



Government Response

to the

Joint Standing Committee on Electoral Matters

Report on the conduct of the 2007 federal election and matters related thereto

March 2010

**GOVERNMENT RESPONSE TO
THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS'
REPORT ON THE CONDUCT OF THE 2007 FEDERAL ELECTION AND MATTERS
RELATED THERETO**

Recommendation 1

The committee recommends that Section 155 of the *Commonwealth Electoral Act 1918* be repealed and replaced by a new section which provides that the date fixed for the close of the rolls shall be 7 days after the date of the writ.

Response:

Supported. The Government introduced the Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010 into the Parliament on 11 February 2010 which proposes to implement this recommendation in accordance with its 2007 pre-election commitments.

Recommendation 2

The committee recommends that the provisions of the *Commonwealth Electoral Act 1918* and the Electoral and Referendum Regulations 1940 that require provisional voters to provide proof of identity:

- be repealed; and
- that the *Commonwealth Electoral Act 1918* be amended so that where doubt exists in the mind of the Divisional Returning Officer as to the bona fides of an elector who casts a declaration vote, that the Divisional Returning Officer is to compare the signature of the elector on the declaration envelope to the signature of the elector on a previously lodged enrolment record before making the decision to admit or reject the vote.

Response:

Supported. The Government introduced the Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010 into the Parliament on 11 February 2010 which proposes to implement this recommendation in accordance with its 2007 pre-election commitments.

Recommendation 3

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that where an elector who has lodged a declaration vote at an election has been removed from the roll by objection action on the ground of non-residence and

- (a) the omission occurred after the election prior to the election to which the scrutiny relates, or
- (b) where there has been a redistribution of the state or territory that includes the division since the last election but one before the election to which the scrutiny relates, the omission from the roll was made before the last such redistribution, then:
 - if the address at which the elector claims to be enrolled at the time of voting is within the division for which he or she was previously enrolled, his or her House of Representatives and Senate votes will be counted; but

- if the address at which the elector claims to be enrolled at the time of voting is in a different division in the same state/territory, his or her Senate vote will be counted, but his or her House of Representatives vote will not be counted.

Response:

Supported in part. The Government supports this recommendation, with the exception of sub paragraph (b) of the recommendation. In order to reinstate the law that operated prior to the 2007 federal election, the Government will introduce legislation into the Parliament to implement this recommendation with one amendment to sub paragraph (b) to replace the words “before the last redistribution” with “after the last such redistribution”.

Recommendation 4

The committee recommends that the Australian Electoral Commission amend declaration vote envelopes to include fields in which electors may enter their driver’s licence or Australian passport number, and:

- in those cases where electors provide a driver’s licence or Australian passport number, or the elector has previously met the proof of identity requirements for enrolment, and the information provided on the envelope at the time of voting is sufficient to allow update of the electoral roll, the Australian Electoral Commission should update the roll on the basis of the information provided on the declaration envelopes; and
- in other cases the Australian Electoral Commission undertake appropriate follow up action to encourage the elector to enrol through the normal enrolment process.

Response:

Supported in principle, noting that design of declaration envelopes is a matter for the Australian Electoral Commission (AEC) in accordance with the provisions of the *Commonwealth Electoral Act 1918*. The Government supports amending the *Commonwealth Electoral Act 1918* to provide the AEC with the ability to maintain the electoral roll where information provided on a declaration vote envelope by an elector at the time of voting is sufficient. The Government will introduce the necessary legislation into the Parliament.

Recommendation 5

The government consider amending the *Commonwealth Electoral Act 1918* to:

- allow the date of the witness signature on the postal vote certificate to be the determining date for validity of postal votes; and
- to require postal voters and witnesses to confirm that the required voting actions were completed prior to the close of poll in the state/territory in which the electoral division for which the voter is enrolled, is located.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 6

The committee recommends that the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to remove the requirement that postal vote applications be signed by an applicant and a witness, in order to facilitate the lodgement of postal vote applications online, electronically, or in written form, to reduce the incidence of postal vote applications being deemed defective, thus leading to delays in the delivery of postal voting packs to electors.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 7

The committee recommends that the provisions of the *Commonwealth Electoral Act 1918* and the Electoral and Referendum Regulations 1940 which provide that proof of identity for enrolment purposes be required, be amended to:

- require that proof of identity be required for each elector once only; and
- that proof of identity may be established by the provision of a driver's licence number, Australian passport number, or the signature of another person on the Commonwealth electoral roll who shall witness and attest to the identity of the applicant. Any one of these are to be considered as acceptable forms of proof of identity for electors enrolling within Australia.

