activity.⁴⁶ The ANAO have suggested that data for Census Collection Districts (which typically contain several hundred electors) be compared with the electoral roll to identify areas of apparent under-enrolment. The AEC made a copy of the electoral roll on census night 2001, so that it could be compared with the data recorded at the same time by the national census.
- 2.51 The ANAO also observed that in 1999 the AEC considered engaging the ABS to evaluate aspects of roll data and suggested that there could be merit in the AEC reviewing this proposal once census data became available.⁴⁷
- 2.52 In relation to the restoration of two-yearly habitation reviews, the AEC viewed these as no longer viable because they were exercises that were:
- highly resource intensive, requiring the employment of thousands of ... officers to visit every habitation in the nation ... [B]ecause of the high mobility of the Australian population, this periodic snapshot of the roll became rapidly dated, particularly around the time of the close of rolls for an election. Further, [these] exercises produced almost 60-70 per cent no-change information every two years. Finally, tensions between the Joint Roll partners arose over when to conduct a [review], with each jurisdiction wanting the [review] as close as possible to their own electoral event.⁴⁸

44 Submission (Council for the National Interest, no. 103), p. 1.

45 Submission (AEC, no. 174), p. 19.

46 Submission (AEC, no.174), p. 19; ANAO, *Integrity of the Electoral Roll* (2002), as above, p. 59.

47 ANAO, *Integrity of the Electoral Roll* (2002), as above, p. 59.

48 Submission (AEC, no. 174), p. 19.

- 2.53 The AEC noted that these reviews were similar in scale to the census⁴⁹ and that targeted doorknocks may be conducted when anomalies appear in the CRU process.⁵⁰
- 2.54 The AEC's response to the Council for the National Interest's recommendation that the AEC receive advice from State registrars of deaths, was that section 108 of the Electoral Act requires all State registrars of births, deaths and marriages to forward to the AEC at the end of each month the details of all registered deaths in that State.⁵¹
- 2.55 The Liberal Party recommended that 'as one part of action to deal with the continuing problems with the integrity of the electoral roll', the AEC be required to mail a personalised letter to every person on the roll at a time no more than 12 months before the likely date of the next general election.⁵² According to the Liberal Party:
- This would be a significant help in cleaning up the roll when all the undelivered letters returned to the AEC are followed up.⁵³
- 2.56 The AEC's response was that such a mail-out, while less costly than the habitation reviews conducted by the AEC prior to the implementation of CRU (estimated at \$5 million rather than \$12 million), would still only capture the movements of the Australian population at a point in time, a snapshot that quickly becomes out-of-date.⁵⁴
- 2.57 The ALP submission highlighted a proposal by the AEC to a previous inquiry – 'direct address change' – as possibly improving the maintenance of the electoral roll.⁵⁵ Direct address change would enable an elector's address to be changed without the elector completing an enrolment form, when the AEC received information from another agency that the elector had advised of a change of address.

49 The 2001 Census of Population and Housing cost \$130,688,000. Australian Bureau of Statistics, *Annual Report 2001-2002*, Commonwealth of Australia, August 2002, p. 168.

50 Submission (AEC, no. 174), p. 19.

51 Submission (AEC, no. 174), p. 20.

52 Submission (Liberal Party of Australia, no. 149), p. 3.

53 Submission (Liberal Party of Australia, no. 149), pp. 3-4.

54 Submission (AEC, no. 174), p. 38.

55 The AEC proposed the 'Direct Address Change' program in its submission to the 2001 JSCEM inquiry *User Friendly Not Abuser Friendly: Report on the Integrity of the Electoral Roll*. See AEC submission no. 26 to that inquiry.

- 2.58 The AEC originally raised the direct address change proposal in the Committee's inquiry into the integrity of the electoral roll, indicating that the process would involve:
- a complete match of all necessary details with two trusted agencies before any enrolment details were changed;
 - a notification that enrolment details would be changed, once the complete match had been achieved. This would be done by posting a card to the elector; and
 - where the posted cards are not delivered, but returned to the AEC, an AEC investigation of the reasons for this. The investigation would determine the next course of action.⁵⁶
- 2.59 The ALP recommended that the Committee request a report from the AEC on the feasibility of implementing the direct address change proposal, including an assessment of cost, security, suitable data sources, privacy, consultative processes, and legislative and regulatory requirements.⁵⁷
- 2.60 The AEC was supportive of the direct address change proposal, as it believed efficiencies could be gained in the processing of enrolments.⁵⁸ In its submission, the AEC noted the potential benefits for elderly and infirm people who move into assisted care facilities. Many of these people find, at election time, that they are not correctly enrolled, and 'find it very stressful to be queried by electoral officials regarding where they may be enrolled'.⁵⁹ The AEC has however conceded that it has not yet identified agencies that could be used as 'trusted agencies' for the purposes of direct address change, and noted that it would be 'cautious' in developing a list of such agencies.⁶⁰
- 2.61 A submission from Mr Brun asserted that the current enrolment system would never produce a totally accurate electoral roll, and proposed a new system which would create the electoral roll after an election was called by data-matching government records (for example, Medicare, Centrelink, and DIMIA records). After production

56 Submission (AEC, no. 198), p. 14.

57 Submission (Australian Labor Party, no. 153), p. 10.

58 Submission (AEC, no. 174), pp. 47-48.

59 Submission (AEC, no. 174), p. 48.

60 Submission (AEC, no. 198), p. 14.

of the roll in this way, a nation-wide mail-out would notify individuals of their enrolment details.⁶¹

- 2.62 The AEC response focused on the limitation of the databases Mr Brun referred to, submitting:

While Medicare and ATO data may be relatively comprehensive in terms of the number of people covered, the addresses on these databases are not likely to be as up to date as those on the roll ... Centrelink and motor registry data would not be comprehensive enough to ensure that the details of everybody with an entitlement to vote were contained on the databases. All of the databases would contain data on people who would not be eligible to vote, such as non citizens, which would need to be cleansed in order to produce an accurate roll.⁶²

Committee views and recommendations

- 2.63 The implicit premise of some of the submissions was that the current roll management practices allow significant electoral manipulation. The Committee's view is that there have been a limited number of demonstrated individual manipulations of the roll, for instance those investigated by the Shepherdson Committee in Queensland and by this Committee's predecessor in its 2001 inquiry into the integrity of the electoral roll. There is however no persuasive evidence that the electoral roll has been manipulated to change the outcome in a single federal Division, let alone a federal election. As acknowledged in the Committee's 2001 report, the number of false enrolments uncovered by both the AEC and the Shepherdson Inquiry was not large and 'occurred over a span of many years in diverse geographical locations'.⁶³ The report cited the evidence of Professor Colin Hughes who noted that:

the possibility of overturning a general election result and ejecting the elected government through a by-election whose outcome was influenced by fraudulent enrolments has not occurred at the federal level.⁶⁴

61 Submission (Mr P. Brun, no. 133), pp. 1-3.

62 Submission (AEC, no. 174), p. 25.

63 JSCEM, *User Friendly, not Abuser Friendly: Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, p. 18.

64 JSCEM, *User Friendly, not Abuser Friendly: Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, p. 18.

- 2.64 Equally the Committee believes that more needs to be done to demonstrate that the CRU process does deliver a roll of even higher integrity and completeness. In particular, the Committee reiterates its views that the ANAO report on the integrity of the electoral roll did not demonstrate that the roll had a high degree of integrity with respect to people entitled to vote being enrolled at the correct address, because this was not examined except in a small number of cases. Indeed, in these cases where enrolment addresses were matched against motor registration records, there was a significant rate of mismatch.
- 2.65 The Committee considers that there is significant room for delivering improved outcomes in terms of electoral roll accuracy, validity and integrity. This was a principal theme in the Committee's recent report: *The Integrity of the Electoral Roll – Review of ANAO Report no. 42 2001-02*. In that report the Committee made a number of recommendations aimed at improving (among other things) the AEC's management of the electoral roll to enhance the accuracy and integrity of the roll. It recommended that the AEC:
- conduct periodic, random spot checks of enrolment details at a sample of addresses to test whether the CRU process is working effectively in maximising accuracy of enrolment details;
 - test the integrity of the electoral roll by conducting a total habitation review of a sample electoral Division in a State which has not had an election in the preceding 12 months;
 - set a target for electoral roll validity and use this target as a performance indicator in its Portfolio Budget Statements and report its performance in its annual reports;
 - set a target for electoral roll accuracy, embracing accurate name, birth date, and address and use this target as a performance indicator in its Portfolio Budget Statements and report its performance in its annual reports;
 - provide the Committee with annual progress reports on the development and implementation of national standards for updating the electoral roll, and a timetable for the implementation of a consistent national CRU program;
 - conduct negotiations with State and Territory agencies to ensure that it has optimal access to relevant CRU data sources in all States and Territories; and

- consider whether Joint Roll Arrangements should be modernised to take into account the CRU process, as the Arrangements do not currently include agreements on the provision of data for CRU purposes.⁶⁵
- 2.66 The Committee is awaiting the Government's response to these recommendations. The Committee considers that, if implemented, these recommendations will address a number of the concerns regarding the accuracy of the electoral roll raised in submissions to this inquiry.
- 2.67 The Committee believes that the implementation of these recommendations would give some greater reassurance to Australians as to the integrity of the electoral roll.
- 2.68 Proposals put to the inquiry which are not covered specifically by existing Committee recommendations include:
- The Council for the National Interest's proposal for two-yearly habitation reviews;
 - The Liberal Party of Australia's proposal that the AEC conduct a mail-out to all electors 12 months prior to an election;
 - The Council for the National Interest's recommendation that the AEC conduct data-matching with ABS statistics;
 - The ALP suggestion that the AEC report to the Committee on the feasibility of implementing direct address change;
 - Mr P. Brun's proposal that the electoral roll be compiled from government records after an election is called.
- 2.69 The Committee's views on these issues are as follows:
- While the opportunity costs of supplementing the CRU process with two yearly habitation reviews are too high to be contemplated, the proposal for a systematic two yearly mail-out would be a worthwhile addition to the CRU process. However, given the cost of this proposal, further consideration should be deferred until after the implementation of the Committee's 2001
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65 The Joint Roll Arrangements set out financial arrangements between the AEC and State/Territory electoral authorities, for payment for collection of data and maintenance of joint electoral rolls. The extent of the Joint Roll Arrangements differs between the States; Victoria and Western Australia maintain separate State electoral rolls, although the Commonwealth has a joint enrolment procedure (a common enrolment form) with each of those two States. See JSCEM, *The Integrity of the Electoral Roll: Review of ANAO Report No. 42 2001-02*, Parliament of Australia, October 2002, Recommendation nos. 6-9.

recommendations provide a gauge of the magnitude of potential deficiencies in the existing system.

- Using ABS data should be pursued through the proposed comparison of non-specific 2001 census data with the electoral roll, and the possible engagement by the AEC of the ABS to evaluate aspects of the roll.
- Direct address change systems contain an inherent potential for inaccurate outcomes, when the elector is not directly involved in the process and, as noted by the Committee, should only be contemplated after careful consideration by the AEC.⁶⁶
- Construction of an electoral roll from other government records at the time an election was called would be a far less efficient method of compiling the electoral roll than the current processes, impractical to achieve in the time envisaged, and unlikely to result in a more accurate, complete or valid roll.

Proof of identity

- 2.70 The second significant issue that arose in relation to the integrity of the roll concerns proof of identity of electors at enrolment. This has been contentious for a number of years, and understandably so. It is a pivot of the tension between the demand for accessibility of enrolment to ensure that all entitled people are reasonably able to enrol, and the demand that the roll have unquestioned and publicly recognised integrity.
- 2.71 To enrol to vote under the current provisions, individuals must complete an enrolment form and must have the form signed and dated by a witness (who is eligible to be on the roll but who need not actually be enrolled) declaring that he or she saw the applicant sign the form and is satisfied that all statements made by the applicant are correct.⁶⁷
- 2.72 There is substantial agreement that the verification of identity on enrolment should be more rigorous. This agreement is premised on

66 JSCEM, *The Integrity of the Electoral Roll: Review of ANAO Report No. 42 2001-02*, Parliament of Australia, October 2002, p. 29.

67 See Electoral Enrolment Form, at: http://www.aec.gov.au/_content/what/enrolment/forms/act.pdf, accessed 15 February 2003. The content of the form itself is not enshrined in legislation, copyright excepted. Paragraph 98(2)(a) of the Electoral Act refers to the 'approved form' ie, made by notice in the Gazette.

an understanding that the system, as it currently operates, is open to abuse. It is vital not only that the system have integrity, but that it be seen to have integrity.

- 2.73 However, there are differences about how to achieve this. The Committee believes that the time has come to seek to achieve a constructive, consensual resolution on this point. Three issues are significant in this regard.
- 2.74 The first issue is that there have been a limited number of cases where it has been established that the roll has been manipulated. The evidence is that these were limited manipulations directed at influencing internal preselection processes in one political party. The Shepherdson Inquiry found that there is no evidence that they were designed to manipulate the outcome of a federal election in any seat.⁶⁸ Nevertheless, they did prove that the roll is capable of being manipulated if people are sufficiently motivated to do so.⁶⁹ Accordingly, stronger barriers are needed to prevent such manipulation, and to reassure the public that roll manipulation cannot compromise the outcome of federal elections.
- 2.75 Given this, the second issue is whether existing or proposed proof of identity processes would prevent or deter such manipulations, and whether new initiatives are necessary.
- 2.76 The third issue is addressing the tension between the requirements for proof of identity to enrol and maximising the commitment to having all entitled Australians vote. The Committee believes that this depends on proof of identity requirements on enrolment being congruent with proof of identity requirements that exist in Australian society at large. To frame this issue crudely, the question is whether it is acceptable in principle, and conducive to public confidence in the integrity of the electoral roll, if enrolling to vote requires less proof of identity than hiring a video or DVD from a video store?

68 Queensland Criminal Justice Commission, *Shepherdson Inquiry: An investigation into electoral fraud*. CJC, Brisbane, April 2001, p. XIV.

69 For example enrolments may be made fraudulently, with the intention of improperly manipulating voting in a particular electoral Division, by a person deliberately enrolling: him or herself at an incorrect or false address; a non-existent person at an address; or another person at a real or false address. See JSCEM, *User Friendly, Not Abuser Friendly, Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, p. 13. See also Legislative Assembly of Queensland Legal, Constitutional and Administrative Review Committee, *Inquiry into the prevention of electoral fraud: Issues Paper*, Parliament of Queensland, September 2000, p. 13; and Submission (Festival of Light, no. 71), p. 4.

Arguments for and concerns about more rigorous identity checks on enrolment

- 2.77 Several submissions to this inquiry favoured the introduction of more stringent proof-of-identity measures than are currently required.⁷⁰ Such arguments were based on the three key concerns:
- that there is potential for the system to be abused and thereby undermined;⁷¹
 - that confidence in the system is undermined by perceptions of the potential for abuse, whether or not it is being abused;⁷² and
 - that it is inappropriate that proof of identity requirements on enrolment are lax in comparison with other transactions which are equally or less important.⁷³
- 2.78 One proposal is that applications for enrolment be required to be made in person at an AEC office.⁷⁴
- 2.79 Other proposals for strengthening proof of identity requirements do not require enrolment in person. For example, the ALP's submission noted the 'genuine merit' of a proposal for proof of identity by requiring drivers' licence numbers to be included on enrolment forms.⁷⁵ Under the proposal (which the ALP attributed to the Victorian Government), those applying for enrolment would be required to provide their driver's licence number on the enrolment form. Those without a driver's licence would need to have their enrolment declaration witnessed by a person who did hold a current licence. That witness would include their licence number on the enrolment form. Verification would rely on data-matching with State and Territory licence agencies' data.⁷⁶
- 2.80 Concerns have been raised that proposed additional proof-of-identity requirements would have disenfranchised certain potential electors

70 The submission from the Liberal Party of Australia specifically endorsed the scheme proposed under the *Electoral and Referendum Amendment Regulations 2001 (No. 1)*, which were disallowed in the Senate (see paragraphs 2.90 to 2.91).

