



The Democratic Audit's Electoral Reform Agenda

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The views expressed are the authors and do not necessarily reflect those of the Democratic Audit of Australia.

In 2006, the Howard Government made changes to the Commonwealth Electoral Act of major significance for democracy. More generally, electoral law reform has fallen behind international best practice in some areas in recent years. Electoral reform must now be a high priority for the Rudd Government. With a new government in place, it is time not only to reverse some of the Howard Government changes but also to look to the future by modernising Australia's electoral law to fit with modern democratic practice.

Listed below are matters that the Audit believes should be dealt with, both by the upcoming committee inquiry into the 2007 election, and by the Special Minister of State Senator John Faulkner. Members of the Audit differ on some of the detail of how these issues should be dealt with, however we agree that the aspects of electoral law listed below need to be addressed in the Joint Standing Committee's inquiry and in the government's legislative program.

Enrolment

Ideally, the Commonwealth should work closely with the states and territories to introduce a uniform enrolment system for all electoral rolls and maximise the efficiency and accuracy of the joint roll arrangements. Central requirements include:

- **Introduce direct (automatic) enrolment**, based on the databases accessible to the Australian Electoral (AEC). Such databases currently include motor registry, Australia Post, Centrelink etc. For further detail on how automatic enrolment would operate see Peter Brent's Audit Discussion Paper 3/08. Essentially it prevents the 'shrinking roll' effect whereby the Commission has become more efficient in removing voters from the roll than it is in getting them back on the roll at a new address. Automatic enrolment forestalls accidental disenfranchisement, such as occurs when citizens assume that because the Electoral Commission knows their new address they will now be on the roll at that address.
- **Remove proof of identity (POI) provisions for enrolment.** POI was introduced by the Howard government in 2006 on the basis that it would reduce fraud (despite lack of evidence of any significant fraud). Direct enrolment would render the POI provisions largely superfluous. In the absence of direct enrolment, the removal of POI provisions would particularly assist those without a drivers licence (who currently have to provide other forms of identification, or obtain supporting signatures) to get on the roll.
- **Extend close of rolls.** Early close of the rolls was another of the 2006 changes to the Commonwealth Electoral Act. The rolls now close (for new electors) on the day election writs are issued—i.e., at least 33 days before election day. Modern electoral practice is to keep the rolls open for as long as possible prior to an election—for example in New Zealand you can enrol up to the day before an election and in Canada on election day itself.

Postal Voting

- **Restrict issuing of postal vote application forms to the AEC.** The current system where MPs and Senators (using their printing and postal allowances) send postal vote application forms to constituents, asking for them to be returned to their party or electoral office, must be stopped. It subverts the

AEC's independent administration of the election, unnecessarily delays the postal vote process, and provides an unfair electoral advantage to incumbent parliamentarians (and cashed-up parties).

Electronic Voting

- **Incorporate more modern technology in the voting process.** Electronic marking of the roll would prevent accidental and intentional multiple voting. More provision should also be made for electronic voting (currently available only for overseas defence force and Antarctic personnel).

Absent Voting

- **Allow voters to lodge absent votes for any electorate, at any polling booth in the country.** For example, people enrolled in the ACT should be able to lodge an absent vote in neighbouring NSW electorates and vice versa. For completeness, all polling booths should be able to provide ballot papers for any electorate or senate contest for anywhere in the country. The use of modern technology, allowing for the printing of absent voting papers or electronic voting, would assist this change. The AEC could easily have the entire electoral roll for the country and ballot paper lists in electronic format at every polling booth. This could be a common-sense change that assists people living in border areas.

Prisoner Voting

- **Extend the prisoner franchise.** Currently only prisoners serving terms of three years or less have the right to vote. As part of rehabilitation into the duties of citizenship, this should be extended - ideally to all prisoners (as occurs in South Australian state elections), but as a minimum, to prisoners serving sentences of five years or less.

Donations

- **Improve timeliness of donation disclosure,** particularly during election periods.
- **Reduce donation disclosure threshold**—to at least previous threshold of \$1500, but preferably lower—\$1000. International practice is for lower threshold limits, especially in democracies where there is no cap on how much parties can spend in an election campaign. The current disclosure threshold is \$10 500—below which all donations remain secret.
- **Remove the loophole** whereby separate divisions of a party are treated as separate entities. This loophole allows the nine divisions of a party to collectively receive \$94 500 (i.e. 9 x \$10 500) without public disclosure.
- **Introduce caps on donations.** Best international practice limits the size of donations, to ensure that the influence brought by such donations does not undermine democratic principles. For example, individual donations in Canada are limited to \$1000 and other kinds of donation are not allowed.
- **Prohibit donations from particular classes of donor.** Donations should not be permitted from those likely to benefit directly from government decisions (e.g., government contractors, developers) or where transparency is an issue (foreign persons or entities).
- **Remove tax deductibility** for donations in line with the government's pre-election commitment. If tax deductibility is retained, limit to individuals only.