Response:

Supported in part.

First bullet point: Supported in part. The Government agrees that "once only" evidence of identity requirements should apply to electors enrolling for the first time, noting that currently enrolled electors have previously met the evidence of identity requirements which applied at the time of their latest enrolment. An enrolled elector who changes his or her name will be required to submit an enrolment form with evidence of identity and signature before such changes will be reflected on the electoral roll. The AEC will consult with relevant agencies in the development of legislation and implementation processes for this recommendation.

Second bullet point: Supported. The Government will introduce the necessary legislation into the Parliament. The Government notes that there may be additional categories of documentary evidence that could satisfy the requirements for evidence of identity, including government-issued cards (for example Medicare cards and Centrelink cards). The AEC will consider the inclusion of these, in consultation with relevant agencies, in developing the legislation to be introduced.

The Government is also investigating the option of introducing automatic enrolment of all people eligible to vote, in light of the outcomes of the consultation process on the *Electoral Reform Green Paper – Strengthening Australia's Democracy* and the Joint Standing Committee on Electoral Matters' inquiry into the New South Wales *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009*.

Recommendation 8

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to reinstate section 105(1)(ba) in a form that will allow the Australian Electoral Commission to alter the address details for enrolled electors who have previously satisfied the proof of identity measures for enrolment, on the basis of information provided by electors in written form to the Australian Electoral Commission.

Response:

Supported. Noting that currently enrolled electors have previously met the identity requirements which applied at the time of their latest enrolment, the Government considers that all currently enrolled electors should be taken to have previously satisfied the evidence of identity measures for enrolment. The Government will introduce the necessary legislation into the Parliament.

As noted in the response to recommendation 7, the Government is also investigating the option of introducing automatic enrolment of all people eligible to vote.

Recommendation 9

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow for the creation, implementation and maintenance of an enrolment website designed to facilitate the receipt and use of information provided electronically by enrolled electors, in order to update the electoral roll.

Such a facility should only be provided for use by currently enrolled electors, who must be required to provide sufficient information to satisfy the Australian Electoral Commission that they are in fact the elector to whom the information relates, in the absence of a signature from the elector.

The facility must not allow any unauthorised access to the electoral roll and must not permit information contained on the electoral roll to be accessed or amended directly by any person other than an appropriately authorised Australian Electoral Commission officer.

Information provided through the facility must only be used by authorised Australian Electoral Commission officers to update the electoral roll, where that information has been subjected to and satisfies the same data integrity checks as is performed on information received through the submission of signed enrolment form.

Response:

Supported. The Government introduced the Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010 into the Parliament on 11 February 2010, which proposes to implement this recommendation.

As noted in the response to recommendation 7, the Government is also investigating the option of introducing automatic enrolment of all people eligible to vote.

Recommendation 10

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow the Australian Electoral Commission to receive and use information for the purposes of directly updating the electoral roll, where that information has been:

- provided by an elector or electors to an agency approved by the Minister as an agency which performs adequate proof of identity checks; and
- the elector or electors have indicated their proactive and specific consent to opt in for the information to be used for the purposes of directly updating the electoral roll, and
- the data has been provided by that agency to the Australian Electoral Commission for the purposes of updating the electoral roll.

Response:

Supported in principle. The Government agrees that efficiencies and benefits would be gained by allowing data provided by trusted agencies to be used for the purposes of directly updating the electoral roll. The Government considers that providing for the direct update of data in relation to individual electors is an important step towards improving the accuracy and comprehensiveness of the electoral roll. The implementation of this recommendation will require the AEC to develop bilateral agreements with relevant agencies, and work through a range of agency-specific issues related to the collection, use and storage of personal information. Noting that the *Commonwealth Electoral Act 1918* requires all Australian citizens to be enrolled, the Government will ensure that appropriate privacy protections, including provisions for opt-out where appropriate, are incorporated into the arrangements to be developed. The AEC will consult with the Office of the Privacy Commissioner and conduct detailed Privacy Impact Assessments in the course of developing agreements with trusted agencies.

As noted in the response to recommendation 7, the Government is also investigating the option of introducing automatic enrolment of all people eligible to vote.