71 Submission (The Hon C Gallus MP, no. 162), p. 1.

72 See for example Submission (Salt Shakers, no. 135), p. 2 and Submission (Liberal Party of Australia, no. 149), p. 2.

73 See for example Submission (Festival of Light, no. 71), p 1.

74 See Submission (Festival of Light), no. 71.

75 Submission (ALP, no. 153), p. 7.

76 Submission (ALP, no. 153), p. 9.

(notably homeless people, Aborigines and Australians living in remote areas) but would not have stopped fraud.⁷⁷

- 2.81 On the other hand, proponents of more stringent identification requirements argue that some inconvenience is the cost of protecting many institutions from fraud, and that, with education, people will accept that such checks are needed.⁷⁸

Previous recommendations to introduce identification requirements

- 2.82 In a chapter on 'electoral integrity' in its Report on the 1996 federal election, this Committee's predecessor recommended that verification of identity on enrolment be made more rigorous in two respects, namely the witnessing of enrolment forms and provision of documentary proof of identity. It noted 'that the most fundamental transaction between a citizen and the government – the act of choosing the government at a democratic election – is subject to a far lower level of security than ... lesser transactions', for example, opening a bank account, or applying for a passport, a driver's licence, or social security benefits and that this was 'unacceptable'.⁷⁹
- 2.83 The Committee considered that 'the witnessing portion of the Electoral Enrolment Form should be upgraded into a proof of identity declaration', to be completed by a witness who is a member of a prescribed class of persons like those eligible to sign passport applications. It recommended that the AEC nominate the classes of persons eligible to be witnesses to the upgraded proof of identity declaration, taking into account the situation of people who would face unusual difficulties finding a witness. The Committee also recommended that witnesses be required to actually be on the electoral roll.⁸⁰

77 Submission (ALP, no. 153), p. 7, referring to amendment Act and Regulations discussed below.

78 Anticipating that people would argue that more stringent identification checks would be 'unnecessarily cumbersome and costly and would discourage many people from enrolling', a submission which favoured more stringent identification requirements, counter-argued that, while the system might cause some inconvenience, people accept the need for identity checks for other transactions such as getting a driver's licence, and that '[t]his is the price we willingly pay for protecting many institutions in our society from fraud', submission (Festival of Light, no. 71, p. 1). Another submission similarly argued that, with education, people would accept that identity checks were necessary, submission (Salt shakers, no. 135, p. 2).

79 JSCEM, *The 1996 Federal Election: Report on the Inquiry into the Conduct of the 1996 Federal Election and matters related thereto*, Parliament of Australia, June 1997, p. xvii.

80 JSCEM, *The 1996 Federal Election: Report on the Inquiry into the Conduct of the 1996 Federal Election and matters related thereto*, Parliament of Australia, June 1997, p. 7. In comments

- 2.84 On documentary evidence of identity, the Committee recommended the Electoral Act require a person enrolling or re-enrolling to 'produce at least one original item of documentary proof of identity', or, where no other acceptable document is available, a written reference.⁸¹
- 2.85 The implication of this recommendation was that applicants would have to enrol in person. In its submission to the 1996 federal election inquiry, the AEC discussed various methods of electors providing proof of identity when enrolling, including electors appearing in person at AEC electoral offices. The AEC identified two separate steps in a personal enrolment process:
- at interview, the applicant would be required to produce documentary evidence of eligibility to the electoral officer; and
 - the electoral officer would examine the documentary evidence and decide whether or not to enrol the person. This decision would be based on either a formal hierarchy of categories of documents, or an evaluation based on the Department of Foreign Affairs' more flexible method for issuing passports.⁸²
- 2.86 The AEC's submission to the 1996 inquiry indicated that between 1995 and 1996, 2,238,701 personal interviews would have been required, equating to over 50 interviews per Divisional office per working day. The AEC concluded that this would require significant augmentation of current AEC staffing.⁸³
- 2.87 In the 1996 Report, the Committee acknowledged that requiring original copies of documents would limit the 'enrolment by mail' system, increasing the load on AEC Divisional staff. The Committee envisaged that an agency such as Australia Post would serve as an additional enrolment agency, with 'alternative arrangements' to be devised for enrolments in remote areas. The Committee recommended that these issues be addressed by the AEC in an 'implementation plan'.⁸⁴

immediately before this recommendation, also at page 7, the Committee stated: 'To allay possible concerns in Aboriginal communities the list of eligible witnesses should include members of Aboriginal community councils and other such bodies.'

81 JSC EM, *The 1996 Federal Election* (1997), as above, p. 9.

82 AEC submission to the 1996 JSC EM Inquiry: See JSC EM, *The 1996 Federal Election* (2002), as above, p. 8.

83 Submission (AEC, no. 174), pp. 7-8.

84 JSC EM, *The 1996 Federal Election*, as above, p. 9. Recommendation 1 of the Report was 'that the AEC prepare a comprehensive implementation plan on the Committee's proposed measures to improve the integrity of the enrolment and voting process' (at p.7).

- 2.88 The AEC's subsequent *Electoral Reform Implementation Plan* expressed reservations as to the impact on AEC offices of requiring people to produce original documentation in person, and noted that the use of enrolment agencies other than the AEC was not viable.⁸⁵ The Plan stated that the alternative proposal for an approved witness to verify identity at least had the advantage that original identity documents would not need to be sent to the AEC, 'eliminating the bottleneck of having to sight, copy (possibly)/record, and return original documents'.⁸⁶
- 2.89 The Government Response to the 1996 federal election report supported the recommendation that electors be required to provide proof of identity. However, the Response also stated that 'the amendment should only apply to new enrolments'.⁸⁷

Electoral and Referendum Amendment Act (No. 1) 1999

- 2.90 A modified version of the amendments recommended in the Report on the 1996 federal election was contained in the *Electoral and Referendum Amendment Act (No. 1) 1999*. The Act was passed,⁸⁸ and most of its provisions have commenced. However, the provisions relating to proof of identity at enrolment (namely Schedule items 10, 11 and 12) have not come into effect. This is because those provisions were to commence on a date to be fixed by proclamation,⁸⁹ which the Government, to date, has not done.
- 2.91 The Government decided not to proclaim schedule items 10 to 12 until the regulations containing detailed provisions for the operation of the proof of identity requirement (including the classes of witnesses and types of documents) were accepted by Parliament.⁹⁰

85 AEC, *Electoral Reform Implementation Plan*, submitted to the Committee on 9 March 1998, paragraphs 2.2.1 to 2.2.20.

86 AEC, *Electoral Reform Implementation Plan*, paragraph 2.2.20.

87 Government Response to the JSCEM report: *The 1996 Federal Election*, tabled 8 April 1998, p. 2.

88 The Opposition did not support the Bill. In the Senate, the Act passed with the support of Senator Brian Harradine. See Senate Journal SJ No. 188, 30 June 1998, p. 4115.

89 Section 2 of the *Electoral and Referendum Amendment Act (No. 1) 1999* provides that, with specified exceptions, the Act commences on the day on which it receives the Royal Assent. The first exceptions are items 1-9, which the Act states are to commence on the 28th day after the day on which the Act receives Royal Assent. The second exceptions are items 10, 11 and 12 – the proof of identity provisions – which commence on a day to be fixed by Proclamation. The Governor-General gave the Act Royal Assent on 13 October 1999: Senate Journal SJ No. 81, 19 October 1999, p. 1935.

90 Advised in AEC correspondence to secretariat, 21 February 2003. Regulations are not required to be passed by the parliament, but they are required to be tabled, and may be

The *Electoral and Referendum Amendment Regulations 2001 (No. 1)* (the Regulations) contained the detailed arrangements for the proof of identity scheme under the *Electoral and Referendum Amendment Act (No. 1) 1999*, for example what documents could be used to verify identity and which classes of people could witness enrolment forms. The Regulations were introduced by the Government in 2001,⁹¹ but disallowed in the Senate on 15 May 2002 on the motion of the Leader of the Opposition in the Senate, Senator Faulkner.⁹²

Verification of identity under the *Electoral and Referendum Amendment Act (No. 1) 1999* and the *Electoral and Referendum Amendment Regulations 2001 (No. 1)*

- 2.92 Had the *Electoral and Referendum Amendment Act (No. 1) 1999* and relevant regulations come into effect, they would have introduced more onerous requirements for witnessing of enrolment forms, and a requirement for documentary proof of identity on enrolment.
- 2.93 Two main distinctions can be drawn between the recommendations of the report on the 1996 federal election and the amendments contained in the *Electoral and Referendum Amendment Act*:
- the amendments requiring verification of identity would only apply to new enrolments with the amendments affecting witnessing of enrolment forms applying to all enrolments, re-enrolments and transfers of enrolments; and
 - the amendments would retain the existing 'enrolment by mail' system, rather than requiring electors to produce original documents in person.

disallowed by the parliament within 15 sitting days after tabling (unless a different time is prescribed in the enabling Act). If they are not disallowed in that time, they are taken to be accepted by the parliament.

91 *Electoral and Referendum Amendment Regulations 2001 (No. 1)*, Statutory Rules 2001 No. 248. Senate Journal SJ No. 211, 18 September 2001, p. 4856.

92 The ALP and Australian Democrats voted together to disallow the regulations. See Senate Journal SJ No. 12, 15 May 2002, p. 351. The reasons for the disallowance given by the ALP and the Australian Democrats are discussed in paragraphs 2.107 and 2.108.

Witnessing

- 2.94 Under the Electoral Act currently, a claim for enrolment:
- shall ... be attested to by an elector or a person entitled to enrolment, who shall sign the claim as witness in his or her own handwriting.⁹³
- 2.95 The amendments would limit the people who could attest a claim for enrolment, re-enrolment or transfer of enrolment, to 'elector[s] in a class of persons prescribed by the regulations'. This would limit the potential witnesses in two respects, to people who are:
- actual electors (not merely people entitled to be enrolled); and
 - within one of the classes specified in a new schedule to the Regulations.
- 2.96 The relevant schedule, Schedule 4, is a list of 41 classes of people who can attest claims for enrolment. The list includes:
- Accountants who are registered tax agents;
 - Commissioners for affidavits, declarations and oaths;
 - Diplomatic and consular officers;
 - Employees of community, ethnic or remote resource centres who counsel or assist clients as part of their duties;
 - Commonwealth, State and Territory employees;
 - Teachers;
 - Liquor licensees;
 - The ground staff of airlines; and
 - A person who is not described in a preceding item in [the] Schedule who is authorised in writing by at least 3 persons described in items in the Schedule.⁹⁴
- 2.97 Schedule 4 of the Regulations is reproduced in full in Appendix D.

93 Electoral Act, subsection 98(2), paragraph (c). The AEC form requires the witness to sign under the statements: 'I saw the applicant sign this form. I am satisfied that all statements in it are true.' The legal status of this form is outlined in footnote no. 67. All States and Territories use the same enrolment form (see http://www.aec.gov.au/_content/what/enrolment/forms.htm , accessed 2 May 2003.

94 *Electoral and Referendum Amendment Regulations 2001 (No. 1)*, Statutory Rules 2001 No. 248.

- 2.98 The Regulations also provide that where no person in one of the specified classes is available an elector who is not related to the person making the claim, and who is approved by the relevant Australian Electoral Officer or DRO, could attest to a claim for enrolment.

Documentary verification of identity

- 2.99 In addition to the strengthened witnessing requirements, the amendments to the Electoral Act would introduce a requirement for verification of identity of first-time enrolees.⁹⁵ The disallowed Regulations provided for identity to be verified by:

- providing to the AEC an original document of a specified type; or
- showing such a document to a person in one of the specified classes of witnesses (see paragraph 2.96 above), and having the person state on the enrolment form that they are satisfied as to the applicant's identity.⁹⁶

- 2.100 Thirteen forms of documentary identification were specified in the *Electoral and Referendum Regulations 2001 (No. 1)*, namely:

- Birth certificate or extract of birth which is at least five years old;
- Australian Defence Force discharge document;
- Australian marriage certificate;
- Certificate of Australian citizenship;
- Current Australian driver's licence or learner driver's licence;
- Current Australian passport;
- Current Australian photographic student identification card;
- Current concession card issued by the Department of Veterans' Affairs;
- Current identity card showing the signature and photograph of the card holder, issued by his or her employer;
- Current pensioner concession card issued by the Department of Family and Community Services;

⁹⁵ *Commonwealth Electoral Act 1918*, subsection 98(2A) (inserted by the *Electoral and Referendum Amendment Act (No. 1) 1999*, but not yet proclaimed).

⁹⁶ *Electoral and Referendum Amendment Regulations 2001 (No. 1)*, Statutory Rules 2001 No. 248, Schedule 1, item 12 (disallowed).

- Current proof of age card issued by a State or Territory authority;
 - Decree *nisi* or a certificate of a decree absolute made or granted by the Family Court of Australia; and
 - Document of appointment as an Australian Justice of the Peace.⁹⁷
- 2.101 The Regulations also provided for a final ‘catch-all’: ‘a document ... that is accepted by the Electoral Commission as evidence of the identity of a person’.⁹⁸
- 2.102 When a person could not verify his or her identity using one of the specified documents, the Regulations provided for that person to verify their identity by providing a written reference to the relevant Australian Electoral Officer or DRO.⁹⁹ The referee was to:
- be an elector; and
 - have known the applicant for at least one month; and
 - be:
 - ⇒ a person within a class of persons listed in Schedule 4 of the Regulations; or
 - ⇒ a person ‘who the Australian Electoral Officer or DRO is satisfied is a community leader or representative of a community organisation’; or
 - ⇒ a person ‘who is approved in writing by the Australian Electoral Officer, or the DRO, as a referee for the purposes of the particular claim’.¹⁰⁰
- 2.103 The reference was to include the referee’s name and address, state that the referee had known the person making the claim for at least one month, and state the referee’s qualification to give the reference (for example, state which of the specified classes of people the referee is in, or include evidence that the person is a community leader).¹⁰¹

97 *Electoral and Referendum Regulations 2001 (No. 1)*, Schedule 5, items 501 to 513 inclusive (disallowed).

98 *Electoral and Referendum Regulations 2001 (No. 1)*, Schedule 5, item 514 (disallowed).

99 *Electoral and Referendum Regulations 2001 (No. 1)*, Schedule 1, item 12 (disallowed).

100 *Electoral and Referendum Regulations 2001 (No. 1)*, Schedule 1, item 13(3) (disallowed).

101 *Electoral and Referendum Regulations 2001 (No. 1)*, Schedule 1, items 13(4)(a)(b) and (e) (disallowed).

Responses to the scheme proposed under the Electoral and Referendum Amendment Act (No. 1) 1999

- 2.104 The Committee reporting on the conduct of the 1998 federal election noted the recommendations in the report on the 1996 federal election regarding witnessing and enrolment, and stated that they had been given effect by the *Electoral and Referendum Amendment Act (No. 1) 1999* although the provisions had not yet been proclaimed. That Committee recommended that the AEC report on the actual or potential impact of these changes.¹⁰²
- 2.105 The majority of the Committee reporting in May 2001 on the integrity of the electoral roll (the *User friendly, not abuser friendly* Report) recommended the implementation of the *Electoral and Referendum Amendment Regulations 2000* 'to alleviate public concerns about the potential for enrolment fraud and restore public confidence in the integrity of the roll'.¹⁰³ However, the minority report by the ALP members of that Committee opposed this recommendation and the Regulations on the basis that they would 'discourage and frustrate the genuine enrolment of many voters ... [and] have little or no effect on the problem of fraudulent enrolments.'¹⁰⁴
- 2.106 There was also doubt as to whether the provisions would have prevented known cases of electoral manipulation. The closing submission of Mr Russell Hanson QC to the Queensland CJC's Shepherdson Inquiry (as cited in the Minority report of the *User friendly, not abuser friendly* report), made this point:

The evidence suggests that in the vast majority of detected cases of false enrolment, a requirement for the person when initially enrolling to provide more detailed proof of identity would have had little impact on the conduct disclosed. It was at the point of change of enrolment that the possibility arose of false details being provided. The evidence is overwhelming that persons had originally been lawfully enrolled at an address at which they resided. Being lawfully enrolled,

102 JSCEM, *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*, Parliament of Australia, June 2000, pp. 17-18.

103 JSCEM, *User friendly, not abuser friendly: Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, pp. 44-45.

104 JSCEM, *User friendly, not abuser friendly: Report of the Inquiry into the Integrity of the Electoral Roll*, Parliament of Australia, May 2001, p. 99. The Australian Democrats members of the Committee did not make a dissenting report but made 'Supplementary remarks' on the fact that the party had 'a larger agenda on matters of electoral law and practice': see report p. 112.

sometimes for many years, it is alleged they changed their enrolment to a false address to enable them to vote at a particular plebiscite.¹⁰⁵

2.107 As noted in paragraph 2.91 above, the Opposition moved a motion in the Senate that the Regulations be disallowed, and that motion was carried. The Opposition's arguments for the disallowance were essentially that:

- the Government's proposals were unnecessarily bureaucratic and could potentially disenfranchise sections of the electorate, in particular, young people, the homeless and those living in remote areas;
- all States and Territories objected to the regulations on the basis that these would create differential rolls across the three levels of government; and
- the proposals would not necessarily improve the integrity of the electoral roll.¹⁰⁶

2.108 Despite the view that 'tightening the roll is advantageous ... and minimising the opportunity for fraud is desirable',¹⁰⁷ the Australian Democrats supported the Opposition's motion in the Senate. This was primarily on the basis of their view that a Joint Roll (between the Commonwealth and the States and Territories) is highly desirable and there was a fear that the Joint Roll Arrangements would be at risk under the proposed changes. The Australian Democrats Senators also expressed concerns about people not enrolling under the new scheme. However, the Australian Democrats suggested a trial of these regulations with a sunset clause, with a view to obtaining an independent report evaluating whether the scheme improved the integrity of the electoral roll, and what the benefits and shortcomings of the scheme were.¹⁰⁸

2.109 As alluded to by the Australian Democrats, the proposed changes to proof of identity at enrolment did concern State and Territory governments. The AEC reported that there was the possibility of State

105 Cited in JSCCEM, *User friendly, not abuser friendly*, as above, p. 100.

106 Senator J. Faulkner, *Parliamentary Debates – Senate Official Hansard*, No. 4 2002, 15 May 2002, p. 1608.

107 Senator A. Murray, *Parliamentary Debates – Senate Official Hansard*, No. 4 2002, 15 May 2002, p. 1610.

108 Senator A. Murray, *Parliamentary Debates – Senate Official Hansard*, No. 4 2002, 15 May 2002, p. 1610. See also Senator A. Bartlett, *Parliamentary Debates*, as above, p. 1623.

and Territory governments refusing to progress legislation to introduce corresponding requirements into State and Territory enrolment processes, and of a consequent breakdown of Joint Roll Arrangements.¹⁰⁹ (See footnote 65 for an explanation of these Arrangements.)

