

Part 2: Key Elements of the Electoral Process

CHAPTER 7: ENROLMENT AND PARTICIPATION

This chapter outlines the current arrangements for enrolling to vote, discusses the importance of enrolment as a mechanism for enabling eligible voters to exercise their franchise, and examines a number of options for amending enrolment processes with the aim of achieving greater participation in Australia's electoral system.

THE CURRENT ARRANGEMENTS

Commonwealth arrangements

Commonwealth electoral roll

- 7.1 The Commonwealth electoral roll is a list of eligible persons who are registered to vote at federal elections. By providing a reliable list of qualified electors, the roll assists in ensuring that those who are entitled to vote can do so, and that an elector can cast his or her vote for the correct electoral division. Enrolment data also constitutes a key input to the redistribution process.
- 7.2 The roll is continuously updated, in a manner required by the Electoral Act, so as to enable:
 - the roll to be used at any time for the purposes of elections or by-elections at the federal, state, territory or local government level; and
 - the variations in enrolments across the electoral divisions in a state or territory to be monitored on a monthly basis.
- 7.3 The roll has been used not just in the organisation of elections, but in other areas of government administration. For example, the roll is supplied to a range of federal government departments and agencies for crime prevention and fraud protection purposes. Roll data can also be provided for permitted purposes to candidates for election to the House of Representatives, Senators, and registered political parties, and to medical researchers to enable them to work with random samples of the adult population. Permissible uses of this type are set out in section 90B of the Electoral Act, and the particulars of specified people and/or organisations who receive electoral roll information under the Act are set out each year in the AEC's Annual Report.

Enrolment processes

- 7.4 The enrolment process applies to all those who are qualified to vote. As discussed in detail in chapter 4, this broadly includes Australian citizens who are 18 years of age or over, and certain 'British subjects'. A person must have lived at his or her address for one month before being eligible to enrol for that address. Under arrangements introduced in 2001,³⁸² a DRO or AEO may refuse to include a person's name on the electoral roll if:

³⁸² Sections 93A and 98A of the Electoral Act, op. cit., introduced by the *Electoral and Referendum Amendment Act (No. 1) 2001*.

- the DRO or AEO considers that the name is:
 - fictitious, frivolous, offensive or obscene; or
 - not the name by which the person is usually known; or
 - not written in the alphabet used for the English language; or
- including the name in the Roll would be contrary to the public interest.

- 7.5 Enrolling to vote is both an entitlement and an obligation. Compulsory enrolment has been a feature of the federal electoral system since 1911. The Electoral Act requires that every person who is entitled to have his or her name on the roll for a particular division must apply to enrol within 21 days of the date on which he or she became entitled to enrol.³⁸³ Should a person submit an application for enrolment outside this period, the AEC does not generally seek to have the person penalised for not enrolling beforehand.³⁸⁴ The enforcement of compulsory enrolment is discussed in further detail in chapter 14.
- 7.6 Enrolment forms³⁸⁵ are available from: the AEC and state and territory electoral commission offices and websites; government agencies such as Medicare, Centrelink and the Australian Tax Office; and Australia Post outlets. At present, electors must complete an enrolment form not only to enrol, but also to effect a change to their enrolled address, though they must have been living at their new address for 30 days prior to changing their enrolment details.³⁸⁶
- 7.7 Enrolment forms consist of a four page document, which must be completed and signed by hand.³⁸⁷ Under arrangements introduced in 2006, an enrolment form must be accompanied by evidence of an applicant's identity in the form of:
- a driver's licence number;³⁸⁸ or
 - if the applicant does not have a driver's licence — other specified identification (e.g. a birth certificate or Medicare card) which has been witnessed by an 'authorised person' (e.g. a nurse); or
 - if the applicant does not have a specified identity document — the countersigning of his or her enrolment form by two persons already on the electoral roll, and who have known the applicant for at least one month.
- 7.8 Forms may be submitted by fax, mail or in person; scanned forms may be submitted by email. A letter confirming the personal details that will appear on the roll, the name of the federal electoral division, the name of the relevant state or territory electorate and the local government area will be sent to a person once his or her enrolment form has been received and processed.
- 7.9 Special arrangements enable 17 year olds and applicants for citizenship to 'provisionally' enrol; they are not able to vote however until such time as they turn 18 or are granted citizenship as the case requires. The Electoral Act also enables enrolment of certain persons under other special categories, including:

³⁸³ Electoral Act, op. cit., subsection 101(4).

³⁸⁴ *ibid.*, subsection 101(7).

³⁸⁵ Enrolment forms are more accurately described as applications for enrolment, however, for the purposes of this paper they will be described hereafter as enrolment forms.

³⁸⁶ The AEC advised JSCEM that it had recently received legal advice enabling it to update the enrolment of electors moving within the same electoral division on the basis of an elector providing 'written advice'. It advised the Committee that it was 'considering the effects of the legal advice and reviewing associated policy and procedures in light of that advice'. AEC, submission no 169.20 to JSCEM, *Inquiry into the 2007 Federal Election*, Annex A, paragraph 7.

³⁸⁷ At present there is no provision for digital signature.

³⁸⁸ Persons eligible to enrol or re-enrol from outside Australia (under sections 94A and 95 of the Electoral Act) may provide their Australian passport number.

- electors who, owing to fear for the personal safety of themselves or their family do not wish their address to appear on the publicly available roll (known as 'silent electors');
- overseas electors;
- persons of no fixed address;
- persons experiencing homelessness;
- Antarctic electors;
- Norfolk Island electors;
- prisoners;³⁸⁹ and
- persons unable to sign their name due to physical incapacity.

Maintaining the electoral roll

- 7.10 Under the present arrangements, it is an elector's responsibility to enrol and maintain enrolment at his or her permanent address. However, the Electoral Act allows the AEC to collect information in connection with the preparation, maintenance or revision of the electoral rolls in a variety of ways.³⁹⁰ A range of activities are undertaken by federal, state and territory electoral commissions to encourage new enrolments and re-enrolments and to remind people to update their enrolment if appropriate. Electoral authorities attend a range of public events, undertake fieldwork and conduct large-scale mail campaigns. 'Demand powers' contained in section 91 of the Electoral Act also enable the AEC to obtain data from external federal, state and territory sources that include Centrelink, Australia Post, state and territory motor registries and some housing authorities, and compare this against its electoral roll database to identify people who may have moved, changed names or not be enrolled. For example, in 2007 the AEC received 765,380 change of address records from Centrelink.³⁹¹ The AEC collects, stores and maintains personal information in accordance with its obligations under the federal *Privacy Act 1988* (the Privacy Act). Privacy considerations are discussed further below at 7.104 – 7.110.
- 7.11 If the AEC has reasonable grounds for believing a person does not live at his or her enrolled address, and has not lived at that address for a month, the AEC is obliged to initiate an objection process³⁹² but makes efforts to contact the elector at either the postal address previously nominated by the elector, the address at which the AEC believes the elector to be living, or the place shown on the roll as the elector's place of residence. The AEC writes to the elector notifying him or her that there are grounds for believing he or she is no longer entitled to be enrolled at the address for which he or she claims.³⁹³ Should the elector not respond or re-enrol at his or her new address within 20 days, he or she may be removed from the roll, and notice of this action must be confirmed in writing.³⁹⁴ From 1 July 2006 to 30 June 2008 over 500,000 electors were deleted from the roll through an objection process; most of these were the result of the AEC receiving information that an elector was not residing at their enrolled address, and after unsuccessful attempts to locate the elector at their new address.³⁹⁵

³⁸⁹ A prisoner who is serving a sentence of imprisonment of three years or longer is not entitled to have his or her name placed or retained on any federal electoral roll (under section 93(8) of the Electoral Act as it applied prior to 2006, which now applies following the High Court of Australia decision in *Roach v Electoral Commissioner* (2007) 233 CLR 162).

³⁹⁰ Electoral Act, op. cit., subsection 92(1).

³⁹¹ AEC, submission no. 169.6 to JSCEM, *Inquiry into the 2007 Federal Election*, p.16.

³⁹² Electoral Act, op. cit., subsections 114(2) and 114(4).

³⁹³ *ibid.*, sections 114-116 apply. In practice, mail such as this is sent to electors in centralised and batched mail-outs.

³⁹⁴ *ibid.*, section 118.

³⁹⁵ AEC, *Annual Report 2006-07*, p. 33, Table 6, and AEC, *Annual Report 2007-08*, p. 33, Table 7. Both reports are available at www.aec.gov.au/About_AEC/Publications.