Recommendation 11

The committee recommends that in order to facilitate the enrolment of new citizens, that:

- section 99A be amended to allow that a person who makes an application to become an Australian citizen in accordance with the *Australian Citizenship Act 2007*, be provisionally enrolled on the Commonwealth electoral roll at the time of making the application for citizenship, where they provide proactive and specific consent to opt in, with voting entitlement gained automatically once Australian citizenship has been granted; and
- section 99B of the *Commonwealth Electoral Act 1918*, which provides that applicants for citizenship may apply for provisional enrolment in an election period, should be repealed as the amended section 99A will render it unnecessary.

Response:

Supported. The AEC will work with the Department of Immigration and Citizenship to implement this recommendation. The Government will introduce the necessary legislation into the Parliament.

Recommendation 12

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to change the minimum age for provisional enrolment from 17 to 16 years.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 13

The committee recommends that the Australian Government enter into discussions with the State and Territory governments with a view to achieving a harmonised enrolment regime which leads to the use of a single enrolment form or enrolment process for the purposes of Commonwealth and state/territory enrolment.

Response:

Supported. The Government supports harmonised enrolment arrangements where they are both desirable and achievable. The Government consulted State and Territory governments (with the exception of the Western Australian Government, which declined to participate in consultations) in developing the *Electoral Reform Green Paper – Strengthening Australia's Democracy*, which invited comment on options for greater harmonisation of enrolment requirements and processes across the Commonwealth, states and territories. The Government has committed to consult with State and Territory governments in developing a response to the Green Paper.

Recommendation 14

The committee recommends that, in order to encourage the enrolment of young Australians, the Australian Electoral Commission introduce a national 'Schools Bounty Scheme' under which government and non-government schools, universities and technical colleges and the like would receive a specified amount for valid enrolment forms collected and forwarded to the Australian Electoral Commission.

Response:

Noted. The Government supports the efforts of the AEC to encourage enrolment amongst students and considers that the form and nature of incentives for enrolment should be a matter for the AEC.

Recommendation 15

The committee recommends that the Australian Electoral Commission ensure national consistency wherever possible in the state/territory based activities and strategies undertaken to facilitate roll management activities.

Response:

Supported. The Government recognises that there are differences between Commonwealth, State and Territory electoral legislation but supports consistency in roll management activities wherever it can be achieved and where it is desirable to do so.

Recommendation 16

The committee recommends that the Australian Electoral Commission develop state and territory-based enrolment targets that reflect the contribution that is expected by each state and territory to the national enrolment target. Such targets should take account of the particular challenges faced in each state and territory and be reported annually in the Australian Electoral Commission's annual report.

Response:

Supported. The AEC will continue to develop appropriate enrolment strategies and targets taking into account state and territory differences.

Recommendation 17

The committee recommends that the Australian Government provide ongoing and appropriate funding for the Australian Electoral Commission to establish, deliver and maintain a program similar in purpose to the former Aboriginal and Torres Strait Islander Electoral Information Service program to provide ongoing engagement with Indigenous electors.

Response:

Noted. In the 2009-10 Budget, the Government provided the AEC with \$13 million over four years to close the gap in areas of Indigenous disadvantage by improving the electoral participation of Indigenous Australians.

Recommendation 18

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to enable the provision of remote mobile polling at town camps, such as in Darwin and Alice Springs.

Response:

Supported. The Government considers that the intent of recommendations 18, 20, 28, 29 and 30 will best be met by ensuring that the timeframes during which remote and special hospital mobile polling may be conducted are consistent, and that the AEC has the ability to provide mobile polling and pre-poll voting services where and when they are needed. The Government will introduce the necessary legislation into the Parliament.

Recommendation 19

The committee recommends the *Commonwealth Electoral Act 1918* be amended to incorporate a definition of homelessness modelled on those in the *Victorian Electoral Act 2002* to facilitate enrolment or continued enrolment of homeless persons. This definition should include persons living in:

- crisis accommodation; or
- transitional accommodation; or
- any other accommodation provided under the *Supported Accommodation Assistance Act 1994*.

Response:

Supported. The Government notes that accommodation services previously provided under the *Supported Accommodation Assistance Act 1994* are now provided under the National Affordable Housing Agreement. The Government will introduce the necessary legislation into the Parliament to amend the *Commonwealth Electoral Act 1918* to include a definition of homelessness modelled on those in the *Victorian Electoral Act 2002*, which will include persons living in crisis accommodation or transitional accommodation, but without referring to the *Supported Accommodation Assistance Act 1994*.