- 2.110 The majority report of the *User friendly, not abuser friendly* report by this Committee's predecessor also referred to the threat to the Joint Roll Arrangements. The majority urged State and Territory cooperation, but said that the Commonwealth should implement the regulations even if that meant that separate State and Territory electoral rolls would be established or re-established.¹¹⁰

Committee comment

- 2.111 The dilemma facing the Committee is not whether there is a need for greater proof of identity for enrolment, but how to achieve this. The electoral roll is the bridge to the exercise of a person's right to vote. The Committee considers that it should not be open to people to undermine confidence in the electoral system with the valid assertion that the identification requirements to get onto the electoral roll are less onerous than, for example, the identification requirements for becoming a member of a video library.
- 2.112 The constraints on verification of identity are those of administration, inclusiveness, acceptability and effectiveness. What type of scheme is it reasonable to expect the AEC to implement and manage? What form of identification can be required that those who are entitled to vote can reasonably produce that does not raise the bar to people entitled to vote so high that they feel that it is not commensurate with what is required in other spheres? What requirements can be

109 AEC, *Status Report on progress of JSCEM recommendations from the Inquiry into the 1996 federal election, April 2002*, p. 1. See also AEC submission no. 199, p. 12. In 2000 the Queensland Parliament's Legal, Constitutional and Administrative Review Committee did not endorse the proposed changes and recommended that the Queensland Government consider the re-establishment of a separate Queensland Electoral Roll. See Legal, Constitutional and Administrative Review Committee, *Report No. 19: Implications of the new Commonwealth enrolment requirements*, March 2000, available at: <http://www.parliament.qld.gov.au/comdocs/legalrev/lcar019.pdf>, accessed 16 February 2003. There were other informal reports of State Governments' refusal to implement complementary legislation. See 'ACT set to adopt tougher electoral processes', *The Canberra Times*, 3 December 1999 and 'Fewer teens tipped to vote under new law', *The West Australian*, 8 December 1999.

110 JSCEM, *User Friendly, not abuser friendly*, as above, p. 44. The Minority report of Mr Laurie Ferguson MP, Senator the Hon John Faulkner, and Mr Robert McClelland MP, did not address the Joint Roll Arrangements.

implemented which will in any way counter any potential for manipulation?

- 2.113 Established cases of electoral manipulation have been achieved primarily through changes to existing enrolments rather than new enrolments, and by using a false address rather than a false personal identity, as noted in paragraph 2.106 above. Accordingly, the Committee considers that verification of both name and address identity, by providing documentary identification, should be required for all enrolment transactions, that is, re-enrolments and applications to change enrolment details, as well as enrolments to vote for the first time.
- 2.114 The provisions of the *Electoral and Referendum Amendment Act (No. 1) 1999* to introduce identification requirements to verify name and address were straightforward. However, the regulations that provided the detail of the identification requirements were complex and somewhat unwieldy, demonstrating the difficulty of maximising integrity while ensuring inclusiveness and accessibility.¹¹¹
- 2.115 The Committee considers that these objectives can be achieved with a more straightforward scheme whereby:
- primarily, verification of name and address would be achieved using drivers' licences;
 - the AEC would have discretion to accept another document or combination of documents to verify name and address identity (for example a passport and a utility bill showing address);
 - where a person could not verify their name and identity with such documents, they could obtain, from an existing elector, a written reference verifying the applicant's identity; and
 - photocopies of documents would be acceptable, thereby removing the requirement for enrolment in person or sighting an original document by an authorised witness.
- 2.116 It is estimated that over 90 per cent of Australians over 18 have some form of driver's licence.¹¹² (This is a strength of the scheme described

111 See submission (AEC, no. 199), pp. 12-15.

112 There were 13.6 million motor vehicle licences issued as at June 2002. This number includes learner's permits and various classes of driver's licences such as heavy and ordinary vehicle licences (see ABS, *Yearbook Australia 2003: Transport Licenced Operators*, at <http://www.abs.gov.au/ausstats/abs@.nsf/0/F4BA5462D9DE9ECCCA256CAE00162687?Open&Highlight=0,licences#Links>, accessed 2 May 2003.) There were 14.8 million adult

in the ALP's submission noted in paragraph 2.79.) Drivers' licences in all Australian States and Territories show the licence-holder's name and address. Accordingly, the name and address identity of the vast bulk of electors will be able to be verified using a single type of document – one which is very commonly accepted as verification of identity in other transactions in the community, and whose value as a form of identification for enrolment is implicit in the *Electoral and Referendum Amendment Regulations 2000* introduced by the Government, and in the ALP's submission to this inquiry.

- 2.117 However, an alternative means of verifying the identity of people who do not have a driver's licence is required to prevent them being disenfranchised. The Committee considers that it is appropriate for the AEC to have discretion to accept another document or documents as verification of identity (as was provided in the Regulations under *Electoral and Referendum Amendment Act (No. 1) 1999*). For example, a person may be able to verify their identity with a student identification card, a passport, a concession card issued by the Department of Veterans' Affairs or the Department of Family and Community Services. Some of these alternative forms of identification may not verify the person's address, and in such cases, the applicant must produce another document which verifies the person's address, for example an electricity, gas or telephone bill from within the last three months.
- 2.118 This discretion to accept documents other than drivers' licences would be likely to accommodate a very significant proportion of the relatively small number of applicants without a driver's licence. However, there is likely to be a small proportion of people who do not have sufficient documentary identification, or are unable to obtain copies of such documentation to send with their enrolment form. The Committee considers that it should be acceptable in such circumstances for a person to verify their identity with a written reference given by any two persons on the electoral roll who can confirm the person's identity and current residential address. It is envisaged that this would address difficulties which might otherwise be encountered by, for example, young people and people living in remote areas. Substantial penalties may be prescribed for a false claim by a witness or for a false claim by an enrollee that they are unable to

produce primary forms of identification (that is, a drivers' licence or other document).

- 2.119 It is impractical to require universal enrolment in person using original documents. People enrolling in person at an AEC office should be required to show their documents to an AEC officer. People enrolling by mail should be required to send a photocopy of their documents with their application form. The AEC officer who sights the original of the documentary evidence of a person's identify, or who receives the copy of such documents or a written reference as to a person's identity, would be required to satisfy themselves that the name and address details on the application form match the name and address on the identification or reference.
- 2.120 The Committee acknowledges the possibility that documents, and particularly photocopies of documents, may be forged or manipulated.¹¹³ Nevertheless, introducing a requirement for documentary verification of name and address will make the enrolment system more difficult to manipulate and improve public confidence that this is the case.
- 2.121 The Committee considers it appropriate that a person may only witness an enrolment form if that person is enrolled to vote. However, given the safeguards that would be instituted by the scheme the Committee recommends, the Committee considers that the proposal to limit witnesses to specified classes of electors would be superfluous.
- 2.122 Finally, in view of the level of debate on this issue, the Committee considers it appropriate that this verification of identity scheme be introduced with a three-year sunset clause. This would provide an opportunity for the scheme's efficacy to be evaluated, and a well-informed and considered determination to be made as to whether it should be made permanent.

113 For example, in a study conducted by Westpac and the NSW Registry of Births, Deaths and Marriages over a period of four to five weeks, 13 per cent of birth certificates presented to the bank as part of identification documentation were found to be false. See House of Representatives Standing Committee on Economics, Finance and Public Administration, *Numbers on the Run: Review of the ANAO Audit Report No. 37 1998-99 on the Management of Tax File Numbers*, Parliament of Australia, August 2000, p.67.

Recommendation 1

2.123 **The Committee recommends that all applicants for enrolment, re-enrolment or change of enrolment details be required to verify their name and address. Regulations should be made under the *Commonwealth Electoral Act 1918* to require people applying to enrol to provide documentary evidence of their name and address:**

- **by showing or providing a photocopy of their driver's licence or other document or documents accepted by the AEC in a particular case (or, in the event that all States and Territories make driver's licence records available to the AEC for data-matching purposes, by providing their driver's licence number); or**
- **where such documents cannot be provided, by supplying written references given by any two persons on the electoral roll who can confirm the person's identity and current residential address. These persons must have known the enrollee for at least one month.**

The Committee endorses the amendment which has been made to the *Commonwealth Electoral Act 1918* which requires that only a person who is enrolled to vote may witness an enrolment form. However, the Committee does not consider it necessary that the witness be within a specified class of people, given the other safeguards that would be introduced by its recommended scheme.

Increased penalty provisions should be introduced for false declarations including:

- **false enrolments;**
- **false claims by the witnesses; and**
- **false claims by enrollees including that they are unable to produce primary forms of identification.**

Provisions introducing requirements for verification of identity on enrolment should be introduced with a sunset clause of three years. An independent investigation into the operation of such provisions should be conducted to enable an assessment of the benefits and disadvantages of the scheme, including such matters as whether the scheme improves the roll's integrity, and whether concerns that identity requirements will increase disenfranchisement are justified.

Enrolment and provisional voters

- 2.124 A number of submissions raised the issue of provisional voters, being persons who cast a vote even though their name cannot be found on the certified list of electors used on polling day.¹¹⁴ As noted at Table 1.4 (page 8), 107,396 provisional votes were admitted at the 2001 federal election (0.89 per cent of the total vote).¹¹⁵
- 2.125 The submissions from the Liberal Party of Australia and the Festival of Light raised concerns about persons potentially misusing the provisional voting system to vote in Divisions where they do not live.¹¹⁶ The Liberal Party's concerns were based on the AEC's response to high levels of 'return to sender' mail received by Mr Jim Lloyd MP, the member for Robertson. After the 2001 federal election Mr Lloyd conducted a mail-out of letters to new constituents as listed on the electoral roll. Mr Lloyd encountered a very high rate of 'return to sender' mail – 10 per cent as compared to approximately 0.1 per cent previously experienced. Such returned mail suggests inaccuracy in people's enrolled addresses.
- 2.126 Mr Lloyd was advised by the AEC that this was a result of provisional voters being returned to the roll after the election. The AEC identified this problem as being related to the basis of enrolment, and in its submission to this committee reaffirmed that '[w]hat Mr Lloyd has identified is the nexus between lodging a provisional vote and being reinstated on the roll'.¹¹⁷
- 2.127 Currently, section 99 of the Electoral Act specifies that enrolment is on the basis of a Division rather than an address. Consequently, once

114 The Electoral Act allows a person to cast a 'provisional vote' (by way of a declaration vote) if their name cannot be found on the certified list on polling day, or if a mark on the certified list indicates that the person has already voted. Before provisional votes are counted, the enrolment details or entitlements of the person to enrol are scrutinised. See *Commonwealth Electoral Act 1918*, section 235; AEC, *Types of Voting in Australia*, at http://www.aec.gov.au/_content/what/voting/vote_aust.htm, accessed 16 February 2003.

115 As noted in chapter one (p. 8), some of these votes were admitted to the Senate scrutiny only.

116 Submission (Festival of Light, no. 71), p. 3. Submission (Liberal Party of Australia, no. 149), p. 2. The Festival of Light stated that the high rejection rate for provisional votes could indicate attempted fraudulent voting (based on statistics from the 1998 federal election, where 'some 183 000 provisional votes were submitted but only about 116 000 were accepted for counting'). The Festival of Light recommended that all applicants for a provisional vote produce suitable identification and proof of address.

117 Submission (AEC, no. 174), pp. 37-38.

enrolled in a Division an elector can claim a vote even if they are no longer resident at their enrolled address, so long as they are still resident in the Division.¹¹⁸ When a DRO has reason to believe that an elector has moved out of the Division, usually because a letter sent to the elector at his or her enrolled address is returned as undeliverable, the DRO can remove that elector from the roll on the assumption that they have left the Division.

- 2.128 Where an elector so removed from the roll claims on election day to still be living at an address within the Division, the elector is permitted to cast a provisional vote.¹¹⁹ 81,266 such votes were admitted to the House of Representatives scrutiny at the 2001 federal election.¹²⁰ In such cases, the objection action that removed the elector from the roll is deemed to have been based on an official 'error of fact'. As the elector would have been continuously on the roll apart from the error of fact (essentially the assumption that, because an elector apparently is not at their enrolled address, the elector has moved out of the Division), the elector is reinstated to the roll at their claimed address. This reinstatement typically takes place immediately after the count of votes for the election is completed.
- 2.129 Therefore, voters in Robertson who had been removed from the roll by objection action and who cast a valid provisional vote in the 2001 federal election were reinstated to the roll at their last claimed address within the Division. According to the AEC, the copy of the roll provided to Mr Lloyd immediately after the election may have thereby lead to Mr Lloyd's problem with return-to-sender mail – the clear implication being that many of the addresses in Robertson cited by provisional voters were incorrect.
- 2.130 In evidence to the 1998 election inquiry, the AEC advised that the current provisions create a loophole for people to claim enrolment for an obsolete address almost indefinitely:

118 Section 101 of the Electoral Act provides that enrolment and *transfer of enrolment* is compulsory. Electors are obliged to change their enrolment details within 21 days of becoming eligible (that is, having lived at a new residence for one month).

119 Assuming, based on a check of the elector's details, that: the elector is not currently enrolled for another Division; that their last enrolled address was within the Division for which they now claim to be entitled to vote; that the address on the declaration vote envelope does in fact fall within the Division in question; and that the objection action that removed them from the roll was actioned after the last redistribution or previous federal election, whichever is later.

120 Submission (AEC, no. 200), p. 18.

where an elector has been removed by objection under sections 116 and 118 of the Electoral Act, and the elector then casts a provisional vote and claims to have moved to an address within the [Division] of previous enrolment, the DRO is required to reinstate that elector to that address and admit the vote. The notice of determination of admissibility of the declaration vote must be sent to the elector, but in many cases it is either returned unclaimed or with a notation that the person is not living at that address. The DRO then has to again take objection action ... to remove the elector from the roll for that address. And so the cycle continues.