Close of rolls

- 7.12 The 'close of rolls' is the last day on which qualified persons might lodge an enrolment form to enrol or update their enrolment, in order that they be entitled to vote in a particular election.
- 7.13 The date for the close of rolls is fixed in the Electoral Act, and is linked to the date of the issue of the writ,³⁹⁶ which is the legal document issued by the Governor-General and state Governors that requires the conduct of, and outlines the timeline of, the elections for members and Senators.
- 7.14 For general elections from 1984 to 2004, the date for the close of rolls as provided for in the Electoral Act was seven days after the issue of the writ. In 2006 the Electoral Act was amended to provide for two close of rolls deadlines:³⁹⁷
- 8 p.m. on the day the writ is issued, for persons enrolling for the first time, or re-enrolling after being removed from the roll; and
 - 8 p.m. on the third working day³⁹⁸ after the writ was issued, for:
 - electors who are currently enrolled but need to update their enrolment details;
 - eligible persons who are not enrolled but who will turn 18 years old between the issue of the writ and the end of polling day; and
 - eligible persons who are not enrolled but who will be granted Australian citizenship between the issue of the writ and polling day.
- 7.15 The 2006 close of roll amendments followed a recommendation by the JSCEM Inquiry into the 2004 federal election. Reasons advocated for this change by members of the JSCEM included that:³⁹⁹
- the large volume of enrolment transactions in the seven day close of roll period limited the AEC's ability to 'conduct thorough and appropriate checks required to ensure [the electoral roll is updated with] integrity', presenting an opportunity for enrolment fraud, which could potentially alter the result of an election; and
 - a seven day close of rolls encourages electors to neglect their obligation to ensure their enrolment details are maintained and up to date, leading to a less accurate roll, and inefficient use of taxpayer resources in reminding these electors of their obligations.
- 7.16 Arguments against the changes articulated in a dissenting report by some members of the JSCEM included that:⁴⁰⁰
- no evidence had been presented to any JSCEM inquiry to support the proposition that enrolments during a seven day roll close period increased electoral fraud, or that enrolment fraud 'exists on any measurable scale or has ever influenced the outcome of any federal election'; and
 - the change would potentially disenfranchise several hundred thousand voters, impacting particularly on the large number of voters who ordinarily enrol or update their enrolment during the close of rolls period, homeless people and electors in remote and regional Australia.

³⁹⁶ Electoral Act, op. cit., subsection 155(1).

³⁹⁷ *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006*, Schedule 1, section 52.

³⁹⁸ A public holiday in any one state or territory will result in the national deadline being extended accordingly. For example, in 2007 the writs were issued on Wednesday 17 October and the second close of rolls deadline was extended by one day (to Tuesday 23 October) as Flinders Island (Tasmania) had a public holiday (Show Day) on Friday 19 October.

³⁹⁹ JSCEM, *Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto*, op. cit., pp. 34-36.

⁴⁰⁰ *ibid.*, pp. 359-363.

State and territory enrolment arrangements

- 7.17 Each state and territory has a joint roll agreement with the Commonwealth, an important effect of which is that electors only need to complete one form to enrol for federal, state and territory, and local government elections. These are high level perpetual agreements between the Governor-General of the Commonwealth and the relevant state Governor, Chief Minister (for the ACT) or Administrator (for the NT). They govern the provision by the Commonwealth, on a cost-recovery basis, of services to states and territories such as roll review activities, system maintenance, and roll products and services. The ECA is a key forum for addressing strategic issues relating to roll management.
- 7.18 The use of the roll for state, territory and local government elections highlights the need for continuous update of the roll to ensure that it is as accurate and complete as possible at all times. During 2008, for example, various elections conducted across Australia resulted in a total of 82 roll closures.

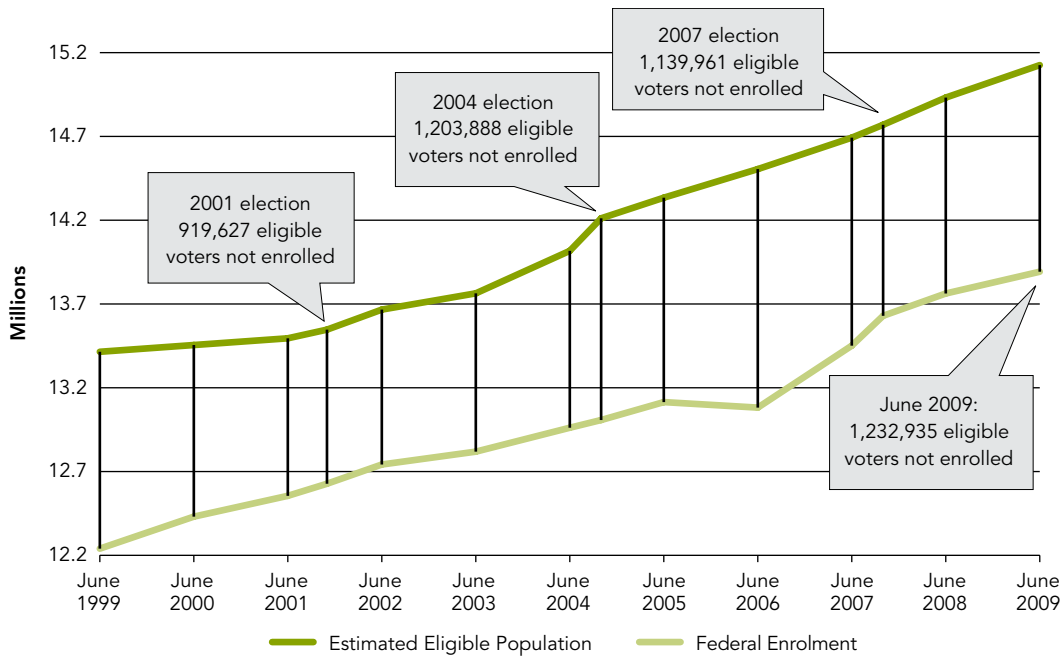
CHALLENGES, OPPORTUNITIES AND OPTIONS FOR CHANGE

- 7.19 The primary purpose of an electoral roll is to enable eligible electors to exercise their franchise. This objective will be frustrated if enrolment processes and systems become a barrier to the exercise of the right to vote. Electoral processes and systems should facilitate a high level of participation in the electoral system by all eligible members of the Australian community, but some argue the existing enrolment processes are more efficient at removing qualified electors from the electoral roll than at putting them on the roll.
- 7.20 Options for amending current enrolment systems can be examined from the perspective of the key principle of universality, with the objective of ensuring a more complete electoral roll and increasing participation rates in Australia's electoral system. Particular options examined below are:
- options for enrolment processes – in particular, introducing automatic or online processes for enrolling or updating enrolment details;
 - options for proof of identity requirements;
 - options to amend the existing residence requirement for enrolment;
 - options for special enrolment arrangements for particular electors;
 - options for the close of rolls period; and
 - harmonisation of enrolment requirements and processes.
- 7.21 Additional strategies to improve the electoral participation of Australians are canvassed in other chapters (including options for formality rules in chapter 5, education in chapter 9, and voting services in chapter 11).

Participation in Australia's electoral system

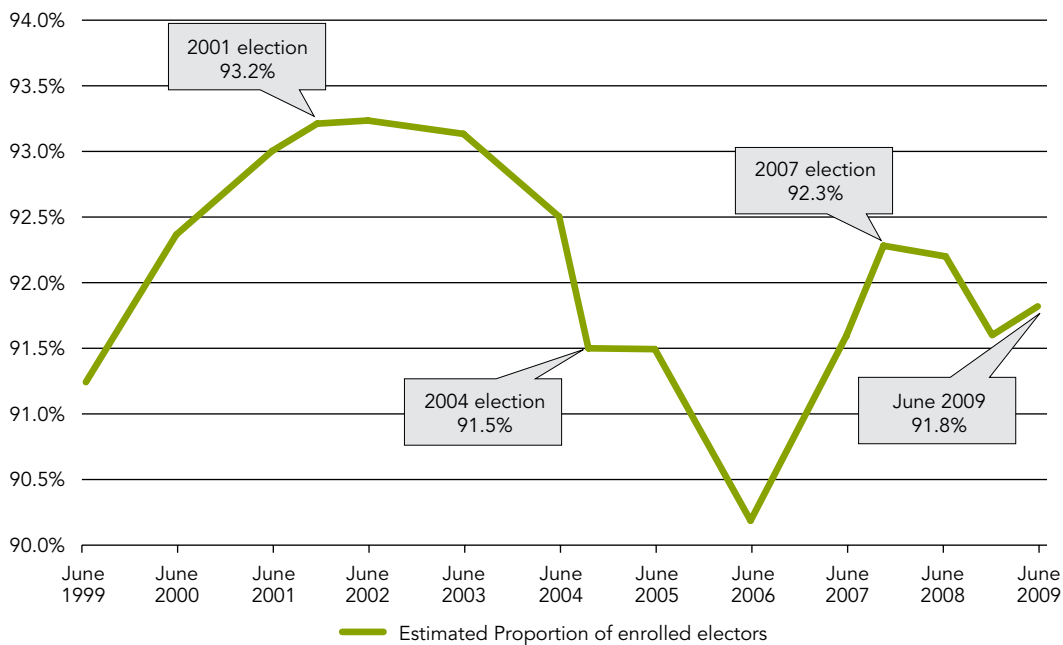
- 7.22 As outlined in chapter 4, statistics indicate that not all eligible electors are enrolled to vote. Figure 7.1 demonstrates that the number of enrolments on the electoral roll is not keeping up with increases in the estimated eligible population since the 2001 election:

Figure 7.1: Estimated eligible population⁴⁰¹ and enrolled population, 1999–2009



7.23 Figure 7.2 shows the estimated proportion of eligible electors who were enrolled to vote between 1999 and 2009:

Figure 7.2: Estimated proportion of eligible electors enrolled, 1999–2009⁴⁰²



⁴⁰¹ The figures are provided by the AEC; further details on the methodology and assumptions used in calculating the estimated eligible population, and caution that should be applied in their use, can be found in AEC, submission no. 169.1 to JSCEM, *Inquiry into the 2007 Federal Election*, pp. 12-13. Estimated eligible population for the period June 1999 – June 2004 was calculated based on 2001 Census data; estimated eligible population for the period from the 2004 election to June 2009 was calculated based on 2006 Census data.