Incumbency Benefits

- **Prevent MPs printing entitlements from being used for electioneering purposes.** A ministerial directive in the lead-up to the 2004 election now allows all MPs and Senators to use their printing entitlements for electioneering purposes (including the printing of how-to-vote cards). Parliamentary allowances are intended to facilitate representation, not electioneering. This abuse distorts electoral competition in favour of incumbents and is against all principles of fair elections. To correct this abuse does not need legislative change—it simply requires a new ministerial direction, which can be done at any time.
- **Restrict use of parliamentary resources** during campaign periods. MPs and Senators can currently make liberal use of their parliamentary offices, travel entitlements and staff for electioneering purposes —again, this goes against principles of equity and fairness and the level playing field for electoral competition.

Fixed Election Dates

- **Establish fixed dates for general elections.** Current practice, which allows the Prime Minister to select the election date to best suit the interests of his party, creates unfair advantage as well as great inefficiencies in the administration of elections. Modern practice is for fixed terms, and NSW, Victoria, South Australia, and the ACT have all adopted fixed terms in recent years. Various mechanisms could be used to establish a fixed-term regime, and if three-year terms were retained this would not require Constitutional change.
- **Move to four year terms.** Similarly, modern practice has been to extend parliaments to four-year terms, as all Australian jurisdictions, apart from the Commonwealth and Queensland, have done in the past few decades. Although this change would require constitutional amendments, and raises issues regarding the length of Senate terms, the introduction of four-year terms should be set as a goal.

Ballot Paper Design

- **Reform Senate Above-the-line voting system** to an optional or partial preferential system, while also retaining the below-the-line option for full preferential voting. With more than 95 per cent of people voting above the line in Senate elections, it is time for them to be able to decide where their preferences should flow after their first choice. The choices currently made by party officials do not necessarily reflect the preferences of party voters.
- **Reduce accidental informal voting for the House of Representatives.** This could be achieved by allowing ballot papers not showing a full flow of preferences (i.e. ‘1 only’ or ‘✓ only’, or limited preferences) to be admitted to the count – either by regulating counting rules, or by the introduction of an optional or limited preferential system. This is a particular issue for Queensland and New South Wales citizens, who have an optional preferential system (where a 1 or a ✓ is sufficient) at their state elections.

General

- **Overhaul and modernise the *Commonwealth Electoral Act 1918*.** All other Australian jurisdictions have revamped their electoral legislation in the past couple of decades. While the Commonwealth Act is regularly amended and updated, it is time for an overhaul so that modern electoral practices can be fully incorporated.

Commissioner Appointments

- **Lengthen the tenure of Australian Electoral Commissioners.** Amend legislation to ensure that Commissioner appointments cover at least two general elections. Currently Commissioners are appointed for five years (though appointments up to seven years are allowed). The experience gained by being responsible for one general election is then lost by the time the next election comes around. Longer-term appointments would also provide a greater degree of independence for commissioners.
- **Ensure parliamentary committee involvement in selection process for Australian Electoral Commissioners.** The current practice of appointing commissioners in the absence of consultation with other parties and Independents, is an outdated practice and has already been superseded in South Australia and Queensland. A formal consultative process would also do away with perceptions of partisanship levelled at commissioners on occasion in recent times.

Party Registration

- **Require registered parties to make their constitution publicly available.** Registered parties should have democratic constitutions, as required under the Queensland Electoral Act, and their constitutions should be available on their own web sites, and/or preferably on the AEC web site, as a centralised information source.
- **Prevent party hopping.** Currently MPs and Senators who have been elected representing one party can register another party under s.126(1) of the Act, without having to meet normal membership requirements. This practice subverts the intention that registered parties should be representative of a group of people sharing common political beliefs and goals.

Group Voting Tickets (GVTs)

- **Group Voting Tickets should be prominently displayed at all polling booths.** GVTs show to which parties the preferences of above-the-line Senate votes will flow. The GVTs provide vital information concerning which parties may be elected by a vote for another party. Currently it is inconvenient for polling booth staff to find the book with this information and few voters know to ask for it.