Recommendation 20

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow mobile polling and/or pre-poll facilities to be provided at such locations and at such times as the Australian Electoral Commission deems necessary for the purposes of facilitating voting. For example, mobile polling or pre-poll facilities should be able to be provided where there is likely to be sufficient demand for such facilities by homeless and itinerant electors, or in such other circumstances as warrant their use.

Response:

Supported. See response to recommendation 18.

Recommendation 21

The committee recommends that the Australian Electoral Commission ensure that staff engaged in providing advice or services to electors with special needs (eg homelessness, sight impaired) be provided with appropriate training on how to communicate effectively and with sensitivity to the needs of such electors.

Response:

Supported. The AEC will develop appropriate training programs for staff.

Recommendation 22

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow pre-poll votes cast at a pre-poll voting centre in an elector's home division prior to polling day to be cast as ordinary votes, wherever practicable.

Response:

Supported. The Government introduced the Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010 into the Parliament on 11 February 2010, which proposes to implement recommendations 21 and 22.

Recommendation 23

The committee recommends that, in order to ensure a continuing high standard of integrity applies to votes cast as home division pre-poll votes, electors who cast ordinary votes at pre-poll voting centres should still be required to sign a declaration at the time of voting, indicating that they are entitled to a pre-poll vote. A record of such declarations is to be kept by the Australian Electoral Commission for evidentiary purposes.

Response:

Supported. See response to recommendation 22.

Recommendation 24

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to require pre-poll votes cast as ordinary votes in an elector's home division prior to polling day to be counted on polling night in the same manner as ordinary votes cast in polling places on polling day, wherever practicable.

Response:

Supported in part. The Government introduced the Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010 into the Parliament on 11 February 2010 which proposes to implement arrangements that ensure pre-poll votes cast as ordinary votes in an elector's home division are, for counting purposes, treated in the same manner as ordinary votes cast in polling places on polling day.

Recommendation 25

The committee recommends that schedule 2 of the *Commonwealth Electoral Act 1918* be amended to provide that being absent or expecting to be absent from an elector's home division on polling day be a valid ground of application for postal or pre-poll voting.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 26

The committee recommends that schedule 2 of the *Commonwealth Electoral Act 1918* be amended to allow fear for personal safety to be a ground for applying for pre-poll or postal votes.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 27

The committee recommends that, where possible, the AEC should, prior to polling day, conduct as much of the preliminary scrutiny of pre-poll and postal votes on hand in home divisions as is possible, in order to increase the number of early votes counted in a timely manner following the close of the polls.

Response:

Supported. The AEC will ensure, as far as is possible, that the scrutiny of early votes is conducted expeditiously.

Recommendation 28

The committee recommends that the AEC implement its proposed mobile polling and other election services to cater for mine workers in Western Australia for future elections. Such arrangements should also be provided in other states with a large number of mine workers such as Queensland and South Australia.

Response:

Supported. See response to recommendation 18.

Recommendation 29

The committee recommends that the definition of 'hospital' and 'special hospital' in the *Commonwealth Electoral Act 1918* be amended to reflect the current definitions of aged care under the *Aged Care Act 1997*, and that any person residing or working in a residential aged care facility, including staff, should be able to vote at the mobile polling facility.

Response:

Supported. See response to recommendation 18.

Recommendation 30

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to extend the period during which special hospital mobile polling may be conducted, to 12 days before polling day.

Response:

Supported. See response to recommendation 18.

Recommendation 31

In order to mitigate against possible accidental multiple voting, the committee recommends that the presiding officer of a mobile polling team be required to provide patients and residents of hospitals or special hospitals who vote with that mobile polling team, with a receipt or letter to indicate that they have, on that date, cast a vote with that mobile polling team.

Response:

Supported. The AEC will implement this recommendation for the next federal election.

Recommendation 32

The committee recommends that where a pre-poll voting centre (which may be a Divisional Returning Office) is to be located within a shopping centre, the AEC work with shopping centre management to arrange appropriate access by campaign workers during the times where voting is possible, including where appropriate, specifying a requirement as part of its lease arrangements, that provides full access for parties and candidates to conduct their how to vote activities. Where such an arrangement is not feasible, the AEC should ensure that political parties and candidates are advised of the alternative arrangements to be put in place to allow how to vote material to be made available in these centres.