Clearly, many of these reinstated electors are not living at the address they claim as their enrolled address, and may not have lived there for some years. In effect, the AEC is obliged to incorrectly update the roll, which loses a measure of integrity in the process.¹²¹

- 2.131 The AEC has argued that making address, rather than Division, the basis for enrolment would remedy this. It would mean that when an elector claims to have remained within the Division, but has not met the requirement in the Electoral Act to notify the AEC of a change of address, his or her removal could not be deemed to be based on an official 'error of fact'. Address-based enrolment would thereby remove the entitlement for provisional voters to be re-instated to the roll, potentially for addresses where they do not live.¹²²
- 2.132 The AEC's recommendation to move from Division-based enrolment to address-based enrolment has met with some resistance in previous inquiries. The fear was that electors who failed to keep their enrolment up-to-date but who still lived within the Division would be disenfranchised.
- 2.133 To address this, the AEC proposed a compromise solution in its submission to the 1998 federal election inquiry, whereby electors who had moved within the Division could still cast a provisional vote, but would not be automatically re-instated to the roll. Specifically, the AEC recommended that address-based enrolment be implemented, but with the following 'saving provision':

121 AEC submission to JSCEM, *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election and matters related thereto*, Parliament of Australia, June 2000, pp. S414-415.

122 It should be noted that the AEC does make errors of fact in removing electors who have not moved from their enrolled address.

- (1) If an elector moves within their Division, does not re-enrol, and is removed by objection, their provisional vote for their Division will be counted, provided their last enrolment was within that Division and was since the last redistribution or general election; and
 - (2) That if an elector moves outside their enrolled Division, but remains within the State/Territory, and claims a vote within their old or new Division, their vote in the Senate will count but the House of Representatives vote will not count.¹²³
- 2.134 The 1998 federal election report endorsed the AEC's recommendation and the proposal is contained in the Electoral and Referendum Amendment (Roll Integrity and Other Measures) Bill 2002.
- 2.135 As happens currently, provisional votes of the type discussed above would be admitted to the count, subject to a check of the following details on the declaration vote envelope:
- that the elector is not currently enrolled for another Division;
 - that the elector's last enrolled address was within the Division for which they now claim to be entitled to vote;
 - that the address on the declaration envelope falls within the Division in question; and
 - that the objection action occurred after the last redistribution or previous federal election, whichever was more recent.
- 2.136 The elector would not however be re-instated to the roll at their claimed address. At the time of claiming a provisional vote the elector would be given an enrolment form, which would be subject to a follow-up mail-out by the AEC. Where the enrolment cannot be confirmed, the elector would not be returned to the roll, and could not then cast a provisional vote at the next election (as they would have then been off the roll for two electoral events).

Committee comments and recommendations

- 2.137 The Committee agrees with the AEC that the reinstatement to the roll of voters at addresses known to be (or likely to be) inaccurate, and the capacity for electors to continue to be reinstated to such addresses for successive elections, should be rectified.

123 AEC submission to JSCEM, *The 1998 Federal Election*, as above, p. S720.

- 2.138 However, the Committee does not believe that the core of the problem raised by Mr Lloyd's case is the nexus between lodging a provisional vote and being reinstated to the roll. Further, the Committee believes that the proposal currently before the Parliament creates a new set of problems.
- 2.139 The fundamental problem that the Lloyd case highlights is not that people voting in a Division are living at an address within the Division other than the address at which they are enrolled. The fundamental problem is that there is a real possibility that a significant number of people are claiming a provisional vote for a Division while not living in that Division. This conclusion is inescapable given the AEC's evidence that:
- provisional voters are reinstated to the roll at the address within the Division at which they claimed they were resident at the time of the election; and
 - DROs' letters to provisional voters advising them that their provisional vote has been admitted are 'in many cases either returned unclaimed or with a notation that the person is not living at that address'.¹²⁴
- 2.140 The new problem created by the proposed change to address-based enrolment currently before the Parliament is that it breaks the connection between voting and being on the roll. Admission to vote has always required that a person is either on the roll or was on the roll and was only removed because of an official error. At present people who have been removed from the roll by objection action are permitted to vote if they were removed from the roll erroneously. Under the proposed new system, people would be permitted to vote despite the fact that they have been removed from the roll correctly. Moreover, they will be able to do so despite uncertainty as to whether they are voting in the Division in which they are living.
- 2.141 The roll is an essential mechanism, and the prospect that someone could vote at an election having been removed from the roll properly, is objectionable on principle. The proposed legislation, while solving the problems identified at paragraphs 2.128 - 2.129 above, creates a new and substantial problem in that it undermines the central importance of the electoral roll.

124 AEC submission to JSCEM, *The 1998 Federal Election* (2002), as above, p. S414.

- 2.142 The Committee believes that the appropriate solution is to define more precisely who is entitled to a provisional vote. These voters should be issued a provisional vote, subject to them furnishing proof of name and address prior to the close of polls, and subsequently be reinstated to the roll at their validated address.
- 2.143 The Committee believes that the current requirement that a provisional vote be issued to any person whose name 'cannot be found on the certified list of voters for the Division for which the person claims to vote' (paragraph 235(1)(a) of the Act¹²⁵), is too broad. The Electoral Act should instead provide that a person whose name does not appear on the certified list of voters but who claims to still live within the Division in which they are enrolled may only be issued with a provisional vote where they claim (and can validate, through production of satisfactory proof of identity before the close of polls) that they have remained resident within the Division of last enrolment. Where this is the case, they would be issued with a provisional vote for both the House of Representatives and the Senate.
- 2.144 These requirements would need to be made clear in training for AEC polling place staff at future elections.
- 2.145 The Electoral Act should also be amended to require that where a provisional vote is admitted from an elector whose name could not be found on the certified list, verification that the elector is at their claimed address takes place by way of a habitation review as soon as practicable after the election.

125 Subsection 235(1) of the Electoral Act also provides for provisional votes to be issued where a person's name but not address appears on the certified list (that is, 'silent' electors, overseas electors and itinerant electors) and where a mark on the certified list used at a polling place indicates that the person has already voted at that polling place.

Recommendation 2

2.146 **The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that:**

- **a person whose name does not appear on the certified list of electors used on election day, who claims to have remained resident within the Division of last enrolment, shall only be issued with a provisional vote where they can validate, by producing proof of name and address, before the close of polls, that they have remained resident within the Division of last enrolment. In such cases the elector would be issued with a provisional vote for both the House of Representatives and the Senate. This would be subject to the existing requirement that the objection action that removed the elector from the roll was actioned after the last redistribution or previous federal election, whichever is later; and**
- **where a provisional vote is admitted from a person whose name could not be found on the certified list of electors used on election day, verification that the elector is at their claimed address shall take place by way of a habitation review as soon as practicable after the election, and only persons whose address is verified shall be reinstated to the roll.**

2.147 This recommendation addresses both the problem of people provisionally voting at an address and in a Division at which they do not live, and the problem of people being reinstated to an address at which they do not live. This is preferable to address-based enrolment as currently envisaged because it does not create a new problem regarding treatment of people who move within a Division but do not update their enrolled address, either by:

- disenfranchising them when in fact their vote would be appropriately cast in the Division; or
- creating an anomaly in the electoral system in that people who have been properly removed from the roll because they do not live at their enrolled address are nevertheless permitted to vote.

2.148 Accordingly, the Committee recommends that the proposed change to address-based enrolment contained in the Electoral and Referendum Amendment (Roll Integrity and Other Measures) Bill

2002 be withdrawn, to be replaced by the mechanism outlined in the Committee's recommendation above.

Close of rolls

2.149 Some concerns about the integrity of the electoral roll centre on enrolments made or changed during the 'close of rolls' period immediately prior to an election.¹²⁶ Between the close of rolls and election day, electors may not enrol to vote or change their enrolment details. The Electoral Act stipulates that the close of rolls period is seven days from the time writs are issued for the election. In the 2001 federal election, the close of rolls period was from 8 to 15 October, with rolls closing at 8pm on 15 October 2001.¹²⁷

Close of rolls statistics

2.150 In 2001, a total of 373, 732 enrolments were processed in the close of rolls period. This figure, an increase of 18, 543 from the 1998 election, includes new enrolments, re-enrolments and transfers of enrolment.¹²⁸ As can be seen in Table 2.4 below, the 18 year age cohort accounted for a substantial part of the increase.

126 See for example submissions (Hon C Gallus MP, no. 162, p. 1; The Council for the National Interest, no. 103, p. 2; The Festival of Light, no. 71, p. 2).

127 AEC, *Electoral Pocketbook*, Commonwealth of Australia, July 2002, p. 37.

128 Submission (AEC, no. 147), p. 20.

Table 2.4 Enrolment during close of rolls period, 1993 to 2001

	1993 Election	1996 Election	1998 Election	2001 Election
<i>Age Cohort</i>				
18 years*	37388	38 526	33 016	47 473
19-30 years	153 810	149 248	142 500	146 342
31-40 years	84 214	81 616	74 749	71 615
41-50 years	47 614	50 164	46 539	46 985
51-70 years	37 075	36 618	40 715	43 064
71+ years	11 459	11 316	11 797	12 027
Total Close of Rolls Enrolments	377 769	376 904	355 189	373 732
Total Enrolments	11 348 967	11 655 190	12 056 625	12 636 631
Close of Rolls Enrolments as a Percentage of Total Enrolments	3.32%	3.23%	2.94%	2.96%

Source Data on Age Cohort enrolments provided by AEC Enrolments Section, 2002. Data on Total Enrolments sourced from AEC Electoral Pocketbook 1999: p. 37; 2002: p. 39.

Note * The number of 18 year olds includes people who enrolled while they were 17, who then turned 18 in the close of rolls period. The AEC computer system automatically activates these individuals' enrolment on their 18th birthday. As a result, the total number of enrolments recorded by the system during the close of rolls period is higher than the number of individuals who enrolled in that period.

- 2.151 Enrolments and enrolment changes made within the close of rolls period are a small proportion of total enrolment transactions. The recent high point of close of rolls enrolment transactions was 377,769 (3.32 per cent) in 1993. Since then, the number and proportion have fallen until the 2001 election when they slightly increased.
- 2.152 Overwhelmingly, the enrolment activities in the close of rolls period were re-enrolments and transfers rather than first time enrolments (see Table 2.6 below). AEC figures show that around ten per cent of all eligible 18 year olds enrol to vote during the close of rolls period. Table 2.5 shows enrolment statistics for 18 year olds between elections and during the close of rolls period.

Table 2.5 Comparison of 18 year old enrolments during elections and between elections, 1993 to 2001

	1993-1996		1996-1998		1998-2001	
	Total 18 year old enrolments 1993-1996	Close of Rolls enrolments 1996 election	Total 18 year old enrolments 1996-1998	Close of Rolls enrolments 1998 election	Total 18 year old enrolments 1998-2001	Close of Rolls enrolments 2001 election
Number	302 264	33 070	255 669	28 725	341 776	41 816
Percentage of Total		8.96 %		10.10%		10.90%

Source AEC submission no. 190, p. 4.

Note The AEC also provided data on 17 year old enrolments, which showed only 2-3 per cent of 17 year olds who enrol and then turn 18 before the next election, enrol during close of rolls period. See AEC supplementary submission no. 190, p. 4.

- 2.153 The AEC's evidence to the Committee's *User friendly, not abuser friendly* inquiry was that as a consequence of the initiation of CRU, electors were 'increasingly being enrolled when they [became] eligible' rather than when they chose to 'initiate contact with the AEC'.¹²⁹
- 2.154 The AEC's assumption was that with improvements to the CRU process, the number of new enrolments and enrolments requiring updating during the close of rolls period would gradually decrease.
- 2.155 In its submission to this inquiry, however, the AEC stated that:
- At the time the AEC made this informal argument, it was not possible to make anything more than an assumption about the effect of the CRU process on the number of enrolment transactions during the close of roll period ... as the circumstances of each federal electoral event are unique, it is likely that the AEC's informal assumption may never prove to be accurate.¹³⁰
- 2.156 The day-by-day data on close of rolls enrolment transactions for both the 1998 and 2001 federal elections (see Table 2.6 below) shows that the number of new and re-enrolments increased daily during the seven-day period (except on Saturday and Sunday), culminating in nearly 50 per cent of new and re-enrolments occurring on the last day. This was true across nearly every House of Representatives electoral Division.¹³¹

129 See JSCEM, *User friendly, not abuser friendly* (2001), as above, p. 35.

130 Submission (AEC, no. 198), p. 17.

131 Submission (AEC, no. 190), pp. 32-73.

Table 2.6 Close of rolls enrolment activity, 1998 and 2001

	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6*	Day 7**	Day 8	Total
New Enrolments									
1998	1 582	3 720	4 610	6 754	7 759	5 356	419	33 814	64 014
2001	2 561	3 857	6 101	9 074	12 316	5 492	391	43 235	83 027
Movements or Changes									
1998	8 788	18 590	23 645	32 721	34 840	23 460	1 221	123 453	266 718
2001	10 988	15 550	23 611	31 185	40 073	19 423	0	125 010	265 840
Total									
1998	10 370	22 310	28 255	39 475	42 599	28 816	1 640	157 267	330 732
2001	13 549	19 407	29 712	40 259	52 389	24 915	391	168 245	348 867
Percentage of all Close of Rolls enrolments									
1998	3.13%	6.75%	8.54%	11.94%	12.88%	8.71%	0.5%	47.55%	100%
2001	3.88%	5.56%	8.52%	11.54%	15.02%	7.14%	0.11%	48.22%	100%

Source AEC, supplementary submission no. 190.

Notes * Day 6 (5/9/98 and 13/10/01) was a Saturday, therefore explaining the lower enrolment transactions on that day.

** Day 7 (6/9/01 and 14/10/01) was a Sunday and most AEC offices were not operational.

2.157 This pattern may reflect the impact of the AEC's advertising encouraging electors to ensure that their enrolment details were correct. It may also be that people have a tendency to defer things until the last moment, and that the final day rush would be as intense no matter how long the close of rolls period is.

Concerns about the close of rolls period

2.158 Submissions raised concerns about the close of rolls period primarily because of a belief that the AEC cannot check the validity of enrolments made during that period.¹³² The certified lists of electors are often finalised by the commencement of pre-poll voting.¹³³

2.159 These concerns about lack of checking of enrolments, if justified, would be especially pertinent in marginal electorates where small numbers of votes can affect the outcome. The Festival of Light submitted that 'the purpose of those who may wish to defraud the

132 See specifically submissions (Hon C Gallus MP, no. 162, p. 1; The Council for the National Interest, no. 103, p. 2; The Festival of Light, no. 71, p. 2).

133 For the 2001 election, pre-polling commenced at 8.00am on Monday, 22 October 2001, six days after the close of rolls (including the weekend).

electoral process would be to change the outcome of an election in a marginal seat'.¹³⁴ This could be done in a number of ways:

- re-enrolment of electors validly enrolled in a safe seat to an address in a marginal seat;
- enrolment of non-existent persons at an address in a marginal seat;
- enrolment of people not entitled to vote at an existent address in a marginal seat; and
- enrolment of 'other' people at a false address in a marginal seat.¹³⁵

2.160 In this context, it is worthwhile examining those electorates which have the greatest number of enrolment transactions in the close of rolls period. Table 2.7 presents figures for the electorates which had the highest numbers of close of rolls changes and new enrolments, at both the 1998 and 2001 federal elections, and their marginalities.

Table 2.7 Electorates with highest close of rolls changes, 1998 and 2001

Electorate	1998		Electorate	2001	
	Number	Marginality		Number	Marginality
Sydney	5 151	16.9 to ALP	Sydney	4 262	15.0 to ALP
Northern Territory	4 957	0.6 to ALP	Melbourne	3 804	20.1 to ALP
Melbourne	4 384	21.8 to ALP	Brisbane	3 530	3.1 to ALP
Fraser	4 256	14.9 to ALP	North Sydney	3 409	13.2 to LP/NP
Melbourne Ports	4 188	5.8 to ALP	Grayndler	3 114	21.3 to ALP
Kalgoorlie	3 976	2.1 to LP/NP	Melbourne Ports	3 022	5.7 to ALP
Fremantle	3 511	10.0 to ALP	Wentworth	2 872	7.9 to LP/NP
Brisbane	3 424	4.6 to ALP	Bendigo	2 836	3.6 to ALP
North Sydney	3 170	12.2 to LP/NP	Adelaide	2 771	0.2 to LP/NP
Curtin	3 040	13.3 to LP/NP	McPherson	2 745	12.5 to LP/NP
All Electorates	355 189		All Electorates	373 732	

Source AEC submission no. 190, pp.32-73; *Marginalities: Scott Bennett and Gerard Newman.2002. Commonwealth Election 2001, Research Paper No.11 2001-02, Department of the Parliamentary Library, p. 102, and Scott Bennett, Andrew Kopras and Gerard Newman.2002. Federal Elections 1998, Research Paper No.9 1998-99, Department of the Parliamentary Library, p. 64.*

2.161 The crude indications are that there seems to be no persistent pattern of high close of rolls enrolments in marginal seats. Of the ten seats with the greatest volume of transactions in this period, few could be considered 'marginal'. Not surprisingly, the greatest volume of

134 Submission (Festival of Light, no. 71), p. 2.

135 Submission (Festival of Light, no. 71), p. 2.

enrolment transactions in the close of rolls period appears to have occurred in inner city seats (in most capital cities) where populations are known to be particularly mobile.