⁴⁰² *ibid.*

- 7.24 While figure 7.2 shows variations over a range of just 3% of the estimated eligible population, it is notable that a decrease of just 1% in the proportion of eligible electors who are enrolled would equate to an additional 150,000 Australians who are not enrolled to vote.⁴⁰³
- 7.25 In early 2007, the AEC implemented new enrolment promotion initiatives to address the real drop in the number of people enrolled (observable in Figure 7.1) and consequential sharper fall in the proportion of eligible electors enrolled (observable in Figure 7.2).⁴⁰⁴ New activities included:
- a national advertising campaign;
 - large-scale data matching to identify persons who were not enrolled or who were incorrectly enrolled;
 - a program of door-knocks and mail-outs to target those persons; and
 - a national Enrol to Vote Week to encourage young people to enrol.
- 7.26 These complemented ongoing initiatives including enrolment-promotion mail-outs and fieldwork, and AEC attendance at schools, public events and citizenship ceremonies. These targeted activities increased enrolments to ensure that 92.3% of eligible electors were enrolled to vote for the 2007 election; however, the AEC has estimated that the activities cost around \$30 million, around \$24 million of which was spent on advertising.⁴⁰⁵
- 7.27 Figure 7.2 demonstrates that since the 2007 election, the enrolment rate has fallen. As at June 2009, the AEC estimated that 1.2 million eligible persons were not on the electoral roll. To better facilitate increased participation in Australia's democracy, it would be desirable for a greater number of eligible electors to be enrolled to vote. The AEC has noted that:
- '... despite considerable effort, the AEC is making little inroad, except close to an election, in reducing the numbers of those who are eligible but not enrolled or those who are enrolled but have not changed address.'⁴⁰⁶
- 7.28 To achieve a participation rate of 95%⁴⁰⁷ of eligible electors being enrolled to vote, the AEC has calculated that a further 700,000 new enrolments would be required before the middle of 2010, based on population projections. To maintain the 92.3% participation rate achieved for the 2007 election, an additional 300,000 enrolments would be required in the same period. It should be noted that these figures are the 'net' increases in enrolments that would be required, after removals from the roll due to deaths and objections.
- 7.29 Electoral enrolment arrangements have remained relatively unchanged since the early 20th century, when a paper-based system represented the only feasible way of maintaining a relatively up-to-date list of the adult population. However, it might be argued that the current paper-based enrolment requirements now represent a barrier to participation in the electoral system by eligible electors. The franchise is quite separate to enrolment, yet many are effectively disenfranchised by enrolment provisions and processes geared towards a positive act of electronic roll checking, a positive act of communication between the AEC and the elector or potential enrollee, and a positive act of response by the elector or enrollee;

⁴⁰³ As at 30 June 2009, the estimated eligible population is 15,125,497, 1% of which is 151,255.

⁴⁰⁴ The fall in the proportion of eligible electors to enrol is relatively sharper than the fall in number of people enrolled because the number of people *eligible* to enrol (see upper line of Figure 7.1) was estimated to have grown during this period.

⁴⁰⁵ Over \$6 million was spent on enrolment fieldwork activities, approximately \$14.9 million was spent on pre-election phase enrolment advertising, and approximately \$9.5 million was spent on public awareness and advertising activities after the announcement of the election.

⁴⁰⁶ Committee Hansard, JSCEM, *Inquiry into the 2007 Federal Election*, Canberra, 11 May 2009, p. 4 (E Killesteyn, Australian Electoral Commissioner).

⁴⁰⁷ The AEC enrolment target is to have 95% of people who are eligible to vote on the electoral roll.

all in support of claiming a franchise to which the elector or enrollee is in fact entitled. It has been noted that:

'Australians increasingly expect as the norm, convenient, 24 hour access to business and government services. The requirement to fill in a paper application form to update enrolment is seen by many to be outdated compared with the electronic channels they use to interact with businesses and many other government agencies'.⁴⁰⁸

- 7.30 Some have argued that this has a particular impact on youth, 'many [of whom] believe that when they turn 18 they go on the roll automatically'.⁴⁰⁹
- 7.31 As a result of changing community expectations, the current paper-based systems may not be generating sufficient response from eligible electors to achieve higher participation rates. For example, in 2007-08, the AEC wrote to over 3 million people whom it had identified as needing to enrol or update their enrolment details; it received only 703,818 completed application forms back. There is evidence that a growing number of electors prefer to manage their enrolment online with the AEC. For example, a growing number of enrolment applications are obtained from the AEC website, or are scanned and then emailed, rather than posted, to the AEC.
- 7.32 Another criticism of the current arrangements is that their relative complexity may disadvantage certain people who are otherwise entitled to vote. There are indications that particular groups in the community are less likely to enrol and maintain their enrolment than others, including those aged 18-34, those overseas, those who move, Indigenous Australians, those from non-English speaking backgrounds with low levels of English language proficiency and those experiencing homelessness.
- 7.33 Options could be considered to improve enrolment systems, to make it easier for eligible persons to be added to the electoral roll, and to make it easier for the roll to be updated when a person changes address, without compromising the integrity of the roll.

Options for enrolment processes

- 7.34 To increase participation rates and make it easier for those entitled to enrol and update their enrolment details, two broad categories of alternatives have been proposed:
- automatic enrolment processes, in which an eligible elector would be added to the electoral roll,⁴¹⁰ or an elector's enrolment details could be updated, based on data obtained from other sources;⁴¹¹ and
 - online enrolment processes, which would enable eligible electors to complete an enrolment form or update their enrolment details on the internet.⁴¹²

⁴⁰⁸ Committee Hansard, JSCEM, *Inquiry into the 2007 Federal Election*, Canberra, 17 March 2009, p. 4 (P Dacey, Acting Australian Electoral Commissioner).

⁴⁰⁹ P Brent, 'Time to introduce automatic enrolment in Australia', Democratic Audit of Australia, Discussion Paper 3/08, 2008, p. 4.

⁴¹⁰ Prominent advocates of automatic enrolment include the 2008 Australia 2020 Youth Summit, the Australia 2020 Summit, the United Nations Youth Association Australia, the NSW Electoral Commission and the Democratic Audit of Australia. The idea of a more flexible and automatic enrolment system was also an issue which emerged from the youTHINK Australian Youth Forum held on 20 February 2009. In addition, the Victorian Electoral Matters Committee recently recommended that the Victorian Government examine the introduction of automatic enrolment: Electoral Matters Committee, Victorian Parliament, *Inquiry into Voter Participation and Informal Voting*, 2009, p. 58.

⁴¹¹ As recommended by JSCEM, *Report into the conduct of the 2007 federal election and matters related thereto*, op. cit., p. 114.

⁴¹² For example, online enrolment was advocated in Democratic Audit of Australia, submission no. 45 to JSCEM, *Inquiry into the Conduct of the 2007 Federal Election*, op. cit., p. 2. A model for online update has been proposed by JSCEM in its *Report into the conduct of the 2007 federal election and matters related thereto*, op. cit., p. 113.

- 7.35 Within each of these categories, two options can be considered:
- amendments to the initial enrolment process, when an elector is first added to the electoral roll; and
 - amendments to the update process, by which an elector's address or other particulars on the roll are amended.
- 7.36 Different options for automatic enrolment, automatic update, online enrolment, and online update could be implemented as stand-alone reforms or in various combinations. For example, online enrolment and automatic update could be implemented together.
- 7.37 In addition to the primary benefits that may flow from the implementation of automatic or online enrolment and/or enrolment update options (such as ease for voters and overall efficiency), another possible benefit is the likely reduction in the amount of paper used in enrolment activities, which could reduce the environmental impact of electoral processes.