Response:

Supported in principle, noting that the location of pre-poll voting centres will be determined by the AEC taking into account, to the extent possible, the needs of stakeholders.

Recommendation 33

The committee recommends that, in conjunction with the recommendation removing the requirement for applicant and witness signatures, the postal voting application form (PVA):

- be made simpler and more user-friendly;
- be gazetted at least 3 months prior to the expected date of an election where practicable; and
- only that section of the form requiring completion by an applicant for a postal vote be gazetted as the approved form.

Response:

Supported in part.

First dot point: Supported, noting that the implementation of recommendation 6 will remove the requirement for applicant and witness signatures on PVAs. This will allow the PVA form to be simplified and will assist in meeting community needs. The AEC will further consider how to make the PVA simpler and more user friendly.

Second dot point: Supported in principle. The Government supports the timely approval and notification of the approved PVA form, noting that the AEC must be able to respond promptly to legislative changes affecting PVAs. The implementation of recommendation 41 will enable the AEC to approve all forms in a more responsive manner, without the need for gazettal.

Third dot point: Not supported. The Government notes that the existing PVA includes information on applicant eligibility, guidelines to ensure applications made from outside Australia conform with legislative requirements, information about translator services, and information about early voting options (pre-poll and postal). The Government considers that this information assists electors in completing their application accurately and in an informed manner, and that this information should be provided to electors in a consistent and complete way.

The Government is also aware of concerns about the privacy implications and potential for delay caused by political parties acting as an intermediary in returning completed PVA forms to the AEC, and of concerns about party political material that may currently be included on or affixed to PVA forms. To address these concerns, the Government will introduce legislation to require that completed PVA forms be returned directly to the AEC. The

Government will also introduce legislation to prevent extraneous material being included on or affixed to a PVA form.

Recommendation 34

The committee recommends that the AEC increase efforts to improve electors' understanding of the federal voting systems and take appropriate measures to reduce the rate of informal voting, especially in electorates with a high percentage of electors from non-English speaking backgrounds.

Response:

Supported. The AEC will review its existing strategies aimed at reducing the level of informal voting.

Recommendation 35

The committee recommends that:

- Section 240 (2) of the *Commonwealth Electoral Act 1918*, which provides that the numbers on House of Representatives elections ballot papers are to be consecutive numbers, without the repetition of any number, be repealed, and
- the savings provision contained in paragraph 270 (2), repealed in 1998, which provided that in a House of Representatives election in which there were more than three candidates, and where a full set of preferences was expressed on the ballot paper, but there were non-consecutive numbering errors, the preferences would be counted up to the point at which the numbering errors began, at which point the preferences were taken to have 'exhausted', be reinstated to the *Commonwealth Electoral Act 1918*, and
- the Government amend the *Commonwealth Electoral Act 1918* to provide a penalty provision sufficient to deter the advocacy of 'Langer style voting'.

Response:

Noted. The Government is giving further consideration to strategies to reduce the level of unintended informal voting in the context of its consideration of the outcomes of the consultation process on the *Electoral Reform Green Paper – Strengthening Australia's Democracy*.

Recommendation 36

The committee recommends that the AEC adopt all recommendations contained in the report entitled Review of Ballot-Paper Formality Guidelines and Recount Policy prepared for the AEC by Mr Alan Henderson, except for recommendation A(v) which is the subject of recommendation 37.

Response:

Supported. The AEC will implement the above-noted recommendations contained in the review conducted by Mr Henderson.

Recommendation 37

The committee recommends that section 268(2) of the *Commonwealth Electoral Act 1918* be amended to provide that in those cases where the Divisional Returning Officer responsible for considering the question of the formality of a ballot paper, is satisfied that the ballot paper is not informal, because the Divisional Returning Officer is satisfied that it is an authentic ballot paper on which a voter has marked a vote, the Divisional Returning Officer be required

to annotate the ballot paper with the words ‘I am satisfied that this is an authentic ballot paper’.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 38

The committee recommends that paragraph 209A(b) of the *Commonwealth Electoral Act 1918* and paragraph 25A(b) of the *Referendum (Machinery Provisions) Act 1984* be repealed, and replaced with the words ‘a feature approved by the Electoral Commission’.

Response:

Supported. Flexibility in printing of ballot papers will enable a more efficient approach to polling arrangements. Implementation of this arrangement in existing ‘super-booths’ will allow for ballot papers to be printed on demand at the time of issue and may mitigate the risk of electors being issued ballot papers for an incorrect division. The Government will introduce the necessary legislation into the Parliament.