- 2.162 However, it is important to note that close of rolls transactions occurred in every electorate. The number of changes or amendments made to enrolments in the close of rolls period in an electorate averaged 1,942 in 1998 (ranging from 1,031 in Chifley to 5,151 in Sydney), and 1,911 in 2001 (ranging from 1,045 in Maribyrnong to 4,262 in Sydney). Similarly, the number of new enrolments processed in an electorate averaged 458 in 1998 (ranging from 190 in Maranoa to 1,052 in the Northern Territory), and 575 in 2001 (ranging from 252 in Wide Bay to 1,377 in Mitchell).

Proposals to change the close of rolls period

- 2.163 The evidence given by the AEC to the 1998 federal election inquiry, in relation to the enrolment forms received in the close of rolls period, was that:

there was checking done within the system that it is a legitimate address, but in that close of Roll period there is no field checking done.¹³⁶

- 2.164 This prompted the 1998 Committee to reiterate a recommendation made by its predecessor after the 1996 federal election, that the Electoral Act be amended to provide that:
- for new enrolments, the rolls for an election close on the day the writ is issued; and
 - for existing electors updating address details, the rolls close on the third day after the issue of the writ.¹³⁷
- 2.165 The Committee's 2001 report *User friendly, not abuser friendly* restated this view which is embodied in the Electoral and Referendum Amendment (Roll Integrity and Other Measures) Bill 2002 currently before the Parliament.¹³⁸

136 JSCEM, *The 1998 Federal Election: Report of the Inquiry into the conduct of the 1998 Federal Election, and matters related thereto*, Parliament of Australia, June 2000, p. 14.

137 JSCEM, *The 1998 Federal Election* (2000), as above, Recommendation 3, p. 15.

138 JSCEM, *User Friendly, Not Abuser Friendly* (2001), as above, p. 50. See *BillsNet* for the current text of the Bill: <http://www.aph.gov.au/bills/index.htm>, accessed 29 April 2003.

- 2.166 The submissions from the Liberal Party of Australia, the Festival of Light and the Council for the National Interest supported these changes.
- 2.167 Emeritus Professor Hughes' submission supported the existing seven-day period on the grounds that: it essentially formalised what had been the practice before 1983; successive investigations have discovered no evidence of widespread fraud warranting an earlier closing; and that change would confuse electors if the States did not follow suit for their elections.¹³⁹
- 2.168 The ALP argued against reducing the current close of rolls period, submitting that it would: reduce enrolment by the young and socially disadvantaged; result in less accurate rolls for polling day; increase queues, confusion and inconvenience at polling booths; increase declaration voting; and produce delays in the delivery of election results.¹⁴⁰

Committee comments and recommendations

- 2.169 To evaluate the concerns about enrolments during the close of rolls period, the Committee compared the process by which new voters are added or voters' details are altered prior to an election being called with the process during the close of rolls period.
- 2.170 In both periods the processes are essentially identical. Where the matching and checking processes disclose no anomalies, additions are made to the rolls. Where there are anomalies,¹⁴¹ changes or additions are not made to the rolls until these are resolved. This applies at all times including during the close of rolls.
- 2.171 Applicants for enrolment are therefore not added to the roll during the close of rolls period until verification of eligibility is complete,

139 Submission (Emeritus Professor Colin Hughes, no. 73), p. 2.

140 Submission (ALP, no. 153), p. 8.

141 Anomalies occur if, for example, the address is not on the Register, the address is flagged as non-enrollable or inactive, the enrolment limit attributed to that address is exceeded, or if neither the street name nor the street number can be ascertained from the enrolment form. Further anomalies may occur if a match is made with a elector recorded on the RMANS 'DELETED FILE' by reason of being deceased, of unsound mind or not a citizen; there is a match of some special category elector codes (such as itinerant or Norfolk Island electors) and the new form does not indicate that they are to apply to the latest enrolment; there are multiple possible matches; the former name details have been entered and there is no match; or the person is over 18 years and there is no match.

with one exception.¹⁴² If verification is completed after the roll close, the elector is added to the notebook ('additions list') roll and advised on election day to cast a provisional vote. An elector is added to the notebook roll if his or her eligibility for enrolment has been confirmed before election day, but too late to be added to the certified lists of electors used at polling places. As the electors in question are not on the certified lists they must cast a declaration vote (the notebook roll is retained by the DRO for the Division and is not copied to polling places). The AEC advised that for the 2001 election, there were no instances of electors being added to the notebook roll.

- 2.172 The Committee's re-examination of the checking processes indicates that potential difficulties in the close of the roll process are narrower than originally thought. Where anomalies are thrown up by internal checking processes which cannot be field checked, enrolment applications are not added to the roll.
- 2.173 Moreover, insofar as there are residual doubts with respect to enrolments at the close of rolls, the Committee believes that these are addressed by its recommendations relating to proof of identity and address for first time enrolments, re-enrolments, transfers and provisional voters.
- 2.174 In the light of these, the existing checking processes for the close of rolls period, and the prospect of unnecessarily disenfranchising voters by foreshortening the close of rolls, the Committee recommends that the existing seven-day period between the issue of the writs and the rolls closing should be retained.

Recommendation 3

- 2.175 **The Committee recommends that the existing seven-day period between the issue of writs and the close of rolls be retained.**

¹⁴² The only exception is where further verification of the exact location of an address is required. This occurs primarily in rural Divisions. The AEC advised that these enrolments comprise a very small proportion of total close of rolls enrolments – less than ten for most Divisions. Submission (AEC, no. 190), p. 5.

Overseas electors

- 2.176 The issue of enrolment by overseas electors received considerable attention in submissions to the inquiry. Ninety submissions (just under half of the total number of submissions) addressed this particular subject. The majority of these submissions apparently originated from a campaign coordinated by the Southern Cross Group.¹⁴³
- 2.177 Submissions to the inquiry outlined a number of perceived problems with current restrictions applied to Eligible Overseas Electors, and concerns about information available to expatriate Australians regarding enrolment and voting.

Statistics on overseas electors

- 2.178 The Department of Foreign Affairs and Trade (DFAT) estimates that there are around 720,000 Australian expatriates – that is, Australians living overseas.¹⁴⁴ It is important to note that this number includes people under the age of 18 who therefore are not eligible to vote. DFAT is unable to estimate the proportion of Australian expatriates who are over 18 years of age.¹⁴⁵
- 2.179 During the 2001 federal election, 63,036 sets of ballot papers were issued by DFAT's overseas posts.¹⁴⁶ The total number of votes cast overseas in the 2001 federal election was slightly lower than that for the 1998 federal election. The number of overseas votes for the 1999 Referendum on a republic was significantly lower than the votes for the 1998 federal election (see Table 2.8).

143 The Southern Cross Group (SCG) was formed in Belgium in January 2000 as a 'non-profit advocacy organisation which seeks to pursue issues of interest to the international community of Australian expatriates'. The SCG encouraged member contributions to this inquiry, and designed a submission 'template' for members' use. See SCG internet site: <http://www.southern-cross-group.org>, accessed February 2003.

144 Department of Foreign Affairs and Trade, *Annual Report 2001-02*, Commonwealth of Australia, October 2002, p. 137. This figure is based on estimates provided each year by DFAT's overseas posts.

145 Submission (DFAT, no. 188), p. 10.

146 The SCG notes that 'some postal votes issued overseas are returned directly to Australia, and not to the issuing post. Hence, certificates issued for returned postal votes by a particular post will be less than the number of postal votes issued by it. In addition, some postal votes issued by an overseas post may not have been received by voters, or if received, may not have been returned'. See SCG internet site: http://www.southern-cross-group.org/archives/Statistics/Australian_Overseas_Voting_Comparisons_1998_1999_2001.pdf, accessed 10 February 2003.

Table 2.8 Ballot papers issued by DFAT Overseas Posts, by Region

Region	1998 Election	1999 Republic Referendum	2001 Election
Europe	29 564	27 721	25 864
Asia	24 913	20 175	25 116
Africa	889	623	592
North America	5 426	5 161	5 581
South America	478	332	356
Oceania*	3 816	3 943	5 507
Total	65 086	57 955	63 036

Source Southern Cross Group, from data provided by the Australian Electoral Commission in December 2001.¹⁴⁷

Note * 'Oceania' includes New Zealand.

- 2.180 Overseas voting was concentrated in three DFAT posts, with London, Hong Kong and Singapore representing 50 per cent of all votes cast overseas for the 2001 federal election.¹⁴⁸
- 2.181 All votes cast overseas are pre-poll or postal votes. Nearly 80 per cent (49,981 out of 63,036) of votes issued overseas for the 2001 federal election were pre-poll votes (made at an Embassy or High Commission). The other 20 per cent were issued as postal votes.¹⁴⁹
- 2.182 The majority of overseas votes are cast by Australians on short-term travel. Of the 63,036 votes issued overseas for the 2001 federal election, only 5,822 were made by expatriate Australians resident overseas with Eligible Overseas Elector status (see below).¹⁵⁰

147 SCG, *Overseas voting, Comparisons: 1998, 2001 federal elections, and 1999 referendum; Total votes issued by each overseas post*; at: http://www.southern-cross-group.org/archives/Statistics/Australian_Overseas_Voting_Comparisons_1998_1999_2001.pdf, accessed 10 February 2003.

148 Eight overseas posts issued more than 1,000 ballot papers: London, Hong Kong, Singapore, Dili, New York, Bangkok, Dublin and Washington. See DFAT submission no. 168, Attachment A.

149 Submission (DFAT, no. 168), p. 1

150 Submission (AEC, no. 186), p. 6. Anecdotal evidence to the inquiry suggests that a number of expatriate Australians resident overseas may not inform the AEC of their move out of Australia. These people retain their enrolment at their Australian address (for example, at their parents' address) and ask relatives/friends to post them a postal vote application form for each election. The ballot papers are then issued to the Australian address, and the relative/friend forwards them to the voter overseas. These votes would not be counted as overseas votes, as they are issued to an Australian address. See submission (Ms Linda Reeb, no. 21), p. 1.

Current provisions for overseas electors

- 2.183 Australians *travelling* overseas for short periods of time remain enrolled at their home Australian address, and may cast a pre-poll vote at an overseas embassy, or lodge a postal vote prior to or during their overseas travel.
- 2.184 Sections 94 and 94A of the Electoral Act set out the grounds on which Australians *living* overseas may enrol to vote in federal elections and referenda.
- 2.185 Australian citizens moving overseas who are already on the electoral roll can remain enrolled by registering with the AEC as an 'Eligible Overseas Elector' (EOE) if they :
- are leaving Australia within three months, or left Australia less than two years ago (and are still enrolled at their previous Australian address);
 - are going to be overseas for up to six years; and
 - intend to return permanently to Australia.¹⁵¹
- 2.186 Australian citizens living overseas who are not on the electoral roll, but who would be eligible if they were in Australia, can enrol as an EOE from outside Australia if they:
- left Australia in the previous two years;
 - live outside Australia for career or employment purposes, or those of their spouse; and
 - intend to resume residence in Australia within six years of the date of their departure.¹⁵²
- 2.187 People enrolling from outside Australia are enrolled in the Division for which they last had an entitlement to be enrolled (that is, their last address in Australia), or if that is not relevant, the Division of their next of kin, or the Division in which they were born, or the Division with which they have the 'closest connection'.¹⁵³

151 *Commonwealth Electoral Act 1918*, section 94. See also discussion of where Australians living overseas vote at paragraphs 2.180 and 2.181.

152 *Commonwealth Electoral Act 1918*, section 94A.

153 *Commonwealth Electoral Act 1918*, subsection 94A(3). These provisions were drafted based on the provisions for enrolment for itinerant voters, at section 96 of the Act. See paragraph 2.261 for further detail.

- 2.188 Australians who are registered as EOE's can maintain their enrolment for a period of six years from their date of departure from Australia. If, after leaving Australia, EOE's find that they will be away longer than six years, they can apply to have their EOE status extended by one year at a time. The application must be made in the three months before the expiry date of their EOE status.¹⁵⁴
- 2.189 The effect of these provisions is that overseas Australians with EOE status may continue voting in Australian elections indefinitely, so long as they state an intention to eventually return to Australia.
- 2.190 If an elector with EOE status does not vote or apply for a postal vote at a federal election, their EOE status is forfeited and their enrolment is cancelled.¹⁵⁵
- 2.191 On 15 November 2001 there were 10,636 Eligible Overseas Electors on the electoral roll.¹⁵⁶ The AEC reported that only 5,822 (54.7 per cent) of these voted at the 2001 federal election.¹⁵⁷

Concerns about provisions for overseas electors

- 2.192 The submissions from the Southern Cross Group (SCG) were primarily concerned about the current low number of overseas voters, a phenomenon the SCG attributed to:
- provisions in the current legislation, which it claims effectively disenfranchise large numbers of expatriate Australians; and
 - the low level of awareness of the EOE entitlement, which it is claimed is perpetuated by the quality of information being provided to expatriate Australians by the AEC and the Department of Foreign Affairs and Trade.

Legislative concerns

- 2.193 The SCG noted that the right to vote is a right attached to Australian citizenship,¹⁵⁸ and questioned why Australians living overseas should not have the same access to that right as all other Australians:

154 *Commonwealth Electoral Act 1918*, subsections 94(8) and 94(9).

155 *Commonwealth Electoral Act 1918*, paragraphs 94 (13)(c) and 94 (14)(b).

156 AEC, *Behind the Scenes: the 2001 Election Report*, Commonwealth of Australia, 2002, p. 9.

157 Submission (AEC, no. 186), p. 6.

158 Submission (SCG, no. 148), p. 6. See Australian Citizenship internet site: <http://www.citizenship.gov.au/why.htm#rights>, accessed 19 March 2003.

An Australian overseas who wants to exercise his or her democratic right to participate in the election of those that make laws and decisions which effect [sic] all Australians should have that right.¹⁵⁹

- 2.194 The concerns of the SCG regarding enrolment provisions for overseas electors centred around three provisions in the current Electoral Act, namely those relating to:
- the two-year time limit for enrolment as an EOE;
 - the intention to return to Australia within six years; and
 - the reason for leaving Australia.

The two-year time limit

- 2.195 Subsections 94(1B) and 94A(2) of the Electoral Act stipulate that an application for EOE status must be made either in the three months before departure from Australia, or within two years after the day on which the elector ceased to reside in Australia.¹⁶⁰
- 2.196 The ability to enrol while overseas is a relatively recent addition to the Electoral Act. Prior to 1995, electors were only able to apply for EOE status in the three months before they left Australia.
- 2.197 The Committee noted this restriction in its report on the conduct of the 1993 federal election, and agreed with submissions that the requirement to register as an EOE prior to departure of Australia was too restrictive.
- 2.198 The Committee recommended that the provisions be extended to allow enrolled Australians to apply for EOE status within one year of leaving Australia.¹⁶¹ The Electoral Act was amended accordingly in 1995.¹⁶²
- 2.199 The issue was again raised in the inquiry into the 1996 federal election, with several submitters highlighting the perceived injustice to overseas Australians who could not enrol to vote in Australian elections because they had missed the new one-year cut-off limit.¹⁶³

159 Submission (SCG, no. 148), p. 5.

160 *Commonwealth Electoral Act 1918*, subsections 94(1B) and 94A(2).

161 JSCEM, *Report of the Inquiry in the Conduct of the 1993 federal election, and matters related thereto*, Parliament of Australia, November 1994, p. 99.

162 *Electoral and Referendum Amendment Act 1995*, Schedule 1.

163 See AEC submission to JSCEM, *The 1996 Federal Election* (1997), as above, p. S140 and pp. S156-8; and Transcript of Evidence to the same inquiry, 15 August 1995, pp. EM19-22.