Automatic enrolment processes

Automatic enrolment

- 7.38 Automatic enrolment is usually described as a process whereby an elector's details are entered onto the roll without the elector initiating the transaction. Typically, this information would be received from other government agencies or trusted sources and provide enough information concerning the elector's entitlement to allow him or her to be enrolled. Existing paper-based enrolment services could be maintained for those electors who do not access services through designated trusted agencies, those whose entitlement or identity cannot be sufficiently established through these agencies, or those who nominate that they do not wish to maintain their enrolment in this way.
- 7.39 The New South Wales Government is presently examining a mechanism for automatic enrolment as part of its Smart Roll project.⁴¹³ The Smart Roll project involves both automatic enrolment and automatic update of elector information based on data provided by trusted agencies. The NSW Electoral Commission has stated that the proposed smart roll enrolment system would implement automatic enrolment in two ways:⁴¹⁴
- NSW Board of Studies data would be used to enrol 17-18 year old secondary education students; and
 - other trusted agency data would be used to identify individuals who appear to be eligible to enrol, before they are ultimately enrolled without needing to apply.
- 7.40 A variant of this system is used in Canada, where once a person provides consent, Elections Canada can use information provided to government agencies such as the Canada Revenue Agency, to compile its register (or roll) of electors.⁴¹⁵

⁴¹³ The NSW Smart Roll project is outlined in: NSW State Electoral Office, *SEO Submission to the Joint Standing Committee on Electoral Matters*, 20 July 2006, pp. 7-9, available at www.parliament.nsw.gov.au/prod/parlment/committee.nsf/V3ListSubmissions?open&ParentUNID=38A63428B8DE1036CA257179000AEA19; NSW Electoral Commission, *Answers to Questions on Notice*, 14 April 2008, p. 2, available at www.parliament.nsw.gov.au/prod/PARLMENT/committee.nsf/0/E56339F1B9F18EAFCA257450007FE9E7; and Parliament of NSW Joint Standing Committee on Electoral Matters, *Administration of the 2007 NSW election and related matters*, Parliament of New South Wales, Report No. 1/54, May 2008, pp. 10 and 11, available at [www.parliament.nsw.gov.au/prod/PARLMENT/committee.nsf/0/69f5de35bba41db6ca2574500023ffc9/\\$FILE/1-54%20Administration%20of%20the%202007%20NSW%20election%20&%20related%20matters.pdf](http://www.parliament.nsw.gov.au/prod/PARLMENT/committee.nsf/0/69f5de35bba41db6ca2574500023ffc9/$FILE/1-54%20Administration%20of%20the%202007%20NSW%20election%20&%20related%20matters.pdf).

⁴¹⁴ NSW Electoral Commission, *Answers to Questions on Notice*, 14 April 2008, *ibid.*, p. 2.

⁴¹⁵ See Elections Canada, 'Description of the National Register of Electors', available at www.elections.ca/content.asp?section=ins&document=national&dir=nre&lang=e&textonly=false.

- 7.41 Implementation of automatic enrolment would require consideration of matters including:
- its impact on particular groups of electors who do not interact with trusted agencies;
 - maintenance of existing enrolment quality assurance processes; and
 - a public information and education campaign.
- 7.42 To protect the integrity of the electoral roll,⁴¹⁶ measures may need to be put into place to verify the information received from other government sources. The information received by many government agencies is based on an address for contact rather than a place of residence. Given the importance of ascertaining an accurate place of residence for determining the electoral division in which a person is entitled to vote, there may be a risk that an incorrect residential address may be provided to the AEC; processes would need to be implemented to address this risk. The information provided to the AEC would also need to be sufficiently comprehensive to enable the AEC to ascertain a person's entitlement to be added to the electoral roll; for example, it would need to distinguish between citizens and non-citizens, and provide accurate date of birth information.
- 7.43 The importance of identity to the integrity of the electoral roll would also require that data used for the purposes of establishing identity was obtained from agencies with sufficiently rigorous processes for establishing, verifying and maintaining proof of identity. For example, the AEC has noted that to receive benefits and services from Centrelink, clients are required to provide documents which establish a client's identity and establish how it is used, and a physical signature.⁴¹⁷ Motor authorities often require documents to support a person's claim of identity and a photograph and/or signature.⁴¹⁸ Processes to obtain signatures for the AEC's records could be established if necessary.
- 7.44 One possible way in which automatic enrolment could work might be:
- monthly data transfers would be received by the AEC from federal and state/territory authorities;
 - the AEC would apply business rules to data sources, to identify and verify the eligibility, identity and address details of potential electors;
 - eligible electors would be enrolled and sent a confirmation letter, email or other form of communication;
 - any returned mail would require the same follow-up action that is applied to returned mail from new enrollees under the existing and continuing paper-based enrolment system; and
 - quality management and quality assurance processes, with associated reporting requirements, would be developed, including (for example) periodic sample quality assurance audits of the electoral roll, in conjunction with existing roll review undertaken by mail and fieldwork.
- 7.45 Participating agencies could provide their clients with an 'opt-in' or 'opt-out' model for sharing particular information with the AEC. Given that individuals may choose to provide different contact information to different government agencies for different purposes, an 'opt-in' model would be better privacy practice and therefore may be preferable. However, it would be possible, as voting and enrolment are compulsory, for any system of automatic enrolment to be compulsory, with no ability for eligible electors to 'opt-out'. The appropriateness of information collected by an agency for one purpose being shared with the AEC, for a different purpose, would also need to be considered in developing any scheme for automatic enrolment. Any system of automatic enrolment may require legislative amendments to govern the use

⁴¹⁶ Integrity of the electoral roll is discussed further at paragraph 7.65.

⁴¹⁷ AEC, submission no. 169.17 to JSCEM, *Inquiry into the 2007 Federal Election*, pp. 3-4.

⁴¹⁸ For example, see www.rta.nsw.gov.au/licensing/proofidentity/index.html.

and disclosure of personal information across agencies, and to address the privacy issues arising from sharing this information. An automatic enrolment system could also have ramifications for the basis of proceedings under the Electoral Act for offences such as false enrolment or failure to vote, as no signature would be involved, and the degree of elector consent could vary.

- 7.46 Costs involved in the adoption of such a system could be expected to be associated with the design of the process, programming changes to the AEC enrolment system, and a trial. Some ongoing activities analogous with those required for automatic enrolment are part of existing AEC enrolment stimulation and mail review processes, such as data matching and accessing agency data, and might be expected not to involve significant additional expense. Implementation of such a system could result in a decreased need for other activities such as mail review, and reduce the manual entry of first time enrolment forms, which numbered 294,156 in 2007-08.⁴¹⁹ The workload driven by increased enrolments in the lead-up to federal elections might also be spread more evenly across the electoral cycle. Higher ongoing costs could be expected, should an increased level of identity data (such as signatures) be required to be obtained from trusted agencies and stored by the AEC.

Automatic update

- 7.47 In addition, or as an alternative, to automatic enrolment, a system of automatically updating an elector's address could be introduced. The NSW Smart Roll project is also examining a system for automatic update of the NSW electoral roll.⁴²⁰
- 7.48 The AEC already receives information from a range of government agencies, which it utilises to contact electors who it believes have changed address and notify them, in accordance with the present legislative requirements, that they must complete an enrolment form to remain on the electoral roll. As a consequence, it has been argued that 'the AEC is getting much better at taking people off the roll, but not at putting them on'.⁴²¹ The AEC has noted that under the existing processes, 'some electors find it confusing that although the AEC clearly already knows their new addresses, they are not enrolled correctly and need to fill out, sign and return the enrolment form'.⁴²² Market research conducted by the AEC indicates that many electors are of the belief that when they notify 'government' of their change of address (for example, by changing the address of their driver's licence or notifying Medicare or Centrelink, and advising by ticking a box that this information may be shared across government agencies), their enrolment is being automatically updated.⁴²³
- 7.49 Automatic update could be introduced in conjunction with automatic enrolment, or separately. If existing hard copy requirements for initial enrolment were maintained, it might be argued that automatic update could pose fewer risks to the integrity of the roll than automatic enrolment, as an elector's signature would still be obtained at the initial point of enrolment, and a consistent system of proof of identity checking would apply to all persons enrolling to vote for the first time.

⁴¹⁹ AEC, *Annual Report 2007-08*, op. cit., p. 33.

⁴²⁰ See NSW Electoral Commission, *Answers to Questions on Notice*, 14 April 2008, op. cit., pp. 1-2.

⁴²¹ P Brent, 'Time to introduce automatic enrolment in Australia', op. cit., p. 3.

⁴²² See AEC, submission no. 169 to JSCEM, *Inquiry into the 2007 Federal Election*, p. 76.

⁴²³ Future planned enhancements to australia.gov.au include an optional citizen account, single sign on and change of address notification capability. In addition, the Australian Government Online Service Point Program is currently trialling the development and use of smart forms online via australia.gov.au, and one of those now being piloted is an enrolment form for the AEC. However, the current legislative requirement for a signature means that once submitted via the internet, electors must print and sign the form and then post it to the AEC.

7.50 Implementation considerations would be similar to those for automatic enrolment and might include:⁴²⁴

- development of business rules for data matching that are of a sufficiently high standard to ensure a high degree of confidence in the system;
- retaining the existing quality assurance process and roll review program;
- legislative amendments to govern the use and disclosure of personal information across agencies; and
- a public information and education campaign to encourage participation.

7.51 The initial cost of establishing an automatic update system could be expected to be less than that involved in automatic enrolment, as although a similar process of design, programming and trial would be required, the changes to existing processes would be less marked. In 2007-08 AEC staff processed 1,699,908 enrolment forms involving re-enrolments, intrastate and interstate movements, and intra-division amendments or movements, suggesting that savings in other activities such as mail review and manual entry of enrolment forms could also be expected.⁴²⁵

Online enrolment processes

Online enrolment

7.52 Online enrolment utilises technology but retains the onus on electors to enrol, by allowing eligible persons with particular identification such as a driver's licence to enrol to vote via the AEC website.⁴²⁶ A number of the issues noted for automatic enrolment may apply to the option of online enrolment, including ensuring appropriate protections for the integrity of the roll. Existing paper-based processes could be retained for persons who may not have access to the internet, who would prefer to complete a paper form, or for those who do not have relevant identification such as a driver's licence.

