



**Queensland
Government**

Office of the
Attorney-General and
Minister for Justice

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27 February 2006

Senator Brett Mason
Chair
Senate Finance and Public Administration Committee
Department of the Senate
Parliament House
Canberra ACT 2600

Dear Senator Mason

I refer to the Senate Finance and Public Administration Legislation Committee Inquiry into the Electoral and Referendum Amendment (Integrity and Other Measures) Bill 2005 and the Committee's invitation for submissions.

This Bill contains a package of measures which are concerning in their capacity to disenfranchise Queensland citizens who may otherwise be eligible to vote in both Federal and State elections.

My concerns relate to three specific measures, namely:

- new proof of identity requirements for people enrolling or updating their enrolment;
- the removal of voting rights for all prisoners in full-time detention; and
- reducing the close of rolls period to 8pm on the day of issue of the writ for new enrolment, except for people who will turn 18 or receive citizenship during the close of roll period, and reducing the period for changing address to three working days after the issue of the writ.

Proof of Identity for enrolment and change of enrolment

Since 1999, there have been a series of attempts by the Commonwealth Government to impose proof of identity requirements on first time enrollees and people seeking to change enrolment.

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My Government has, in the past, expressed concern at the potential of such measures to effectively disenfranchise large sections of the community because the complexity and inconvenience of such procedures would deter people from enrolling, particularly young people, people from disadvantaged backgrounds and people in remote communities.

While the current proposal is predicated on the relatively simple process of providing a driver's licence number for identification purposes, my Government remains concerned at the impact on those sections of the community that do not have driver's licences and will be forced to use one of the alternative mechanisms for enrolment.

These alternatives continue to involve cumbersome and inconvenient processes that may discourage people from enrolling or, if enrolled, from changing their enrolment.

My Government notes that:

- there appears to be no substantiated evidence that the measures currently in place are failing to provide adequate protection for the integrity of the electoral roll; and
- legislation which focuses only on proof of identity rather than proof of address will leave open the potential for abuse.

Prisoners' voting rights

Currently, prisoners serving sentences of three years or more (or who have been convicted of treason or treachery) cannot be enrolled on the Commonwealth roll and therefore, cannot vote. As Queensland's *Electoral Act 1992* adopts the Federal enrolment qualifications, this is also currently the position in relation to State elections.

The Commonwealth has adopted a different approach in the current Bill which permits all prisoners (apart from those convicted of treason or treachery) to enrol or remain on the roll, but goes on to provide that prisoners in full-time detention are not permitted to vote. Those serving alternative sentences such as periodic or home detention, as well as those serving non-custodial sentences or released on parole, will still be eligible to enrol and vote.

While this will allow Queensland to determine its own policy position on the issue of prisoners' voting rights, my Government is concerned that Queensland prisoners who may retain the right to vote in State elections, will nevertheless be disenfranchised in relation to Federal elections.

My Government does not consider any change to the current prohibition on prisoners' voting is necessary. These restrictions strike an appropriate balance by removing the right to vote from those who have committed more serious offences but protecting the franchise of who are serving lesser sentences. The main aim of the criminal law is rehabilitation and this process is assisted by ensuring that the right to participate in the democratic process is not restricted more than is reasonably necessary.

My Government is also concerned that because of the over-representation of Indigenous prisoners in the Australian prison population, any further disenfranchisement of prisoners will have a disproportionate effect on Indigenous people. It is arguable, therefore, that the proposed measure may conflict with Australia's obligations under *the International Covenant on the Elimination of All Forms of Racial Discrimination*.

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It is also arguable that it is inconsistent with the *International Covenant on Civil and Political Rights* (ICCPR) to which Australia is a signatory, although it does not form part of domestic law. Article 10 of the ICCPR provides: "*The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation*". Article 25 is also relevant in that it provides: "*Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2, and without unreasonable restriction to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors*". The distinctions mentioned in Article 2 are distinctions "*of any kind, such as race, colour...or other status*". "Other status" could arguably include persons serving sentences of imprisonment.

Close of Rolls

The Commonwealth Bill provides that the roll for Federal elections will close at 8pm on the third working day after the issue of the writ. However, people who are not on the roll will not be added to the roll in the period between 8pm on the day of issue of the writ and polling day. The two exceptions are 17 year olds who will turn 18 between the day of issue of the writ and polling day or people who will be granted citizenship in this period. These two categories of people will be able to apply for enrolment up until the close of rolls three working days after the issue of the writ.

My Government is extremely concerned that the inevitable effect of such tight timelines will be to disenfranchise large numbers of potential electors in relation to Federal elections.

These adverse effects may be compounded by creating confusion in potential State voters. While the close of rolls period for Queensland elections will remain a minimum of five and maximum of seven days following the issue of the writ, people seeking to enrol or change enrolment may not be aware of the difference between the close of roll periods for Federal elections and State elections. Potential State voters who are unenrolled may, for example, presume that there is no point in trying to be entered on the State Roll after the date of issue of the writ.

My Government is strongly opposed to this initiative which will impact most heavily on groups with traditionally low participation rates in the democratic process, namely young people, people in rural and remote communities and people from disadvantaged backgrounds.

I thank you for the opportunity to provide input to the Committee and ask that the Committee note the concerns raised.

Yours sincerely



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