- 2.200 The Committee did not specifically recommend extending the one-year deadline for EOE enrolment. The Government nonetheless introduced the current two-year cut-off as part of amendments to the Electoral Act in 1998.
- 2.201 Prior to 1998, those wishing to apply for EOE status were required to already be enrolled to vote in Australia. Australians living overseas who were not enrolled, or who had been removed from the roll (because they were no longer resident in Australia, or because they failed to vote in a federal election), had no avenue to enrol as an overseas voter.¹⁶⁴
- 2.202 This issue was raised during the inquiry into the 1996 federal election. The Committee noted the inability of unenrolled Australians who were resident overseas to apply for EOE status, and recommended that this be changed.
- 2.203 This recommendation was implemented in the *Electoral and Referendum Amendment Act 1998*. During parliamentary debate on the Bill, the Member for Reid, Mr Laurie Ferguson MP (then a member of the Committee) told the House of Representatives:
- The committee considered that there were quite onerous requirements on Australian citizens who went overseas for a period and could find themselves off the rolls despite a continuing interest in Australian politics ... The committee agreed that they should not be burdened by unnecessary requirements.
- However, the committee was unanimous in its concern that it did not want a situation like that in the Cook Islands or Italy where people who have no contact or relationship with the country any longer can be flown in, in mass numbers, for election day. The committee's provision therefore tries to find balance.¹⁶⁵
- 2.204 The SCG has now submitted that the two-year limit is 'probably the most insidious of all the restrictions on overseas voters'.¹⁶⁶ The SCG submitted that those overseas Australians who miss the two-year

164 See *Commonwealth Electoral Act 1918* consolidated as at 6 January 1997:

<http://scaleplus.law.gov.au/html/histact/6/3336/top.htm>, accessed 19 March 2003.

165 Mr L. Ferguson MP, *Parliamentary Debates: House of Representatives Official Hansard*, 24 March 1998, p. 1415.

166 Submission (SCG, no. 148), p. 11.

deadline through ignorance of the law, or other reasons, are disenfranchised.

- 2.205 The SCG contended that the two-year limit places a condition on the exercise of the right to vote which is 'not based on objective and reasonable criteria', thereby breaching Australia's obligations under the International Covenant on Civil and Political Rights.¹⁶⁷
- 2.206 The SCG recommended that the relevant sections of the Act be repealed so that applications for EOE status or to enrol from outside Australia can be made at any time.¹⁶⁸

Intention to return to Australia

- 2.207 The Electoral Act states that an application for EOE status can only be made if the person intends to resume residing in Australia not later than six years after ceasing to reside in Australia.¹⁶⁹
- 2.208 Prior to 1998, the timeframe for intention to resume residing in Australia was three years. In its report on the 1996 federal election, the Committee recommended:

The qualifying period [for intention to return to Australia] of three years or less under section 94 of the Act should be extended to six years (with the retention of the capacity, under sections 94(8) and 94(9), for electors to apply for further extensions on a year-by-year basis).¹⁷⁰

- 2.209 This recommendation was implemented the *Electoral and Referendum Amendment Act 1998*.
- 2.210 The SCG argued that the six-year provision is impossible to verify and monitor, given that people's intentions and plans change over time. The SCG recommended that the Electoral Act be amended so that no intention to return to Australia within any timeframe be required for Eligible Overseas Electors:

A citizen who intends to stay away from Australia for 20 years should not be deemed less worthy of the right to vote than one who intends to stay away for five years.¹⁷¹

167 Submission (SCG, no. 148), p. 14.

168 Submission (SCG, no. 148), p. 11.

169 *Commonwealth Electoral Act 1918*, paragraphs 94(1)(c) and 94A(1)(d).

170 JSCEM, *The 1996 Federal Election* (1997), as above, p. 47.

171 Submission (SCG, no. 148), p. 15.

- 2.211 The SCG contended that the ‘intention to return’ provision is also in breach of the International Covenant on Civil and Political Rights.¹⁷²
- 2.212 The Committee notes that the ‘six year rule’ is effectively nullified by the Electoral Act’s provision for extending EOE status beyond six years (one year at a time), so long as a person states that they eventually intend to return to Australia.

Reasons for leaving Australia

- 2.213 Paragraph 94A(1)(a) of the Electoral Act provides that a person may only apply for enrolment from outside Australia ‘if the person has ceased to reside in Australia for reasons relating to the person’s career or employment or for reasons relating to the career or employment of the person’s spouse’.¹⁷³ The ‘reason for leaving Australia’ is not a condition imposed on Australians already enrolled who apply for EOE status.
- 2.214 The SCG argued that there is no sound justification for this. Under the current law several groups, such as retirees and backpackers, are excluded from achieving EOE status while travelling overseas. SCG submitted:

The provision would seem to indicate that those who depart Australia for the more noble purpose of employment are somehow more worthy of the right to enrolment and therefore the right to vote while they are overseas.¹⁷⁴

Compulsory overseas voting and the ‘use it or lose it’ provision

- 2.215 Voting is not compulsory for Australians overseas.¹⁷⁵ However, if an elector with EOE status does not vote in a federal election, or apply for a postal vote, their name will be removed from the electoral roll.¹⁷⁶ The AEC explained that the basis for this arrangement (and the equivalent requirement for itinerant electors) is that:

Bearing in mind that itinerant and overseas enrolment is not compulsory, this is a roll cleansing mechanism allowing the AEC to remove from the roll itinerant and overseas electors

172 Submission (SCG, no. 148), p. 15.

173 *Commonwealth Electoral Act 1918*, paragraph 94A(1)(a).

174 Submission (SCG, no. 148), p. 17.

175 *Commonwealth Electoral Act 1918*, subsection 245 (17).

176 *Commonwealth Electoral Act 1918*, paragraph 94(13)(c).

when they no longer have an intention or eligibility to be enrolled in this way.¹⁷⁷

- 2.216 Overseas voters who have been removed from the roll because they failed to vote at an election may apply to be re-instated as an EOE voter if they still meet the requirements in sections 94 and 94A of the Act (outlined in paragraphs 2.183 - 2.188).
- 2.217 The SCG submitted that this provision should be removed from the Electoral Act, arguing that its effect is to impose compulsory voting on overseas Australians with EOE status. The SCG submitted that, in most cases, once an EOE has been removed from the roll they are not eligible for re-instatement because they no longer meet the legislative requirements (in particular the two-year time limit for application). The SCG asked, 'how is this stance consistent with the fact that voting is not compulsory while a citizen is overseas?'¹⁷⁸

Proposals for change

Register of Overseas Electors

- 2.218 Several submissions recommended that the AEC establish a Register of Overseas Electors as an online database, accessible by registered individuals, who could then update their enrolment details as required. The Register would also be used to advise the calling of elections and to issue postal vote applications to overseas voters. The SCG submitted that this would:

overcome the common complaints that lack of information, timeframes for overseas electors, the vagaries of postal services, and distant locations of Australia's Embassies and Consulates all work against effective participation by overseas electors.¹⁷⁹

- 2.219 The AEC noted that its internet site already provides current information on upcoming electoral events, enrolment and voting procedures, and electronic versions of most forms required by overseas voters. The AEC observed that:

Judging by the submissions made to the JSCEM inquiry by the members of the Southern Cross Group, they are technologically literate and maintain a close interest in

177 Submission (AEC, no. 199), p. 7.

178 Submission (SCG, no. 148), p. 25.

179 Submission (SCG, no. 148), p. 34.

Australian affairs. The AEC believes the resources currently available to enrolled Australians overseas should be sufficient for them to maintain enrolment.¹⁸⁰

A special electorate for overseas voters

- 2.220 At present an Eligible Overseas Elector will normally be registered in the electorate in which he or she last resided. Several submissions raised the possibility of creating a special electorate to represent expatriate Australians.¹⁸¹
- 2.221 Submissions argued that overseas residents have a 'natural community of interests' and that the creation of an overseas electorate would avoid the 'artificial' situation of EOE's voting in the electorate they last lived in, when they may not return to live there.¹⁸²
- 2.222 Several countries have special arrangements for voters living overseas, including:
- the French Sénat, which has 12 senators to represent French people living abroad;
 - the Croatian Sabor (Assembly), which has up to six members representing Croatians living abroad;
 - Portugal, which has four deputies in two constituencies to represent Portuguese citizens resident overseas;
 - Italy, which passed legislation at the end of 2001 allowing voters abroad to register and vote for 12 representatives in the House and six in the Senate.¹⁸³
- 2.223 The AEC commented that while the creation of an overseas electorate would present a number of challenges for administration, none of these would be insurmountable.¹⁸⁴

180 Submission (AEC, no. 174), p. 34.

181 See submissions (Ms L. Reeb, no. 21; Mrs P. Sved, no. 48; H and S Brookman, no. 75; Ms J. Magnin, no. 85; Dr R. Mair, no. 104).

182 Submission (H and S Brookman, no. 75).

183 See French Sénat internet site: <http://www.senat.fr/english/role/senate.html>, accessed 19 March 2003; Electionworld internet site: <http://www.electionworld.org/election/parliaments.htm>, accessed 20 March 2003; Southern Cross Group internet site: <http://www.southern-cross-group.org/overseasvoting/directrepresentos.html>, accessed 20 March 2003.

184 Submission (AEC, no. 181), p. 7.

2.224 However, the AEC noted that legal opinion would need to be sought on whether the proposal was constitutional. Two sections of the Constitution have bearing:

- section 24 of the Constitution may imply that Members of the House of Representatives (other than those representing a Territory) must be chosen in one of the States, which would rule out having a single overseas constituency for the whole country, and may require a separate overseas constituency for each State.¹⁸⁵
- section 29 of the Constitution states, in part, that a 'Division shall not be formed out of parts of different States'. In the context of proposals for a separate electorate for Aboriginal and Torres Strait Islanders, the Attorney-General's Department advised the AEC that the High Court may construe this section as implying that Divisions must be geographically defined.¹⁸⁶

2.225 At the hearing on 20 September 2002, Senator Murray voiced his support for the concept of a 'whole of Australia' seat for Australians resident overseas. Senator Murray commented:

That would deliver one extra seat to the House of Representatives – which is neither here nor there – but there would be no chance then, in my view, of a particular electorate being influenced by the deliberate location of Australians overseas on a random basis into that electorate.¹⁸⁷

2.226 Changes to the provisions in the Constitution would require a referendum.

AEC Response to SGC submissions

2.227 In response to the SCG's concerns and recommendations, the AEC noted that what the group is seeking amounts to a fundamental change to the intention of the legislation governing overseas enrolment, as first introduced in 1983.

2.228 The AEC pointed to the Explanatory Memoranda for the 1983 Bill which first introduced overseas voting entitlements for all Australians (voting for servicemen serving overseas was introduced in 1953), which stated:

185 Submission (AEC, no. 181), p. 6. See section 24 of the Constitution: <http://www.aph.gov.au/Senate/general/Constitution/index.htm>, accessed 20 March 2003.

186 Submission (AEC, no. 181), p. 6; Section 29 of the Constitution.

187 Transcript of Evidence, 20 September 2002 (Senator A Murray), p. EM 111.

[the new clauses] relate to the enrolment entitlements of electors who are *temporarily living overseas* but who *intend to return to live in Australia* within 3 years of their departure from Australia.¹⁸⁸

- 2.229 The AEC argued that debate about a change to the limitations on the enrolment entitlements of overseas Australians is a matter for the Parliament in the first instance, not the AEC:

[the recommendations] are clearly aimed at breaking the nexus between enrolment and voting rights and a temporary absence from Australia. The AEC believes that a consideration of the approach to overseas voting rights needs to occur before the sort of amendments being recommended here are adopted.¹⁸⁹

Committee comment and recommendations

- 2.230 The proposals put forward by the SCG are indeed far reaching. Their implementation would stretch not only the Electoral Act, but also the shape of the electoral system as envisaged by the Constitution. The Committee is not of the view that there are sufficient grounds to contemplate such extensive change.
- 2.231 It remains the view of the Committee that Australians living overseas must demonstrate a continued interest in Australian political affairs if they are to retain their right to vote whilst not resident in Australia. Hence, the Committee does not support the removal of the 'intention to return to Australia' or the 'use it or lose it' provisions of the Electoral Act.
- 2.232 The Committee notes that the 'use it or lose it' provisions are not a form of compulsion, but rather a test of continuing interest in Australian political affairs.
- 2.233 The Committee does, however, believe some changes to the existing EOE provisions are warranted. It agrees that there should be no differentiation between voters as to the reasons for which they left Australia. It also considers there to be merit in extending the current two-year time limit to three years. This would ensure the occurrence of at least one electoral event within the cut-off period, and would be a fairer test of continuing interest in Australian political affairs.

188 Commonwealth Electoral Legislation Amendment Bill 1983 – Explanatory Memorandum, paper no. 15428/1983, p. 18 (Clause 24). Emphasis added.

189 Submission (AEC, no. 174), p. 34.

Recommendation 4

- 2.234 **The Committee recommends that subsection 94A(1) of the *Commonwealth Electoral Act 1918* be amended so that expatriate Australians applying for Eligible Overseas Elector status are not required to state the reason why they left Australia.**

Recommendation 5

- 2.235 **The Committee recommends that subsection 94A(2) of the *Commonwealth Electoral Act 1918* be amended so that the current two-year cut off point for application for Eligible Overseas Elector status be extended to three years.**

Awareness of overseas enrolment provisions

- 2.236 It was asserted in SCG submissions that most Australians moving overseas are not aware of the provisions allowing overseas enrolment.¹⁹⁰
- 2.237 The AEC responded that it believes there are sufficient sources of information available from 'the most obvious sources' on overseas enrolment and voting procedures,¹⁹¹ notably:
- the AEC internet site, which includes detailed descriptions of the overseas enrolment process and application forms for EOE status and postal voting;
 - the application form for registration as an EOE, which contains advice regarding how to vote overseas once registered as an EOE; and
 - a letter sent to electors when their application for EOE status is accepted, which explains the restrictions on EOE eligibility and how to vote overseas.¹⁹²

190 Submission (SCG, no. 148), p. 8.

191 Submission (AEC, no. 181), p. 4.

192 The AEC also referred to a DFAT publication *Hints for Australian Travellers* (AEC, submission no. 181, p. 3). See DFAT internet site: <http://www.dfat.gov.au/consular/download/hints.pdf>, accessed 11 June 2003.

2.238 A number of submissions also referred to a lack of clear advice from AEC officers, regarding overseas voting entitlements. For example, Ms Caroline Bissey reported that her name was removed from the electoral roll after speaking with an AEC officer prior to moving overseas. Ms Bissey stated that:

I was not sure what the process would be or what my options were. I was not aware that I could register as an overseas elector and [the AEC officer] never explained to me that I could.¹⁹³

2.239 The AEC responded to Ms Bissey's submission by stating that its records show that she wrote to the AEC advising that she was 'leaving Australia to live overseas', and that she understood that 'if she ever returned to Australia' she should re-enrol. The AEC concluded that Ms Bissey's correspondence to the AEC indicated that she had no fixed intention of returning to Australia and therefore was not eligible for EOE status.¹⁹⁴

2.240 The AEC responded generally to complaints about lack of information about overseas voting entitlements by stating that it was probable that the majority of those submitters were ineligible for EOE status, and that:

there is no reason to provide information on the EOE register to people who clearly do not qualify under the provisions of the Act.¹⁹⁵

2.241 A number of submissions complained of inadequate advice on overseas voting entitlements from DFAT staff at overseas posts.¹⁹⁶ The Committee notes that most of the complaints from submitters referred to encounters with DFAT posts in the 1970s and 1980s. DFAT responded that advice on voting rights is an AEC matter, and that staff at overseas posts should be advising enquirers to contact the AEC directly:

The AEC's instructions to posts make it clear that staff are not to provide advice to electors on questions of enrolment status. Staff are to refer inquirers to the AEC...Overseas posts are not

193 Submission (Ms C Bissey, no. 60). See also submissions (Ms S Tobin, no. 65; Ms R. Stephenson, no. 112; Ms K. Austin, no. 113; and Ms L. Quinn, no. 123).

194 Submission (AEC, no. 186), p. 6.

195 Submission (AEC, no. 186), p. 6.

196 See submissions (Mr L. Dwyer, no. 54; Mr J. Wulff, no. 111; Mr S. Blackney, no. 118; and Ms C Rawson, no. 137).

provided with copies of the electoral rolls so are unable to confirm enrolment status.¹⁹⁷

Committee comment and recommendation

- 2.242 The Committee appreciates the AEC's assertion that 'there is no reason to provide information on the EOE register to people who clearly do not qualify under the provisions of the Act'. It is nonetheless concerned that this lack of information may lead people to believe that they have been misled by the AEC about their voting rights.
- 2.243 The Committee believes that the AEC should provide information about overseas enrolment entitlements to all people who contact them about moving overseas, rather than only to those people AEC Officers believe may qualify for EOE status. This would alleviate the concerns raised about lack of information.