7.53 In the U.S. state of Washington, a system of online voter registration (enrolment) is used which is available to all citizens who have a state driver's licence or state identification card.⁴²⁷ Applicants enter their details as they appear exactly on the form of identification being used to verify their identity and then enter the same information that would ordinarily be provided on a paper registration form to establish their entitlement to register and their personal details. Those registering online must agree that the signature contained on either their driver's licence or state ID card will be stored as their signature on their voter registration record.

7.54 In launching the online voter registration model Washington Secretary of State, Sam Reed said that the registration process was secure: 'because it is only available to those who have a state driver's license or a state identification card, applicants will have personally stood before a state employee, presented proper documentation, and had their pictures taken'.⁴²⁸ In the U.S. state of Arizona, where online voter registration has been offered since 2003, over 60% of all voter registrations in the 2008 financial year were completed online.⁴²⁹

⁴²⁴ AEC, submission no. 169.1 to JSCEM, *Inquiry into the 2007 Federal Election*, op. cit., pp. 146-162.

⁴²⁵ AEC, *Annual Report 2007-08*, op. cit., p. 33.

⁴²⁶ Online enrolment is currently used in at least three US states – Kansas, Arizona and Washington, and in the Canadian province of British Columbia.

⁴²⁷ Further details are available from www.secstate.wa.gov/elections/.

⁴²⁸ 'Washington launches online voter registration', Secretary of State Press release, 9 January 2009, available at www.secstate.wa.gov/office/osos_news.aspx?i=e5wY5NStuBwRfwl3KleygA%3d%3d.

⁴²⁹ Department of State – Arizona Secretary of State, *FY '08 Annual Report*, Phoenix, 2008, p. 28, available at www.azsos.gov/public_services/annual_report/2008/.

- 7.55 Online enrolment would require a number of implementation issues to be considered, which may include:
- development of a web-based environment that enables verification of data entered by electors against relevant data sources;
 - supporting business processes and a service delivery model that:
 - involves timely provision of identity data from trusted agencies to the AEC; and
 - evolves toward ‘real time’ advice on the outcome of an online application to enrol;
 - maintenance of existing enrolment quality assurance processes; and
 - a public information and education campaign.
- 7.56 The establishment of an appropriately secure website would incur costs, although such a website may not involve significant security investment outside of standard encryption and data handling techniques. Costs would also be incurred in the ongoing management and system support of this service by the AEC and any contracted service providers. However, efficiencies may be realised in the reduced requirement for the manual entry of enrolment forms.

Online update

- 7.57 Online address update would be an elector-driven model of maintaining enrolment, in which an elector could update their own enrolment details, via a secure website, after providing sufficient identifying information. The current requirements for initial enrolment could be maintained, or alternatively, online update and online enrolment could be introduced together. Again, a number of the issues noted above for automatic update could arise, including maintaining appropriate systems for the integrity of the roll.
- 7.58 In a recent submission to the JSCEM, the AEC noted that online update could maintain roll integrity by:⁴³⁰
- verifying submitted enrolment data against existing roll information and proof of identity data;
 - updating of the elector record by an AEC officer upon validation of the submitted enrolment data; and
 - using ‘sample based quality assurance and sample audit fieldwork to identify any systemic integrity issues’.
- 7.59 The online voter registration systems of the states of Washington and Arizona (outlined above) also enable online update of voter registration details. In these states, online update involves similar process and identity verification requirements to online enrolment. For example, in the state of Washington, registered voters who are changing their address but remaining in the same county in which they are registered can update their address details online without following the full registration process; voters moving to a new address in a different county must use the online voter registration portal to change their voter registration details.⁴³¹
- 7.60 Online update would require a number of implementation issues to be considered, including those outlined in paragraph 7.55. The establishment of an appropriately secure website would require funding, although such a website may not involve significant security investment outside of standard encryption and data handling techniques. Ongoing management and system support provided by the AEC and any contracted service providers would also require funding. Efficiencies and cost savings would be analogous to those outlined in paragraph 7.51, and could particularly flow from the reduced need for manual entry of enrolment forms.

⁴³⁰ AEC, submission no. 169 to JSCEM, *Inquiry into the 2007 Federal Election*, op cit., pp. 6-7.

⁴³¹ www.secstate.wa.gov/Elections/online_reg_faq.aspx

- 7.61 Allowing for electronic, elector-initiated update of enrolment details would represent a major advance in modernising current enrolment processes. It could also accord with the changing expectations of society that government and business will 'make their products and services easy to access, preferably 24/7, and conveniently from their own home'.⁴³² Statistics provided by the AEC suggest there may be an existing audience for this approach:
- for the eight-week period between the announcement of the 2007 federal election and two weeks after polling day the AEC's online verification of enrolment facility was used 2.6 million times;⁴³³
 - from 1 January 2007 to 23 October 2007 (the close of rolls for the 2007 federal election), 344,766 enrolment forms were sourced from the internet;⁴³⁴ and
 - over 79,000 enrolment forms sourced from the internet were received in the period between the announcement of the election (14 October 2007) and the close of rolls (23 October 2007) – this represented 33.49% of all enrolment forms received during this period.
- 7.62 Other elector-driven update models could utilise the telephone, which would again require enrolled electors to provide identifying information before being enabled to update their details. Future technological changes may allow for update of enrolment details by SMS or email.

Levels of prescription in enrolment legislation

- 7.63 As outlined in chapter 3, the Electoral Act is highly prescriptive, and some of its provisions are outdated. On enrolment processes, the Electoral Act contains a high degree of procedural detail, which means that the mechanisms for enrolment are not readily capable of being modified to reflect new realities or opportunities. For example, as noted in chapter 3, the enrolment provisions largely reflect past practice in which hard copies of electoral rolls were amended by hand. To permit the current practice of updating an elector's computerised enrolment record, section 111 allows a DRO, 'where required or permitted under this Act or the regulations to record particulars (including make an annotation) in a written form on a Roll... [to] do so by recording or storing those particulars...on a mechanical, electrical or other device approved by the Commission'.
- 7.64 There may be scope for the enrolment provisions of the act to be rewritten so that important principles for enrolment are captured (for example, universal suffrage and roll integrity), but greater discretion is left to the AEC to determine the processes by which enrolment should be undertaken. This could enable technological opportunities to be harnessed without the need for legislative change. Principles-based approaches to electoral law have been taken in Victoria and Tasmania, as noted in chapter 3.

Roll integrity

- 7.65 Any change to current systems will need to ensure that the integrity of the roll is protected. As the AEC's General Enrolment Manual states, 'an electoral roll with integrity serves to maintain the confidence of Australia's citizens in the electoral system and also ensures that the AEC can manage elections effectively'. The AEC's definition of roll integrity consists of the following elements:
- Entitlement – the individual meets all legislative qualifications for enrolment on the electoral roll, and information provided by the individual is tested to detect and prevent enrolment fraud;
 - Accuracy – the individual is enrolled for the address at which they are entitled;

⁴³² Committee Hansard, JSCEM, *Inquiry into the 2007 Federal Election*, Canberra, 17 March 2009, p.4 (P Dacey, Acting Australian Electoral Commissioner).

⁴³³ AEC, submission no. 169 to JSCEM, *Inquiry into the 2007 Federal Election*, op. cit., p. 25.

⁴³⁴ *ibid.*, p. 10.

- Completeness – all individuals who are entitled to enrolment are enrolled;
 - Processing Correctness – information provided by individuals and organisations is entered correctly and completely on the roll, and addresses are correctly and completely described, classified and aligned; and
 - Security – the electoral roll is protected from unauthorised access and tampering.
- 7.66 The integrity of the roll can be protected by incorporating mechanisms into new systems to ensure that:
- enrolment fraud is detected and prevented;
 - enrolment information is accurate, to ensure that an individual is enrolled for the address at which they are entitled; and
 - there are security measures in place to protect the roll from unauthorised access and tampering.

Proof of identity requirements

- 7.67 Options for ‘proof of identity’ (POI)⁴³⁵ requirements might be considered in the context of the extent to which they enable universality and integrity. That is, it might be argued that POI provisions should not put people on the roll who are not qualified to enrol, but neither should they prevent people from enrolling who are qualified to enrol. In considering the current situation and the options for automatic and online enrolment discussed above, various options for POI can be examined.
- 7.68 The AEC advises that under the existing arrangements more than 90% of electors provide a driver’s licence number on their enrolment form as proof of their identity (‘tier 1’); approximately 8% show an approved document to an authorised person (‘tier 2’); and approximately 2% have their enrolment form countersigned by two electors who are enrolled, who have known the person for at least one month (‘tier 3’).
- 7.69 The existing three-tiered POI system replaced a process whereby a person could enrol, or update his or her enrolment details, by lodging an approved form which had been signed by the person and witnessed by a person eligible to be on the electoral roll. The current arrangements were introduced following a JSCEM report into the 2004 federal election, which argued that requiring electors to provide documentary evidence of their identity when they enrol or update their enrolment details would, among other things:⁴³⁶
- prevent the possibility that electoral roll fraud may occur, and increase the integrity and accuracy of the roll; and
 - align with other everyday undertakings such as purchasing and enabling a pre-paid mobile telephone, or joining a video library.
- 7.70 Concerns articulated against the introduction of the changes included that:⁴³⁷
- the changes in enrolment and re-enrolment procedures were not in response to evidence-based claims of significant enrolment or electoral fraud; and
 - those least able to comply with the documentary evidence requirements would be seniors, people with poor English proficiency, Indigenous Australians and young voters.