Recommendation 39

The committee recommends that the AEC be resourced appropriately in order that it continue to provide high quality electoral services to the Australian population and to do so in a manner that does not compromise the integrity of the electoral system.

Response:

Noted.

Recommendation 40

The committee recommends that the AEC be required to continue with staging the National Tally Room at future elections.

Response:

Supported in principle. The Government agrees that the National Tally Room should be retained for future elections.

Recommendation 41

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide a flexible regime for the authorisation by the AEC of approved forms, which will:

- allow for a number of versions of an approved form;
- enable forms to be tailored to the needs of specific target groups; and
- facilitate online transactions.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 42

The committee recommends that the *Commonwealth Electoral Act 1918* be amended to enable the AEC to manage its workloads in non-election periods by allowing enrolment transactions to be processed outside the division for which the person is enrolling, provided that those transactions are processed by a division that is within the same state or territory. This will permit workloads to be managed in the same manner as is currently permitted during election periods.

Response:

Supported in part. The Government introduced the Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010 into the Parliament on 11 February 2010, which proposes to implement this recommendation, except for the requirement that the division be within the same state or territory. To allow the AEC greater flexibility to manage its workloads, the Government considers that enrolment transactions should be able to be processed by any AEC officer at any location specified in writing by the Electoral Commissioner.

Recommendation 43

The committee recommends that the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* be amended to enable the use of electronic certified lists in polling places and pre-poll voting centres, with appropriate measures implemented to ensure the security of the equipment and data.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 44

The committee recommends that the technical and operational changes proposed by the AEC in submission 169, Annex 10, with the exception of those relating to photographing and photocopying of the roll (s 90A), (see recommendation 52) and prisoner voting (ss 93(8AA), 208(2)(c) and 221(3)) (see recommendation 47), be incorporated into the *Commonwealth Electoral Act 1918* and *Referendum (Machinery Provisions) Act 1984* when other amendments to these Acts are progressed.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 45

The committee recommends that any recommendations in this report that propose amending the *Commonwealth Electoral Act 1918* should, where also appropriate, be incorporated into the *Referendum (Machinery Provisions) Act 1984*, to ensure consistency between the provisions applying to elections and referenda.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 46

The committee recommends that the penalties imposed under s 328 of the *Commonwealth Electoral Act 1918* (\$1,000 for a natural person and \$5,000 for a body corporate) be revised to ensure that they provide a greater deterrent.

Response:

Supported. The Government agrees that there is a need to provide a greater deterrent for anonymous electoral advertising, and notes that there is also a need to update and modernise the other penalty provisions in the *Commonwealth Electoral Act 1918*. The Government will give further consideration to the adequacy of penalty provisions under the *Commonwealth Electoral Act 1918* following the outcomes of the inquiry and report by the Joint Standing Committee on Electoral Matters into the adequacy of penalty provisions under section 328 of the *Commonwealth Electoral Act 1918*.

Recommendation 47

The committee recommends that the Government amend the *Commonwealth Electoral Act 1918* to reinstate the previous three-year disqualification for prisoners removed from s 93(8)(b) in 2006, to reflect the High Court of Australia's judgement in *Roach v Australian Electoral Commissioner* that s 93(8AA) and s 208(2)(c) are constitutionally invalid.

Response:

Supported in principle. The Government will introduce legislation to reflect the ruling of the High Court of Australia in *Roach v Australian Electoral Commissioner* (2007) 233 CLR 162. While prisoners serving a sentence of imprisonment of three years or longer will not be permitted to vote, the legislation will provide that prisoners may enrol or continue to be enrolled. The Government is giving further consideration to the prisoner franchise in the context of its consideration of the outcomes of the consultation process on the *Electoral Reform Green Paper – Strengthening Australia's Democracy*.

Recommendation 48

The committee recommends that current provisions of the *Commonwealth Electoral Act 1918* regarding the eligibility of overseas electors to enrol and vote at elections be retained.

Response:

Noted. The Government is giving further consideration to the eligibility of Australians living abroad to enrol and vote at elections, in the context of its consideration of the outcomes of the consultation process on the *Electoral Reform Green Paper – Strengthening Australia's Democracy*.

Recommendation 49

The committee recommends that the AEC continue to work with organisations representing electors who are blind or have low vision to investigate the viability and sustainability of assisted voting arrangements aimed at providing secret and independent voting for electors who are blind or have low vision.