Recommendation 6

- 2.244 **The Committee recommends that the AEC provide comprehensive information on overseas voting entitlements and enrolment procedures to all electors who contact the AEC about moving overseas.**

Other issues relating to overseas enrolment

- 2.245 Two subsidiary issues emerged from submissions to the inquiry about enrolment by overseas electors: the impact of new dual citizenship provisions on voting rights, and misconceptions about the Australian Taxation Office's use of the electoral roll for ascertaining residency status.

Dual citizenship

- 2.246 Prior to April 2002, an Australian citizen deliberately acquiring another citizenship would forfeit their Australian citizenship. On 4 April 2002 section 17 of the *Australian Citizenship Act 1948* was repealed, allowing Australians to become citizens of another nation

¹⁹⁷ Submission (DFAT, no. 168), p. 2. See also submission (AEC, no. 199), p. 11, for further detail on training initiatives for DFAT staff in relation to overseas voting.

without losing their Australian citizenship.¹⁹⁸ Australians who had already lost their Australian citizenship under section 17 did not have their citizenship reinstated.

- 2.247 The effect of the amended dual citizenship arrangements is that expatriate Australians may qualify to enrol and vote for both Australian and overseas elections if they meet the requirements under the *Commonwealth Electoral Act 1918* for overseas voting and any requirements for voting in their new country of residence.
- 2.248 The Southern Cross Group played a significant part in the campaign to repeal section 17 of the *Australian Citizenship Act 1948*. One of the SCG's arguments for change was that many expatriate Australians wish to take up citizenship of their new country of residence for practical reasons such as to overcome limitations on work, finance, taxation, business and property purchase, et cetera.¹⁹⁹
- 2.249 The SCG also argued that expatriate Australians who remain as foreign nationals in their new country of residence do not usually have the right to vote, and in many cases, are excluded from voting in Australian elections because of the restrictions in the Electoral Act. Many expatriate Australians therefore do not have any democratic right to vote in their homeland (Australia) or their new country of residence.²⁰⁰
- 2.250 At this Committee's inquiry hearing on 20 September 2002, Senator Ray raised concerns about dual citizenship and its capacity to allow a person to vote in two countries:
- you could be a resident in Europe and voting for candidates in their local or national elections that insist on agricultural subsidies that absolutely destroy the Australian way of life—and then you are supposed to get a vote within Australia.²⁰¹
- 2.251 Similar concerns were noted by the Australian Citizenship Council in its 2001 discussion paper on proposed dual citizenship arrangements. The Council noted the arguments against the introduction of dual

198 *Australian Citizenship Legislation Amendment Act 2002*, which received Royal Assent on 4 April 2002.

199 SCG, submission to the Australian Citizenship Council, July 2001, at: http://www.southern-cross-group.org/archives/Dual%20Citizenship/2001-07/SCG_Submission_to_DIMA_6_July_2001.pdf, accessed 18 March 2003.

200 SCG, submission to the Australian Citizenship Council, July 2001, at: http://www.southern-cross-group.org/archives/Dual%20Citizenship/2001-07/SCG_Submission_to_DIMA_6_July_2001.pdf, accessed 18 March 2003.

201 Transcript of Evidence, 20 September 2002 (Senator R Ray), p. EM113.

citizenship which questioned whether dual citizenship would cause problems when nations and their members had interests which may be compromised by conflicting allegiances.²⁰²

- 2.252 Submissions to this inquiry manifested mixed views on dual citizenship and voting rights. Some were content to have the right to vote in their current country of residency only:

if I am living in Canada where I have taken out Canadian citizenship, then I would feel no urge to vote in Australian elections. My feeling is that as I am not living in Australia, it would not be fair to impose my views and circumstances on the Australian situation.²⁰³

and,

Choosing where to vote (based on residence) seems reasonable to me, should I become a US citizen. If I should return [to Australia], I would want to resume voting immediately.²⁰⁴

- 2.253 However, others felt that their financial and personal ties to Australia and their new country entitled them to vote in both:

If one has an impact on two cultures, it is not unreasonable to vote in both countries. That is not the same as voting twice.²⁰⁵

and,

If I am a citizen of two countries, I may have business, social and other interests in both countries. I may well be paying tax in two countries, even if I am a non-resident of one.

Therefore, why shouldn't I be able to vote in two different countries?²⁰⁶

- 2.254 The Committee recognises the potential under current EOE provisions for dual citizens to obtain voting entitlements in two different countries. This potential is limited only by the rules for attaining EOE status and the 'intention to return to Australia' and 'use it or lose it' provisions of the Electoral Act.

202 Australian Citizenship Council, *Discussion Paper on Section 17 of the Australian Citizenship Act 1948*, June 2001, at: <http://www.citizenship.gov.au/0601paper>, accessed 24 March 2003.

203 Submission (SCG, no. 187 response 7), p. 9.

204 Submission (SCG, no. 187, response 8), p. 9.

205 Submission (SCG, no. 187, response 6), p. 9.

206 Submission (SCG, no. 187, response 10), p. 10.

- 2.255 At this early stage of the operation of the dual citizenship provisions, the Committee considers it prudent to keep a watching brief on their impact on the Australian electoral system.

ATO assessment of residency

- 2.256 It was suggested that one reason for the low number of Australian expatriates with EOE status could be that expatriates have an impression that the Australian Taxation Office (ATO) refers to the electoral roll in assessing a person's residency for tax purposes.
- 2.257 Submissions indicated that Australians moving overseas for employment reasons find it advantageous to be treated by the ATO as non-residents for tax purposes. The SCG provided anecdotal evidence suggesting that accountants, lawyers and financial planners often advise clients moving overseas to apply to the AEC to have their names removed from the electoral roll. This is due to the widespread belief that the ATO uses evidence of a person's enrolment, amongst other criteria, to ascertain their residency status for tax purposes.
- 2.258 The ATO responded that:
- historically, the courts have placed next to no emphasis on electoral roll registration as a determinant of residency status. At most it would be a factor only where it was one of and was consistent with a series of factors which indicated that a person was either a resident or not a resident.²⁰⁷
- 2.259 The ATO also stated that while the Electoral Act allows overseas Australians to be registered as EOE's for six years or longer, under tax law a person generally would cease to be a resident for tax purposes two years after they ceased to reside in Australia. This further limits the relevance of the electoral roll in determining tax status.
- 2.260 The ATO noted the concern that tax professionals may be giving incorrect advice to Australians departing for overseas. The ATO stated that their information on Australians working overseas does not indicate a widespread problem in relation to incorrect advice from tax professionals. The ATO undertook to clarify the relevance of registration on the electoral roll to determination of residency status.²⁰⁸

207 Submission (Australian Taxation Office [ATO], no. 194), pp. 3-4.

208 Submission (ATO, no. 194), p. 5.

Homeless electors

2.261 The franchise of homeless people was raised in several submissions to the inquiry. The contention was that certain provisions of the Electoral Act restrict the ability of homeless people to enrol to vote in federal elections.²⁰⁹

Statistics on homelessness in Australia

- 2.262 The Australian Bureau of Statistics (ABS) provides a three-tiered definition of homelessness:
- primary homelessness refers to those persons ‘without conventional accommodation’, namely those living on the streets, sleeping in parks, or squatting in derelict buildings;
 - secondary homelessness includes those who move frequently from one form of temporary shelter to another and covers those who use emergency accommodation (hostels or night shelters, for example), teenagers staying in youth refuges, women and children escaping domestic violence, people residing temporarily with other families and those who use boarding houses on an occasional or intermittent basis; and
 - tertiary homelessness refers to those persons who live in boarding houses on a medium to long-term basis; residents of private boarding houses who do not have a separate bedroom and living room, kitchen or bathroom facilities of their own; and those who do not have the security of tenure provided by a lease.²¹⁰
- 2.263 Using data from both the 1996 census and the National Supported Accommodation Assistance Program (SAAP) Data Collection,²¹¹ the ABS report, *Counting the Homeless*, estimated that the Australian homeless population totalled 105,304 at the time of the census.²¹²

209 Submissions (Homeless Persons’ Legal Clinic [HPLC], no. 145; *The Big Issue*, no. 150; Council to Homeless Persons, no. 105; ALP, no. 153). The HPLC submission was endorsed by 12 organisations including the St Vincent de Paul Community and Support Services, the Salvation Army Adult Services, Melbourne Citymission Western, Urban Seed and the Victorian Council for Social Services (Submission no. 145, pp. 37-38).

210 Submission (HPLC, no. 145), pp. 8-9.

211 The National SAAP Data Collection gathers information on all persons accommodated in services funded by the Supported Accommodation Assistance Program, such as hostels, refuges and other types of emergency accommodation.

212 Chris Chamberlain, *Counting the Homeless: Implications for Policy Development*, ABS Occasional Paper, 1996, p. 3. Available at:

Comparable figures from the 2001 census have not yet been released by the ABS.²¹³

2.264 Table 2.9 details the dispersion of homeless persons.

Table 2.9 Number of persons in different sectors of the homeless population, census night 1996

	Enumerated	Estimated	Total
Boarding houses	23 299		23 299
SAAP accommodation	12 926		12 926
Friends and relatives	35 500	13 000	48 500
Improvised dwellings, sleepers out	19 579	1 000	20 579
Totals	91 304	14 000	105 304

Source Chris Chamberlain, *Counting the Homeless: Implications for Policy Development*, ABS, p. 3.

2.265 The 'estimated' figures represent the number of young people who may have been with friends or relatives, or were in improvised dwellings but not recorded by the census. This is in part explained by the number of young people (aged 12 to 18) recorded as 'visitors' and not accompanied by an adult aged 19 or over. The ABS report noted that of the 26,300 young people who fell into this category, 50 per cent may have run away or been excluded from home.²¹⁴

The Electoral Act and voting by the homeless

2.266 On the basis of the figures reported in *Counting the Homeless*, the Homeless Persons' Legal Clinic (HPLC) stated that an estimated total of 88,000 homeless people were eligible to vote.²¹⁵

<http://www.abs.gov.au/Ausstats/abs%40.nsf/525a1b9402141235ca25682000146abc/f26f9a1fc5d22f89ca256889000d02fd!OpenDocument>, accessed 6 March 2003.

213 Figures will not be released until the research is completed. This is expected to be finalised by September-October 2003. Further information on the strategies used in the 2001 census is available at the ABS website. See, in particular, ABS Media Release 3 August 2001:

<http://www.abs.gov.au/ausstats/abs@.nsf/0/09A591D8ADC450DFCA256A9D0004ED24?Open&Highlight=0,homeless>, accessed 5 March 2003, and ABS Census Update 24, November 2001,

<http://www.abs.gov.au/852563C300806CB8/0/8E1ABC6ED03A9777CA256B0F007C034B?Open&Highlight=0,homeless>, accessed 5 March 2003.

214 Chris Chamberlain, *Counting the Homeless: Implications for Policy Development*, ABS Occasional Paper, 1996, p. 25.

215 Submission (HPLC, no. 145), p. 9. The HPLC also acknowledged that a certain percentage of the total number of homeless people will be under the age of 17 and are thus ineligible to enrol. They re-iterated the finding that 13,000 youths between the ages of 13-18 were 'missed' by the census.

- 2.267 Estimates of the proportion of homeless people who are eligible to vote, but are not enrolled vary considerably. Hanover Welfare Services (HWS) estimate that ‘approximately one third of homeless people are not registered to vote’.²¹⁶ The Australian Federation of Homelessness Organisations (AFHO) estimates that more than 90 per cent of homeless people are not enrolled to vote.²¹⁷
- 2.268 The HWS and AFHO estimates suggest that between 29,000 and 80,000 homeless people who may have been eligible to vote in the 2001 federal election did not do so.

‘Ordinary’ elector provisions

Overview

- 2.269 In addition to the primary qualifications for enrolment outlined earlier in this chapter, an individual seeking to enrol for the purposes of voting in a federal election must provide:
- a residential address;
 - a postal address; and
 - a signed declaration of eligibility witnessed by someone who is eligible to be on the roll.²¹⁸
- 2.270 Section 101 of the Electoral Act establishes that an individual must enrol in a Division within 21 days of becoming eligible to enrol.
- 2.271 Once enrolled, an individual is obliged, under section 245 of the Act, to exercise their right to vote.²¹⁹ Those who are recorded as not having accepted a ballot from a polling official are sent a penalty notice requiring a ‘valid and sufficient reason’ for their action.

Concerns expressed to the Committee

- 2.272 The Homeless Persons Legal Clinic (HPLC) submitted that each of the above requirements affects the franchise of homeless persons.

216 M Horn, *Social and Democratic Exclusion: Giving Voice to the Homeless*, Hanover Welfare Services, November 2001; cited in submission (HPLC no. 145), p. 9 footnote 6.

217 Australian Federation of Homelessness Organisations, Media Release, 27 June 2001, http://www.afho.org.au/3_news/media_releases/27.06.01.htm, accessed 11 June 2003.

218 See Part VII of the *Commonwealth Electoral Act 1918*.

219 Section 245, ‘Compulsory Voting’, stipulates that it is ‘the duty of every elector to vote at each election’. In practice, electors need only accept a ballot paper from a polling official so that their name is checked against the Certified List.

- 2.273 Providing a residential address was considered ‘a major impediment’, particularly where homeless persons live in non-conventional housing (for example, doorways, neglected warehouses, or on the street), or lack a consistent and stable address.²²⁰
- 2.274 While the Act does not define ‘address’, the HPLC predicted that the AEC could feasibly reject the enrolment of a person who nominated as their address ‘a caravan on unused Crown land which could only be adequately located by means of describing the access road’.²²¹
- 2.275 Moreover, given the propensity of homeless people to move frequently, the HPLC noted the difficulty of enrolling when the Act requires an individual to be enrolled at an address for at least one month.²²²
- 2.276 According to submissions made by *The Big Issue* and the HPLC, homeless persons are afraid of being fined for not enrolling within the prescribed time frame.²²³ These organisations submitted that the fines for not enrolling within 21 days of establishing a residence, and failing to vote are a disincentive for homeless persons to enrol.²²⁴
- 2.277 The HPLC made several recommendations to change the ordinary elector provisions in the Electoral Act, many of which seek to establish ‘exemptions’ for homeless persons.
- 2.278 The first concerned the address for which a homeless person may enrol. The HPLC recommended that the Act be amended:
- so that persons who give details of why they cannot provide an ‘address’ as to where they ‘live’ are able to nominate an address in the [Division] with which they have a close connection.²²⁵
- 2.279 The HPLC defined ‘close connection’ as:
- the address of, or which is nearest to, a place where the claimant commonly spends a substantial part of his or her time, whether during the day or night (see section 7B of the *Representation of the People Act 1983 (UK)* as amended in 2000);

220 Submission (HPLC, no. 145), p. 15.

221 Submission (HPLC, no. 145), p. 15.

222 Submission (HPLC, no. 145), p. 15.

223 Submission (HPLC, no. 145 p. 15; *The Big Issue*, no. 150 p. 3).

224 Submission (HPLC, no. 145), p. 16.

225 Submission (HPLC, no. 145), p. 16.

or 'home base' requirement as provided for under the American 'National Mail Voter Registration form'.²²⁶

2.280 In addition, the HPLC recommended that the 21-day timeframe for updating enrolment details should be repealed or extended, and that a 'reasonable excuse' provision be incorporated in subsection 105(5) of the Act for those who fail to update their enrolment.²²⁷

2.281 In relation to the penalty provisions of the Act, both the HPLC and *The Big Issue* recommended that the AEC's internal procedures manual include homelessness as 'a valid and sufficient reason' for not meeting the requirement to vote. The HPLC was of the view that:

a public recognition of the practical difficulties faced by the homeless population which may prevent them from voting is necessary.²²⁸

2.282 Ms Meg Mundell added that what was involved was 'a matter of perception':

Within the homeless population, the people I have spoken to know that if you are enrolled and you do not vote then you can cop a fine. That is the last thing somebody in that situation is able to deal with.²²⁹

Committee comment

2.283 The Committee considered the applicability of ordinary elector provisions to homeless persons in detail.

2.284 Whilst appreciating the difficulties confronted by the homeless in enrolling and voting, the Committee is concerned about the implication of addressing these difficulties by way of amending provisions applicable to ordinary electors.

226 Submission (HPLC, no. 145), p. 16.

227 The HPLC also recommended that amending legislation to provide for the earlier closure of the rolls and the requirement of proof of identity on application for enrolment not be passed.