⁴³⁵ POI is technically referred to in the *Electoral and Referendum Regulations 1940* as ‘evidence of identity’ (see regulations 11A, 12, 39B).

⁴³⁶ JSCEM, *Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto* op. cit., pp. 22-27.

⁴³⁷ *ibid.*, pp. 358-359.

7.71 Where tier 1 is used, it has removed the requirement to have the enrolment form witnessed, which has simplified the enrolment process for those who have a driver's licence number. However, it has been commented that tiers 2 and 3 of the identity provisions:

- discriminate against people who do not possess a driver's licence, requiring them to submit to a more complex process to enrol or to update their enrolment; and
- possibly impact disproportionately on electors who are poor, or live in remote or Indigenous communities.⁴³⁸

7.72 Options to amend the current POI requirements might include the following.

- The tier 1 provisions could be expanded to allow for other identity documents to be used as an alternative to a driver's licence, without compromising the integrity of the roll. Documents which are broadly available, and may meet appropriate identity integrity requirements, could include Australian passports⁴³⁹ (regardless of whether a person is resident in Australia or overseas), Medicare cards or proof of age cards.
- Tiers 2 and 3 could be simplified into a single tier which requires only that the form be witnessed by another person on the electoral roll,⁴⁴⁰ which would effectively be a return (for those who do not have a driver's licence) to the scheme which applied prior to the introduction of the current POI regime.
- 'Once only' POI could be considered, which would require that proof of identity be substantiated when a person initially enrolls to vote, but would not apply the same POI requirements when a person updates their enrolment details.⁴⁴¹ This would still meet the primary aim of the POI system, which is to verify through data external to the AEC that electors exist. It could also align enrolment processes with the practices of other organisations which require POI, such as banks. Once only POI could be beneficial if a system of automatic update or online update of enrolment details were adopted.
- The current provisions could be repealed, reverting to the previous process in which no documentary evidence of identity would be required to enrol or re-enrol.

Residence requirements

7.73 The Electoral Act currently provides that a person must have lived at his or her address for one month before being eligible to enrol for that address.⁴⁴² While a minimum voting age and citizenship are the primary qualifications for enrolling and voting in most countries, period of residence is also used in around one-third of countries as a qualification to enrol and vote.⁴⁴³ Requiring a period of residence may be argued to provide a degree of certainty that only people living within the relevant electoral division will enrol and ultimately influence the outcome of an election. Information on electors' residency is also linked to the drawing of electoral boundaries, providing some certainty about the equality of representation within a state or territory.

7.74 Findings from the Youth Electoral Study (YES) revealed that mobility among some young people impacted upon their ability to remain enrolled. Though it is not clear whether period of residence requirements link directly to the ability of youth to remain enrolled, relevant findings from the YES research to period of residence considerations include:⁴⁴⁴

⁴³⁸ AEC, submission no. 169 to JSCem, *Inquiry into the 2007 Federal Election*, op. cit., p. 17.

⁴³⁹ As recommended by JSCem, *Report into the 2007 federal election and matters related thereto*, op. cit., p. 91.

⁴⁴⁰ As recommended by JSCem, *ibid.*

⁴⁴¹ As recommended by JSCem, *ibid.*, p. 91 and p. 93.

⁴⁴² Electoral Act, op. cit., subsections 99(1) and (2).

⁴⁴³ ACE Project, *Voter Registration*, available at aceproject.org/epic-en/CDMap?question=VR02.

⁴⁴⁴ K Edwards, *Young People and Democratic Rights, Discrimination and Disadvantage*, Refereed paper presented to the Australasian Political Studies Association conference, University of Newcastle, 25-27 September 2006, p. 12.

- for many young people, transience of accommodation was common;
- few had held long-term rental accommodation; and
- changes of address were frequent, as was limited time in each residence.

7.75 It may also be argued that residence requirements in the Electoral Act may not account for the complex reality of homelessness. It has been argued that the right to enrol and vote is especially important for those suffering homelessness as it helps to connect them with mainstream society and allows them to have their voice and concerns heard through their choice of political representation.⁴⁴⁵ Currently, electors experiencing homelessness can enrol to vote as itinerant electors under section 96 of the Electoral Act.⁴⁴⁶ Electors enrolled under this category are not entitled to remain enrolled as an itinerant elector if they reside in a subdivision for a period of 1 month or longer.⁴⁴⁷ Some have argued that this provision prevents a large proportion of homeless people from enrolling as itinerant electors ‘as it is very common for people experiencing homelessness to live in temporary accommodation for up to six months (or more)’.⁴⁴⁸

7.76 Enhancing the participation of those particularly affected by residence requirements may require consideration of other aspects of the enrolment process such as proof of identity requirements and close of rolls arrangements (discussed separately in this chapter), or matters discussed in other chapters in this paper. However, options specific to reforming residence requirements for enrolment could include:

- shortening the period of residence requirement for enrolment to enable those experiencing housing instability to enrol more easily;
- including a definition of ‘homelessness’ in the Electoral Act, to facilitate enrolment or continued enrolment of homeless persons;⁴⁴⁹ or
- enabling itinerant electors to reside in a ‘real place of living’ for at least six months, before they are no longer entitled to enrol as an itinerant elector.⁴⁵⁰

Special enrolment arrangements

7.77 As highlighted in paragraph 7.9, special enrolment arrangements apply to some electors. Three categories of special enrolment for which reforms might be considered are:

- silent electors;
- electors experiencing homelessness; and
- youth.

⁴⁴⁵ Homelessness Australia, submission no. 34 to JSCEM, *Inquiry into the 2007 Federal Election*, p. 2.

⁴⁴⁶ For further information, see www.aec.gov.au/Enrolling_to_vote/Special_Category/people_experiencing_homelessness.htm.

⁴⁴⁷ Electoral Act, op. cit., section 96(8).

⁴⁴⁸ PILCH Homeless Persons’ Legal Clinic, the Human Rights Law Resource Centre and the Victorian Association for the Care and Resettlement of Offenders, *Voting as a human right: enfranchising people experiencing homelessness and imprisonment*, Submission to the Parliament of Victoria Electoral Matters Committee into Voter Participation and Informal Voting, July 2008, p. 15, available at www.parliament.vic.gov.au/emc/Inquiry%20into%20Voter%20Participation/HPLC,%20HRLRC,%20VACRO.pdf.

⁴⁴⁹ JSCEM, *Report into the conduct of the 2007 federal election and matters related thereto*, op. cit., p. 171. JSCEM recommended that the definition be modelled on that in the Victorian *Electoral Act 2002* and include persons living in crisis accommodation, transitional accommodation, or any other accommodation provided under the Commonwealth’s *Supported Accommodation Assistance Act 1994*. See also PILCH Homeless Persons’ Legal Clinic, the Human Rights Law Resource Centre and the Victorian Association for the Care and Resettlement of Offenders, *ibid.*, p. 15.

⁴⁵⁰ *ibid.*

Silent electors

7.78 Electors who, owing to fear for the personal safety of themselves or their family do not wish their address to appear on the publicly available roll, may enrol as silent electors. Existing arrangements enable public searches against an elector's enrolled name to reveal the division of a silent elector, but not their address. Similarly, certified lists produced for polling, and roll information provided to members and Senators, displays a silent elector's name and division, but not his or her address.

7.79 A question for consideration may be whether this provision sufficiently protects those whose safety is under threat.⁴⁵¹ One option may be to allow silent electors to suppress their name on particular roll products. Factors relevant to consideration of this issue might include:

- the extent to which being able to match the name of a silent elector to an electoral division could impair the intended benefit of enrolment as a silent elector; and
- the extent to which the transparency and integrity of the roll might be affected by allowing silent electors to suppress their name.

Homeless electors

7.80 As outlined above, special enrolment arrangements also enable homeless electors to enrol as itinerant electors. However, unlike ordinary electors, an itinerant elector will be removed from the electoral roll if he or she does not vote, or apply for a postal vote, at a general election.⁴⁵²

7.81 It has been argued that this provision is a barrier to the participation of homeless electors in the electoral process.⁴⁵³ Alternatives to existing arrangements that might be considered could be:

- to remove this provision; or
- to amend it in such a way as to recognise the complex personal and social circumstances of those experiencing homelessness.⁴⁵⁴

Youth

7.82 As noted above, special arrangements enable 17 year olds to 'provisionally' enrol so that once they turn 18, they are able to vote. In its report on the conduct of the 2007 federal election, JSCEM made the following recommendations aimed at increasing youth enrolment.

- Lowering the minimum age for provisional enrolment from 17 to 16 years. JSCEM noted that the rate of 16 year olds in full time study is greater than the rate of 17 and 18 year olds, and argued that lowering the provisional enrolment age could enable potential electors to be identified and encouraged to enrol at an earlier stage, which could assist the AEC to 'engage with them at the optimum age to encourage continued involvement in the electoral process'.⁴⁵⁵
- The introduction of 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 [AEC]'.⁴⁵⁶ JSCEM noted that such a scheme has operated for a number of years in some jurisdictions,

⁴⁵¹ This issue is discussed, for example, in the covering letter to AEC, submission no. 169.1 to JSCEM, *Inquiry into the 2007 Federal Election*, op. cit.

