Recommendations for legislative change
The introduction of the Electoral Act 2002 (the Act) followed the first major revision of electoral legislation in Victoria in more than a century. The intention was to make the new legislation user-friendly, to improve transparency and accountability and to provide the VEC with greater flexibility to improve the management of elections in Victoria. The Act was subjected to its first significant test at the 2002 State election and successfully met its objectives.

It is appropriate following a State election to identify areas of electoral law that may need improvement. The following recommendations are based on observations made during the election and are made in order to provide greater certainty or to address previously unforeseen eventualities.

**Enrolment**

The Act should be amended to provide that electors may be added to, or their details changed on the enrolment register after the close of roll, provided the VEC has received such information prior to the time and date specified for the close of the roll.

Presently section 63(4) of the Act provides that the roll for an election closes at 8.00 pm on the date specified for the close of roll. Section 29(3) provides that the VEC must not make any changes after the close of roll. In practice, the VEC receives thousands of enrolment cards on the close of roll day and it is impossible to process them all before 8.00 pm (the time specified for the close of roll).

**Postal vote applications provided by political parties**

Section 101(2) of the Act should be amended to require political parties that distribute postal vote applications to state on the application that the application has been produced and distributed by the political party.

Postal vote applications produced by political parties should also provide for the elector to indicate whether, on the VEC’s receipt of their application, they would like the VEC to provide their name and address details to the political party so that the party can send further election material (a how-to-vote card). This amendment is necessary to ensure compliance with privacy principles.

**Sale of liquor at schools used as voting centres**

Section 66 needs to be amended to prohibit liquor being sold or consumed within the grounds of a school where the school is used as a voting centre.

It is inappropriate for alcohol to be sold or consumed during the hours of voting at schools used as voting centres. A primary school used as a voting centre at the 2002 State election was permitted to sell liquor in the school grounds at a fête held on election day. The school had applied (well in advance of the State election) to Liquor Licensing Victoria for a temporary liquor licence. The licence was granted but contained a provision that it would not apply if the school was required as a voting centre at the State election.

As it transpired, the school was required as a voting centre and the VEC had no objections to the fête proceeding but did not agree to alcohol being sold at the school on election day. The school appealed to the Victorian Civil and Administrative Tribunal (VCAT), which overturned Liquor Licensing Victoria’s decision refusing the school permission to sell liquor during the hours of voting.
Registration of how-to-vote cards by political parties

Section 79(1)(b) should be amended to make the time available to registered political parties (RPPs) to register their cards the same as for other organisations or individuals.

At present, RPPs have up until the seventh day before election day to register their cards with the VEC while other organisations and individuals have until the seventh working day before election day to register cards with the appropriate election manager. In practice this gives RPPs additional days in which they can register their how-to-vote cards. Because RPPs can register their cards centrally with the VEC this additional time is unnecessary.

Supply of how-to-vote cards to election managers

Because of improvements in technology, section 81(2)(b) of the Act is no longer necessary. This provision requires RPPs to provide the appropriate election manager with enough how-to-vote cards for each voting centre in that electorate.

Delivering printed how-to-vote cards to all election managers is a considerable administrative burden for registered political parties. Technology enables the VEC to provide electronic copies of the how-to-vote cards to election managers for distribution to voting centre managers.

Website display of how-to-vote cards

Section 82 of the Act should provide that a registered how-to-vote card may be lodged for display on the VEC’s website.

An increasing number of electors look to the VEC’s website for electoral information. It would be helpful to postal voters, especially those who are outside Victoria, to be able to view how-to-vote cards on the VEC’s website.

Distribution of material on election day

Section 156 of the Act prohibits the distribution of any printed electoral material other than a registered how-to-vote card within 400 metres of a voting centre during the hours of voting. It is apparent from the context that this provision applies to election day, but the words ‘on election day’ should be inserted after ‘during the hours of voting’ to make it absolutely clear that the provision applies only on election day.

Recount of votes

At a recount, scrutineers may request that ballot papers be set aside for determination by the Electoral Commissioner (section 120). At the 2002 State election, the Electoral Commissioner was required to personally rule on a small number of ballot papers that could not have affected the outcome of the election for that electorate. In such cases, the Electoral Commissioner should have the power to delegate to the election manager the responsibility to determine such ballot papers.

Mobile early voting in rural areas

Provision should be made in section 65 of the Act to establish mobile early voting centres in rural areas.

During the early voting period mobile voting teams could visit rural areas and establish a mobile voting centre, in a similar way that mobile libraries visit rural communities. The hours of operation at each location would be advertised. The AEC successfully operates a similar facility in some remote areas at Federal elections.

Payment of non-voter fines

The Electoral Regulations 2002 should be amended to allow the introduction of a range of options, including credit card and BPAY, for the payment of non-voter fines. Presently, Form P of the Regulations requires non-voter fines to be paid by cheque or money order only.