Response:

Supported. The AEC has consulted with key organisations representing electors who are blind or have low vision with a view to determining the most appropriate arrangements for providing secret and independent voting services.

The Government introduced amendments to the Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010 on 9 March 2010 to enable electors who are blind or have low vision to have the option of casting a secret vote by an electronic method, or an assisted vote as is presently the case. Implementation of an electronic voting option will proceed in stages with the first phase being telephone assisted voting at designated sites. The Government will review this interim measure following the next election, with a view to improving voting arrangements for electors who are blind or have low vision at subsequent federal elections.

Recommendation 50

The committee recommends that the *Commonwealth Electoral Act 1918* be amended so that:

- where an item in the table in s 90B of the Act entitles a Senator or Member to receive one copy of a roll or certified list, that item be amended to permit the Senator or Member to opt for the relevant copy to be supplied in electronic rather than hardcopy form; and
- where an item in the table in s 90B of the Act entitles a Senator or Member to receive three copies of a roll or certified list, that item be amended to permit the Senator or Member to opt to receive one of the copies in electronic rather than hardcopy form, and to receive either zero, one or two hardcopies.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Recommendation 51

The committee recommends that the current counting system used for Senate elections be retained.

Response:

Supported.

Recommendation 52

The committee recommends that the current arrangements relating to the provision of electoral roll information to prescribed organisations for the purposes of identity verification under the *Financial Transaction Reports Act 1988* or carrying out customer identification procedures under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* be retained.

Response:

Noted. The Government is giving further consideration to the arrangements for access to information on the electoral roll, in the context of its consideration of the outcomes of the consultation process on the *Electoral Reform Green Paper – Strengthening Australia’s Democracy*.

Recommendation 53

The committee recommends that the current provisions of the *Commonwealth Electoral Act 1918* relating to the inspection of electoral rolls be amended to explicitly prohibit the unauthorised photographing or photocopying of any roll that is made available for public inspection.

Response:

Supported. The Government will introduce the necessary legislation into the Parliament.

Dissenting Report by Mr Scott Morrison MP, Senator the Hon Michael Ronaldson, Senator Simon Birmingham, Liberal Party of Australia, Hon Bruce Scott MP, The Nationals

Response:

Noted.

Dissenting Report by Senator Bob Brown, Australian Greens

The Australian Greens advocate that the *Commonwealth Electoral Act 1918* be amended to make it an offence to authorise or publish an advertisement purporting to be a statement of fact when the statement is inaccurate and misleading to a material extent, similar to legislation introduced in South Australia.

Response:

Noted. The Government is giving further consideration to possible “truth in political advertising” legislation, in the context of its consideration of the outcomes of the consultation process on the *Electoral Reform Green Paper – Strengthening Australia’s Democracy*.

Supplementary remarks by Mr Daryl Melham MP

Recommendation 1

That the AEC write to each of the 162 928 electors with British subject notations on the electoral roll to ascertain their citizenship status. Where it is determined that the elector is an Australian citizen and has provided their Australian citizenship number – the British subject notation should be removed.

Where it is determined that the elector is a British subject but not an Australian citizen, the notation should be retained.

Response:

Noted. The Government notes that the intent of the recommendation is to increase the integrity of the roll. The AEC will incorporate clarification of the status of electors notated as having British subject status as part of its Continuous Roll Update activities.

Recommendation 2

That the *Commonwealth Electoral Act 1918* be amended to remove all references to the eligibility of British subjects to remain enrolled and to vote in federal elections and referenda by 26 January 2014 - 30 years since citizenship became a necessary qualification. This change should be preceded by an education campaign designed to encourage enrolled British subjects to become Australian citizens.

Response:

Noted. The Government will respond to this recommendation through its response to the *Electoral Reform Green Paper – Strengthening Australia’s Democracy*.

Recommendation 3

That upon removal of the grandfathering arrangements to enfranchise British subjects who are not Australian citizens, a transitional safety net be put in place to require British subjects who are Australian citizens and who were removed from the electoral roll in error by the AEC as part of implementing the preceding recommendation, to cast a provisional vote at the next following election; and that they be required to provide their Australian citizenship number to the AEC in order for their votes to be admitted to the count and they are reinstated to the electoral roll.

Response:

Noted. See Government response to Recommendation 2 of Mr Melham’s supplementary remarks.