⁴⁵² Electoral Act, op. cit., subsection 96(9).

⁴⁵³ PILCH Homeless Persons' Legal Clinic, the Human Rights Law Resource Centre and the Victorian Association for the Care and Resettlement of Offenders, op. cit.

⁴⁵⁴ *ibid.*, p. 15

⁴⁵⁵ JSCEM, *Report into the conduct of the 2007 federal election and matters related thereto*, op. cit., p. 118.

⁴⁵⁶ *ibid.*, p. 140.

including South Australia.⁴⁵⁷ However, in a dissenting report, some members of JSCEM rejected this recommendation, arguing that 'introducing a financial inducement to encourage enrolment, however far removed from the individual, represents a corruption of our democratic process'.⁴⁵⁸

Options for close of roll period

- 7.83 The main reason for having a 'roll close' is to provide sufficient time prior to polling day for the enrolment database to be updated, for data to be extracted, and for the millions of pages of certified lists of voters to be printed and distributed to more than 7,700 polling places.
- 7.84 Given that federal election dates are not fixed, and that there is potentially a wide period of time within which an election can be called, the deadline for enrolling to vote for a particular election is uncertain until an election is called, by which time (under the current arrangements) the deadline has almost passed. In 2007, 100,370 people missed the close of rolls deadline for enrolling or changing their enrolment details (by providing an enrolment form between close of rolls and polling day, too late for the election). The number of voters so disenfranchised was greater than the average total enrolment in an electoral division.
- 7.85 Noting that the current arrangements served to disenfranchise electors at the 2007 federal election and that the committee had 'received no evidence that fraudulent activity was reduced as a result of the [2006] amendments to the close of rolls', a majority of JSCEM members recently recommended that the 2006 amendments be repealed, and that the close of rolls arrangements revert back to those that existed prior to 2006 (that is, the date fixed for the close of rolls should be 7 days after the issue of the writ).⁴⁵⁹
- 7.86 Additional options for modifying the roll close period, to give electors more time to enrol or change their enrolment details before polling day, could include:
- setting the roll close date later in the election period; or
 - permitting enrolment on polling day.

Later roll close date

- 7.87 Setting the roll close date later in the election period would give electors a longer period of time to update their particulars, which would be likely to result in a more complete electoral roll on polling day, and more people thereby permitted to vote. For example, a close of rolls date of one week before polling day, or even one day before polling day, could be considered.
- 7.88 Over 90% of enrolment forms can be processed relatively speedily by the AEC, by linking the enrolment to a driver's licence record. However, under the present system the close of roll date would be constrained by the minimum time needed to update the database, and to print and distribute hardcopy certified lists to polling places. For example, printing contractors producing the certified lists for the 2007 federal election had 12 calendar days from receipt of the data to print the certified lists and deliver them to relevant state and territory offices. This enabled certified lists to be ready two weeks prior to polling day and therefore available for pre-polling.
- 7.89 Though this 12 day period is designed around existing roll close timelines and pre-poll arrangements, possible ways of reducing the impact of a later roll close on this constraint could include:

⁴⁵⁷ *ibid.*

⁴⁵⁸ *ibid.*, p. 329.

⁴⁵⁹ JSCEM, *Report on the conduct of the 2007 federal election and matters related thereto*, p. 51. This recommendation was the subject of a dissenting report from Coalition members of the JSCEM: see pp. 325-326.

- introducing automatic or online enrolment processes which could reduce the time needed to update the database;
- replacing the current system, in which hard copies of rolls are delivered to polling places, with a system whereby rolls are electronic files accessible by polling officials using laptops or personal data assistants, as used at the 2008 ACT Legislative Assembly election;⁴⁶⁰ or
- ensuring that polling places had online access to the central enrolment database, which would reduce the need to distribute a copy of the roll to each polling place.

7.90 The latter two options could reduce paper use for elections, but would require appropriate systems to maintain the integrity of the roll. Options for greater use of technology at polling places are discussed in more detail in chapter 11.

7.91 Should current paper-based arrangements continue in the context of a later roll close, a supplementary roll could be utilised. A supplementary roll would contain the names of electors who enrolled between the last possible date for printing the certified list and the close of rolls. Electors who enrolled between the date the certified lists were printed and the close of rolls would not appear on the certified list at each polling place, but could cast a declaration vote, which would enable their entitlement to vote to be checked against the supplementary roll before their vote was accepted into the count. Use of a supplementary roll would be likely to result in an increase in the number of declaration votes being cast, which in turn may impact on the timeliness of the counting process (as discussed in chapter 12).

7.92 Unless enrolment is permitted on election day, it would be likely that some unenrolled electors may miss the deadline for enrolment. Such electors could potentially record provisional votes, which are discussed in chapter 11.

Permitting enrolment on election day

7.93 Another option would be to permit a voter to enrol and vote at the same time, on production at the polling booth of such documents or information as would be necessary to prove his or her qualification to vote. This approach could enable all eligible electors to vote, regardless of whether they had completed an enrolment form in advance of polling day.

7.94 Election day registration (enrolment) is used in several U.S. states⁴⁶¹ and in Canada and usually requires electors to provide a prescribed proof of identity document to staff to establish their eligibility, before being registered and allowed to vote. For example, in Minnesota, which introduced election day registration in 1973, eligible electors who have not registered by the close of registration (21 days before election day), are required to:⁴⁶²

- appear in person at the polling place for the precinct in which they reside;
- complete an application to register;
- make an oath in the prescribed form; and
- provide proof of residence.⁴⁶³

⁴⁶⁰ For example, JSCEM recently recommended that the Electoral Act and the RMP Act 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': JSCEM, *Report into the conduct of the 2007 federal election and matters related thereto*, op. cit., p. 279.

⁴⁶¹ The United States Election Assistance Commission states that for the national elections held on 4 November 2008, eight states allowed election day registration: Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin and Wyoming. North Dakota has no voter registration. See www.eac.gov/voter.

⁴⁶² Minnesota Statute 201.061, available at www.revisor.leg.state.mn.us/statutes/?id=201.061.

⁴⁶³ Acceptable forms of proof of residence are specified in Minnesota Statute 201.061, *ibid*.

- 7.95 Arguments advanced in favour of election day registration in the U.S. include that those states which use election day registration lead the country in voter turnout, and that the system reduces barriers to electoral participation by making it easier to register to vote.⁴⁶⁴ Against election day registration in the U.S., it has been argued that the system does not allow sufficient scrutiny of voters' credentials, may allow persons to cast multiple votes at different polling places, and that a lack of voter interest and motivation are more significant barriers to participation than registration requirements.⁴⁶⁵
- 7.96 For Australia, the following arguments might be advanced in support of allowing enrolment on election day.
- It would ensure that the greatest possible number of eligible electors have an opportunity to enrol and vote. For example, at the 2008 general election in Canada, around 731,000 electors, or 6.1% of all voters, registered at the polls.⁴⁶⁶
 - Processes could be adopted to minimise the risk of fraud, such as requiring electors to provide appropriate identification to prove their eligibility and identity.⁴⁶⁷
- 7.97 Against election day enrolment, it might be argued that:
- one of the key benefits of the present system is that the qualifications of persons seeking to enrol are tested and verified, in a structured way, in advance of polling day;
 - the system would impact on the smoothness of the polling process, if it resulted in a greater number of voters having to fill out a form at a polling place;
 - given the complexities which can arise in determining a person's qualification, it may be necessary for some persons to cast a declaration vote, which (as noted above) may have implications for the speed with which election results could be finalised. However, the introduction of automatic or online enrolment processes may reduce the number of electors who are not enrolled, or not enrolled correctly, on polling day, which may reduce the number of declaration votes that would otherwise be cast; and
 - it may result in an over-reliance on election day for electors to enrol or update their enrolment details, rather than viewing enrolment as a continuous process in which electors update their enrolment details when they change address.

Harmonisation of enrolment requirements and processes

- 7.98 Joint roll arrangements work best when the basic qualifications for enrolment, and the processes for enrolment, are the same at the Commonwealth, state or territory and local government levels. Where variations exist, it can become necessary to flag a particular elector on the enrolment database as 'Commonwealth-only', 'state-only', 'territory-only' or 'dual enrolment' (electors who are enrolled at one address at the state level and a different address at the Commonwealth level). Electors so flagged will only be included on the certified lists of voters – the lists used at polling places — for elections for the level of government for which they are entitled to vote, or at the address for that level of government for which they are entitled to vote.

⁴⁶⁴ electionline.org, 'Election-Day Registration: A Case Study,' *Briefing*, February 2007, p. 3, available at www.pewcenteronthestates.org/uploadedFiles/Election%20Reform%20Briefing%2016;%20Election-Day%20Registration%20A%20Case%20Study.pdf.

⁴⁶⁵ *ibid.*

⁴⁶⁶ Elections Canada, 'Conducting the 40th General Election', *Report of the Chief Electoral Officer of Canada on the 40th General Election of October 14, 2008*, February 2009, available at www.elections.ca/content.asp?section=gen&document=p2&dir=rep/re2/sta_2008&lang=e&textonly=false#p2_6.