228 Submission (HPLC, no. 145), p. 14.

229 Transcript of Evidence, 12 August 2002 (Ms M Mundell), p. EM44. The HPLC requested that the internal manual be made publicly available so as to alleviate the perception amongst homeless persons that they would be fined. However, the AEC does not believe it would be appropriate to publish its confidential internal manual as this could facilitate an increase in non-voting amongst all electors. The AEC is supported in this decision by the Administrative Appeals Tribunal. See Transcript of Evidence, 16 August 2002 (Mr P Dacey), p. EM74.

- 2.285 The Committee doubts that homeless persons who failed to enrol or failed to vote incur penalties.
- 2.286 Senator Ray expressed his belief at the 12 August hearing that:
if [the homeless person] were to be challenged by the Electoral Commission for not voting, their using that as an excuse would almost certainly be acceptable.²³⁰
- 2.287 The Committee does not recommend change to existing provisions or penalties for ordinary electors.
- 2.288 The Committee formed the view during discussions that the very real issues confronting the homeless in regard to enrolment and voting would be better addressed through the more effective utilisation of the existing itinerant elector provisions.

Itinerant elector provisions

Background

- 2.289 In 1983, the Joint Select Committee on Electoral Reform recommended various reforms to electoral legislation, including an alternative set of enrolment provisions which would cater to itinerant Australians.
- 2.290 The concern was that enrolment qualifications, as set out in subsection 39(3) of the Act,²³¹ effectively disenfranchised 'itinerant workers and others whose occupation [required] frequent change' of residence.²³²

The Committee considered various options ... including enrolment in the electoral Division in which itinerant workers were born or the last one in which they could have enrolled under the current provisions relating to length of residence.²³³

230 Transcript of Evidence, 12 August 2002 (Senator R Ray), p. EM49.

231 Following the enactment of the *Commonwealth Electoral Legislation Amendment Act 1984* (No. 45, 1984), sections and parts of the *Commonwealth Electoral Act 1918* were renumbered. For example, section 39 became section 93.

232 Joint Select Committee on Electoral Reform, *First Report*, Parliament of Australia, September 1983, p. 100.

233 Joint Select Committee on Electoral Reform *First Report*, Parliament of Australia, September 1983, p. 100. While that Committee used 'itinerant workers' such as shearers, fruit pickers and farm hands as an example of those electors to which these provisions would cater, the ensuing Act did not refer exclusively to itinerant workers.

- 2.291 Amendments were contained in the *Commonwealth Electoral Legislation Amendment Act 1983*. These effectively allowed itinerant people the opportunity to enrol for:
- the Subdivision for which the person's next of kin was enrolled at the time of application; or if that is not applicable,
 - the Subdivision for which the person last had an entitlement to be enrolled; or if that is not applicable,
 - the Subdivision in which the person was born; or if that is not applicable,
 - the Subdivision with which the person had the closest connection.²³⁴
- 2.292 To be eligible to enrol as an itinerant elector, a person must be an Australian citizen, over the age of 17, with no real place of living. A 'real place of living' is defined in section 4 of the Electoral Act as the 'place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place'.²³⁵
- 2.293 Itinerant voter status can be revoked if the itinerant:
- does not attend a polling booth or apply for a postal vote (paragraph 2.215 refers to the corresponding provision in relation to overseas electors);
 - goes overseas for one month or longer; or
 - establishes a permanent place of living and resides there for a period of one month.²³⁶
- 2.294 As of 15 October 2001, a total of 4,201 Australians were enrolled as itinerant electors.²³⁷

234 *Parliamentary Debates: Official Senate Hansard*, 1 December 1983, p. 3144

235 This excludes those people who regularly travel from a fixed address for extended periods in connection with work, such as farm workers, fishing crews and mine workers, and those who are travelling around Australia but who eventually intend to return to a fixed address. Those who intend to leave Australia for a short time are also excluded. (See AEC, *Information on Enrolling as an Itinerant Elector*, at: http://www.aec.gov.au/_content/What/enrolment/forms/itinerant.pdf, accessed 12 March 2003).

236 AEC, *Information on Enrolling as an Itinerant Elector*, as above. Submission (AEC, no. 199), pp. 6-7.

237 AEC, *Electoral Pocketbook*, Commonwealth of Australia, July 2002, p. 39.

Concerns about the application of itinerant elector provisions to the homeless

- 2.295 *The Big Issue* noted that there have been no previous efforts by government or the AEC to list the homeless as a category of itinerant voters.²³⁸
- 2.296 The itinerant voter provisions do allow homeless persons to be encompassed, although this is not explicit:
- they do not require that an elector have an ‘address’ or a fixed place of living;
 - there are no financial penalties for failing to update one’s enrolment details; and
 - there is no financial penalty for itinerant electors who fail to vote, although their name will be removed from the roll if they fail to exercise that right.²³⁹
- 2.297 Nevertheless, the HPLC argued that as the itinerant voter provisions currently operate, these entail a number of practical difficulties for homeless persons.
- 2.298 The HPLC were particularly concerned with the ‘hierarchy’ of Divisions in which itinerants may enrol, which it argued effectively restricted the application of the ‘closest connection’ provision to those who are born outside Australia.
- 2.299 The HPLC considered that homeless persons should be allowed to enrol in the electorate in which they live, so as to directly choose those who are to represent them.
- 2.300 The Council to Homeless Persons noted that the rates of homelessness differed by region. The Council subsequently provided figures, as presented in Table 2.10 below.

238 Submission (*The Big Issue*, no. 150, p. 2).

239 A small percentage of itinerant voters do not exercise their right to vote. In 1996, 0.62 per cent of itinerant voters were removed from the roll while in 1998, 0.67 per cent were removed (figures obtained by the HPLC from the AEC, 17 January 2002, see p. 21 of submission no. 145).

Table 2.10 Number of homeless persons on census night, 1996 and the rate of homelessness per 10,000 of the population by region (Victoria)

	Inner Melbourne	Suburban Melbourne	Regional Victoria	Total
Number of homeless people	3 876	8 214	5 750	17 840
Rate per 10 000 of population	173	28	47	41

Source Chris Chamberlain. 2000. 'Homelessness in Victoria: A report prepared for the Victorian Homelessness Strategy, Department of Human Services'.

- 2.301 Inner Melbourne has the greatest concentration of homeless persons. The second highest average rate is found in Regional Victoria, particularly in the areas of East Gippsland (67 per 10,000), Ovens-Murray (56 per 10,000), Mallee (54 per 10,000) and Loddon (52 per 10,000).
- 2.302 The figures are difficult to interpret but under the proposal to allow homeless persons to enrol in the Division with which they have the 'closest connection', the majority of the 3,876 homeless people in Inner Melbourne may be voting in one or two electorates (Melbourne and Melbourne Ports). The 5,750 homeless persons in regional Victoria could be voting in one of three or four electorates (Murray, Gippsland, Mallee or Bendigo).
- 2.303 The period in which an itinerant may have a 'real place of living' is also of concern to the HPLC. Those homeless persons who live on the streets or sleep in parks (classified as the 'primary homeless') may tend to move frequently. Persons who stay in youth and women's refuges, or who stay in boarding houses or other emergency accommodation (classified as the 'secondary' and 'tertiary' homeless) tend to stay in one place for longer than one month. The HPLC argued that the provisions should allow itinerant electors to reside in one place for up to six months rather than only one month before having their itinerant status altered.
- 2.304 The HPLC also submitted that the definition of a 'real place of living' (being the 'place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place') required further clarification. According to the HPLC, a reference to 'unstable housing or non-conventional places of living' would ensure homeless persons are not excluded from the itinerant voter scheme.²⁴⁰

240 Submission (HPLC, no. 145), p. 23.

- 2.305 Like 'ordinary' electors, itinerant electors may apply for itinerant elector status up until the close of rolls. The HPLC recommended that an exception be granted to homeless persons so that late applications could be made 'in person up to the day before the election'.²⁴¹
- 2.306 Finally, the HPLC believed the format of the itinerant enrolment application form was confusing. Specifically, it highlighted question 11 of the form which requires 'the address for which [the individual is] claiming enrolment', arguing that this may be taken to mean a 'current address'. The HPLC recommended that the itinerant application form be reviewed.²⁴²
- 2.307 The AEC accepted that while the itinerant elector provisions do apply to homeless persons, this applicability is not clearly publicised and that the provisions could be amended to make their applicability to homeless persons clear.²⁴³
- 2.308 In relation to the HPLC's proposals to amend the provisions of the Electoral Act relating to itinerant electors, the AEC underscored the importance of '[minimising] the opportunities for enrolment fraud'.²⁴⁴
- 2.309 The AEC stressed that to permit persons to enrol for an address 'in the Subdivision with which they have the closest connection', rather than in accordance with the hierarchy set out in the itinerant provisions, could potentially leave the roll open to manipulation. Accordingly, caution would need to be exercised in contemplating such a change.²⁴⁵
- 2.310 The AEC advised that it would consider the needs of homeless and itinerant electors in its forthcoming review of enrolment forms.²⁴⁶

Committee comment and recommendation

- 2.311 The Committee believes that the itinerant voter provisions hold the most promise for the enrolment of homeless persons, and encourages the AEC to identify strategies to inform homeless persons of their ability to enrol as itinerant electors.

241 Submission (HPLC, no. 145), p. 24.

242 Submission (HPLC, no. 145), p. 24.

243 Submission (AEC, no. 186), p. 8.

244 Submission (AEC, no. 186), p. 7.

245 Submission (AEC, no. 186), p. 8.

246 Submission (AEC, no. 186), p. 8.

Recommendation 7

- 2.312 **The Committee recommends in relation to homeless electors:**
- **that the itinerant elector provisions outlined in section 96 of the *Commonwealth Electoral Act 1918* be amended so as to make clear their applicability to homeless persons;**
 - **that the AEC continue its efforts to simplify the itinerant elector application form and ensure that its applicability to homeless persons is made more apparent; and**
 - **that the AEC target homeless persons in its next public awareness campaign, informing them about itinerant elector enrolment.**
- 2.313 Regarding the HPLC's recommendation that homeless persons be allowed to register in an electorate with which they had a 'close connection', Committee members were reluctant to deviate from the hierarchy of enrolment Divisions as set out in paragraph 2.291. The 'closest connection' clause originally inserted into the itinerant elector provisions only had the intention of enfranchising those without any claim to enrolment in any other Division.
- 2.314 The proposal that a homeless elector be able to enrol as an itinerant elector in a particular Division up until the day before the election is not supported.
- 2.315 The Committee also considered which groups of homeless persons would be served by these amendments. Senator Murray expressed some concern that even in the event of successful amendments to the itinerant elector provisions, not all categories of homeless persons would be able to enrol. For this reason, Senator Murray raised the possibility of trialling itinerant elector provisions amongst certain groups of homeless persons.²⁴⁷

Non-legislative measures to assist homeless voters

- 2.316 Both the HPLC and *The Big Issue* argued that non-legislative measures were required to further facilitate enrolment and voting by homeless

247 Transcript of Evidence, 12 August 2002 (Senator A Murray), pp. EM 46-47.

- persons.²⁴⁸ In particular, it was submitted that further attention should be paid to elector awareness.
- 2.317 The HPLC recommended that AEC officials liaise with people working in shelters for the homeless, disability services, and welfare organisations with a view to assisting people to exercise their voting rights. The HPLC were also keen to ensure that mobile polling stations were located more strategically so as to capture homeless voters.²⁴⁹
- 2.318 In response, the AEC undertook to include homeless people as a target group in its public awareness campaign for the next federal election, acknowledging that there would be some challenges in reaching this group.²⁵⁰
- 2.319 The Deputy Electoral Commissioner also foreshadowed that the AEC could:
- use some of the welfare agencies as information imparters ... so that [the AEC could] actually make contact with some of the welfare agencies, have the enrolment forms available and talk about the processes.²⁵¹
- 2.320 The Committee supports and encourages these endeavours.

Aboriginal and Torres Strait Islander electors

Education of Aboriginal electors

- 2.321 The ALP's submission expressed concern that the abolition of the Aboriginal and Torres Strait Islander Electoral Information Service (ATSIEIS), had disenfranchised a significant proportion of indigenous Australians.
- 2.322 The Service was established in 1986 to aid Aboriginal and Torres Strait Islander people to develop an understanding of the electoral process, and to assist them to vote where required. The program aimed for Aboriginal and Islander self-management in local electoral matters by giving responsibility for the delivery of electoral

248 Submissions (HPLC, no. 145, p. 24; *The Big Issue*, no. 150).

249 Submission (HPLC, no. 145), p. 24.

250 Submissions (AEC, nos. 174 and 186).

251 Transcript of Evidence, 16 August 2002 (Mr P Dacey), p. EM 74.

information and education to Aboriginal and Torres Strait Islander people themselves.²⁵²

2.323 The program operated through the AEC and employed 15 to 20 local Aboriginal field officers, training them to identify, interpret for and assist voters at remote mobile polling locations.²⁵³ In evidence to the JSCEM in 1999, the former Australian Electoral Officer for the Northern Territory, Mr Kerry Heisner, explained that the ATSIEIS program:

also functioned as an enrolment review program in Aboriginal communities. Aboriginal people were encouraged to enrol and their enrolments were checked for the accuracy of name spelling and community address. The movement of people was also informally tracked so that their enrolments could be kept up to date.²⁵⁴

2.324 Funding for the service (\$2 million per year) was discontinued in the 1996-97 federal Budget.²⁵⁵ The AEC advised the JSCEM that it would do what it could within its budget to meet the ongoing education needs of Aboriginal and Torres Strait Islanders.²⁵⁶

2.325 The ALP's submission estimated that 54 per cent of the indigenous community is not currently enrolled to vote. The AEC and the Aboriginal and Torres Strait Islander Commission (ATSIC) have also previously raised concerns that indigenous community enrolments are 'significantly below overall enrolments'.²⁵⁷ For this reason, the recommendation has been made that ATSIEIS be re-instated.²⁵⁸

2.326 In 1998 the Committee recommended:

that the AEC report to the Committee on options for an effective integrated educational and enrolment service for

252 JSCEM, *Report on the Aboriginal and Islander Electoral Information Service*, Parliament of Australia, September 1991, p. 1. Submission (AEC no. 199), pp. 3-4.

253 AEC submission to the JSCEM, *The 1996 Federal Election* (1997), as above.

254 Evidence to the JSCEM, *The 1998 Federal Election* (2000), as above; Transcript of Evidence 29 June 1999, p. EM207.

255 Budget Statements 1996-97, Budget Paper No. 1, pp. 3-48.

256 JSCEM, *The 1996 Federal Election* (1997), as above, p. 44.

257 AEC submission to the JSCEM, *The 1998 Federal Election* (2000), as above; ATSIC submission to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *'We Can Do It!'*, *The Report of the inquiry into the needs of urban dwelling Aboriginal and Torres Strait Islander Peoples*, Parliament of Australia, November 2000, p. 17.

258 Submission (ALP, no. 153), p. 10.

Aboriginal and Torres Strait Islanders before the next federal election.²⁵⁹

- 2.327 The AEC has yet to complete this report. In 2002 the AEC reported that a preparatory meeting was held with representatives from all AEC State and Territory offices to canvass options. The report was to be written after an evaluation of the education program developed for the ATSIC elections held in October 2002. The Committee has been advised that the ATSIC post-election reviews have now been completed and that the report is now being drafted.
- 2.328 The Committee is pursuing the matter further with the AEC. It is proposed that if the AEC has not completed its report by the time the Committee's 2001 federal election report is finalised, the Committee will make a separate report on this specific issue.

Enrolment of certain groups and electoral roll completeness

- 2.329 The submissions made to the inquiry concerning the enrolment of overseas, homeless and indigenous persons return the Committee to the question of the electoral roll's completeness. As noted in paragraph 2.11, approximately 550,000 eligible Australians (or four per cent) are not on the electoral roll. The Committee reiterates its concern about this and recommends that the AEC further investigate what the ANAO recently termed 'high-risk factors for non-enrolment'²⁶⁰ with a view to ensuring that all those eligible to be enrolled are so enrolled.

Recommendation 8

- 2.330 **The Committee recommends that the AEC investigate the completeness of the electoral roll, with a view to further reducing the percentage of those Australians eligible to be on the roll, but not currently enrolled.**

259 JSCEM, *The 1998 Federal Election* (2000), as above, p. 84.

260 ANAO, *The Integrity of the Electoral Report* (2002), as above, p. 59.