⁴⁶⁷ ACE Electoral Knowledge Network, *ACE Encyclopaedia*, 'Election Day Registration Additions and Deletions', available at aceproject.org/ace-en/topics/vr/vrb/vrb23.

7.99 Differences in enrolment requirements and processes can result in:

- confusion for, and possibly disenfranchisement of, electors who may not be aware of, or understand, differences in requirements;
- a rise in the number of 'Commonwealth-only', 'state/territory-only' electors, or electors with 'dual enrolment' records on the joint roll – this can lead to a significant divergence in the rolls for each jurisdiction, which in turn can raise questions about the completeness and accuracy of the rolls;
- if requirements become more complex or confusing, a possible reduction in the willingness of electors to voluntarily participate in the electoral system; and
- from the point of view of electoral authorities, difficulty in explaining and justifying complicated obligations to voters.

7.100 Some examples of the impact of differing arrangements between jurisdictions arise from the fact that Victoria, Western Australia and South Australia do not require that electors provide the same POI as the Commonwealth requires in order to enrol or update their enrolments. Enrolment or changes to enrolment at the state level (but not the federal level) can be effected if:

- an applicant from Victoria submits an otherwise complete enrolment form that is witnessed by an enrolled elector;
- an applicant from Western Australia submits an otherwise complete enrolment form that is witnessed; or
- an applicant from South Australia submits an otherwise complete enrolment form that is signed.

7.101 Conversely, applications for enrolment or update of enrolment for Victorians or Western Australians which include a drivers licence number (but do not have the enrolment form witnessed) will result in the applicants' federal enrolment records being updated, but not their state enrolment records.

7.102 Since the introduction of the current Commonwealth POI provisions, there has been an increase in the number of electors who are only enrolled to vote in either a state election (because they have not satisfied Commonwealth POI requirements) or a federal election (because the POI provided is not recognised in state enrolment provisions). There has also been an increase in those who are enrolled at one address for their state enrolment and a different address for their federal enrolment (because in updating their enrolment details an elector has satisfied the POI requirements for one level of government but not the other).

7.103 To avoid these problems, it would be desirable for any changes to current enrolment systems in any jurisdiction to be developed in a cooperative fashion and implemented in a harmonised way across all jurisdictions. Consideration could also be given to further alignment of jurisdictions' enrolment requirements and administrative processes. If enrolment requirements and processes were more aligned, options such as a single Australia-wide electoral roll or a common national enrolment form may be feasible.⁴⁶⁸

⁴⁶⁸ JSCEM has recommended that the Australian Government enter into discussions with 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 purpose of Commonwealth and state/territory enrolment, see JSCEM, *Report into the conduct of the 2007 federal election and matters related thereto*, op. cit., p 119.

Privacy considerations

- 7.104 As noted at paragraph 7.3, the Electoral Act provides for the electoral roll, or extracts of the roll, to be provided to a range of specified persons and organisations; Parliament has determined there are public policy grounds to justify access to the electoral roll being granted to these persons and organisations. The current provisions were introduced in 2004; it was stated that their objectives were to 'improve clarity, remove contradiction and improve privacy protections' in the provisions governing access to the electoral roll.⁴⁶⁹
- 7.105 Access to information beyond an elector's name and address is limited; for example, subsection 90B(7) of the Electoral Act states that except as otherwise provided by the Act, the AEC must not give a person information which discloses particulars of the occupation, sex or date of birth of the elector. Use of information by the AEC is also regulated by other legislation including the Privacy Act, the *Archives Act 1983* and the *Public Service Act 1999*.
- 7.106 Information on the electoral roll is collected for electoral purposes, in line with the primary purpose of the roll which is to facilitate the exercise of the right to vote. Any extension of the current provisions to allow use of roll information for purposes other than electoral purposes should therefore be carefully considered. There is a risk that greater use of the roll for non-electoral purposes may jeopardise the willingness of voters to comply with enrolment processes, if they were concerned about the potential use of personal information on the electoral roll.
- 7.107 There are some variations in the regulation of access to information on the electoral rolls of the Commonwealth, states and territories. For example, while the Electoral Act permits a political party to use the Commonwealth electoral roll for 'any purpose in connection with' a Commonwealth, state, territory or local government election,⁴⁷⁰ use of state electoral rolls by political parties can be limited to purposes in connection with state elections.⁴⁷¹ Differences in permitted purposes may lead to confusion for those receiving electoral roll information from different jurisdictions.⁴⁷² There may therefore be benefits in examining opportunities for greater harmonisation in arrangements governing regulation of and access to information on the electoral roll, which may require consideration of whether more stringent limits should be placed on access to information on the Commonwealth electoral roll, or of other mechanisms for aligning arrangements across jurisdictions.
- 7.108 Electoral rolls are also publicly available for inspection in each divisional and state office of the AEC, and individuals may check their enrolment details online using the AEC website. The roll used to be available for purchase; this was ceased in May 2000 in response to 'increasing privacy concerns about the commercial exploitation of enrolment information'.⁴⁷³
- 7.109 In its report *For Your Information: Australian Privacy Law and Practice*, the Australian Law Reform Commission (ALRC) considered privacy issues arising from the provisions and procedures governing the electoral roll, and made the following recommendations.
- Under the joint roll arrangements, personal information can be shared between jurisdictions for the purposes of updating the electoral roll. Recommendation 16-3 of the ALRC report recommended that the Commonwealth, state and territory electoral commissions develop

⁴⁶⁹ The Hon P Slipper MP (Parliamentary Secretary to the Minister for Finance and Administration), Second Reading Speech, *Electoral and Referendum Amendment (Access to the Electoral Roll and Other Measures) Act 2004*, House of Representatives Hansard, 1 April 2004, p. 27930.

⁴⁷⁰ Electoral Act, op. cit., section 91A.

⁴⁷¹ See, for example, the *Electoral Act 2002* (Vic), subsection 36(3).

⁴⁷² The different 'permitted purposes' for use of Commonwealth and Victorian electoral rolls were discussed in Victorian Ombudsman, *Investigation into the alleged improper conduct of councillors at Brimbank City Council*, 2009, pp. 99-104.

⁴⁷³ JSCEM, *User Friendly, not Abuser Friendly: Report of the Inquiry into the Integrity of the Electoral Roll*, 2001, p. 50.

protocols to address the collection, use, storage and destruction of personal information shared for the purposes of the continuous update of the electoral roll, and that these should be developed in consultation with federal, state and territory privacy commissioners.⁴⁷⁴

- While noting its preliminary view that the Electoral Act and the Privacy Act generally strike an appropriate balance between ‘the public interest in ensuring transparent electoral procedures and the public interest in protecting privacy’, the ALRC stated that ‘due to the interaction between the [Electoral Act] and exemptions under the Privacy Act, political organisations and their contractors, subcontractors and volunteers, are not subject to any rules relating to secure storage and retention of personal information held on the electoral roll’.⁴⁷⁵ The ALRC recommended that the exemption from the Privacy Act for registered political parties be removed, or alternatively, that the Electoral Act be amended to require that individuals, authorities and organisations to whom the AEC gives information in relation to the electoral roll must take reasonable steps to:⁴⁷⁶
 - ‘protect the information from misuse and loss and from unauthorised access, modification or disclosure; and
 - destroy or render the information non-identifiable if it is no longer needed for a permitted purpose’.

7.110 The Australian Government has announced that it will be responding to the ALRC’s report in two stages, with recommendations on exemptions to be considered as part of the second stage of its response.⁴⁷⁷ The Australian Government is currently developing its response to first stage recommendations, including recommendation 16-3.

DISCUSSION POINTS

7.111 Submissions are invited on the extent to which current enrolment processes should be changed, if at all. In particular, comments are invited on the following questions:

- How can enrolment processes best ensure maximum participation in Australia’s elections?
- Are there any changes that you think should be introduced to enrolment processes, such as:
 - automatic enrolment?
 - automatic update of enrolment details?
 - online enrolment?
 - online update of enrolment details?
- If automatic or online enrolment and/or updating were introduced, what processes do you think would ensure the integrity of the electoral roll?
- Should the legislation governing enrolment be designed to guide the AEC on the basis of principles, rather than prescribing the process steps for enrolment?
- What changes could be made to the proof of identity requirements to improve the enrolment process, while continuing to protect the integrity of the roll?
- What changes (if any) should be made to the residence requirements for enrolment?
- What changes (if any) should be made to the special enrolment arrangements for silent electors, homeless persons, and youth?
- What ‘close of rolls’ period do you think is appropriate?

⁴⁷⁴ Australian Law Reform Commission, Report 108, *For your Information: Australian Privacy Law and Practice*, paragraph 16.154, recommendation 16-3.

⁴⁷⁵ *ibid.*, paragraphs 16.145–16.146.

⁴⁷⁶ *ibid.*, paragraph 16.150.

⁴⁷⁷ For further information, see www.smos.gov.au/media/2008/mr_262008_joint.html.

- Should the roll close date be set later in the election period?
- Should enrolment on polling day be permitted?
- What options are there for greater harmonisation of enrolment requirements and processes across the Commonwealth, states and territories?
- Should there be further limitations placed on access to information on the electoral roll? If so, what limits would you suggest?