

Information Paper

Determining Seats in the House of Representatives- Legislative Requirements for Provision of ABS Statistics

Australia

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Information Paper

**Determining Seats in the
House of Representatives-
Legislative Requirements
for Provision of
ABS Statistics**

Australia

2005

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STATISTICS FOR PARLIAMENTARY REPRESENTATION

INTRODUCTION

This information paper sets out the current requirements under the *Census and Statistics Act 1905* and the *Commonwealth Electoral Act 1918* in respect of ABS population statistics to be used for determining representation of the states and territories in the House of Representatives. The paper also summarises the actions that will be taken by the Australian Bureau of Statistics when responding to the Electoral Commissioner's formal request for data to be used for the next electoral determination due to be made in late 2005.

This information paper will be republished in *Australian Demographic Statistics*, March Quarter 2005 (cat. no. 3101.0).

BACKGROUND

The determination of the number of seats in the House of Representatives is undertaken by the Electoral Commissioner in accordance with the *Commonwealth Electoral Act 1918* (End note 1). A determination is normally undertaken in the thirteenth month after the commencement of a new Parliament. The outcome of an electoral determination applies for the next general election. Each electoral determination is based on population statistics provided by the Australian Statistician on request of the Electoral Commissioner.

The most recent electoral determination was made on 20 February 2003 (End note 2). The outcome of that determination was that South Australia and the Northern Territory would each lose one seat, whilst Queensland would gain one seat. Some concern was expressed at the time about the specific set of population statistics used, and the reliability of ABS estimates of the Northern Territory population.

At the request of the Special Minister of State, the Joint Standing Committee for Electoral Matters held an inquiry into the representation of the Northern Territory and the Australian Capital Territory in the House of Representatives. The Committee's December 2003 report (End note 3) made a number of recommendations aimed at ensuring transparency and certainty of the process used to determine representation of the Territories in the House of Representatives.

The Government supported the Committee's findings, and, in April 2004, the *Commonwealth Electoral Amendment (Representation in the House of Representatives) Act 2004* was passed into law. The new legislation specifies more precisely the set of statistics to be provided by the Australian Statistician for the purpose of making a determination, as well as detailing additional statistics to be provided for the Northern Territory and the Australian Capital Territory. The legislation also set aside the Electoral Commissioner's 20 February 2003 determination as it applied to the Northern Territory.

REQUIREMENTS UNDER THE CENSUS AND STATISTICS ACT, 1905

Section 8 of the Census and Statistics Act 1905 requires that a Census be undertaken every 5 years, or at such times as prescribed.

Subsection 9(2) requires that the Australian Statistician shall -

"collect such statistical information as is necessary for the purposes of the compilation and analysis, under section 12, of statistics of the number of the people of each State as on the last day of March, June, September and December in each year".

STATISTICS FOR PARLIAMENTARY REPRESENTATION *continued*

REQUIREMENTS UNDER
THE CENSUS AND
STATISTICS ACT, 1905
continued

Section 12 requires that the Australian Statistician shall -

"compile and analyse the statistical information collected under this Act and shall publish and disseminate the results of any such compilation and analysis, or abstracts of those results."

Sections 8 and 9(2) in their current form were implemented by Parliament's amendments to the *Census and Statistics Act 1905* in February 1977 in cognate with amendments to the *Representation Act 1905* and the *Commonwealth Electoral Act 1918*. These legislative amendments were as a result of two decisions by the High Court of Australia (End note 4).

The purpose of the amendments was to ensure that the quarterly estimates of the population of each of the six states were compiled, published and were available for provision to the Electoral Commissioner as the latest statistics for determining the number of representatives for each state in the House of Representatives at the next general election. The requirement to use population statistics for determining the representation of the territories in the House of Representatives was not legislated until 1990.

REQUIREMENTS UNDER
THE AMENDED
COMMONWEALTH
ELECTORAL ACT 1918

The objective of the amendments to the *Commonwealth Electoral Act 1918* by the *Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004* was to give effect to the Government's response to the recommendations of the Joint Standing Committee on Electoral Matters (End note 5). The new legislation aimed to remove any ambiguity as to the statistics to be provided by the Australian Statistician to the Electoral Commissioner, and to ensure increased transparency and certainty of the process.

Under section 46 of the amended legislation, the Electoral Commissioner must ascertain the Commonwealth, state and territory population numbers on a specific 'reference day'. Furthermore, the Commissioner must use the most recent set of statistics compiled and published by the Australian Statistician prior to the reference day in a regular series under the *Census and Statistics ACT 1905*, when ascertaining the population numbers.

REQUIREMENTS UNDER
THE AMENDED
COMMONWEALTH
ELECTORAL ACT 1918
continued

46 Ascertainment of numbers of people of Commonwealth, States and Territories

(1) If a House of Representatives has continued for a period of 12 months after the day of the first meeting of that House, the Electoral Commissioner must ascertain the number of the people of each of the following:

- (a) the Commonwealth;
- (b) each of the States;
- (c) the Australian Capital Territory;
- (d) the Northern Territory;
- (e) the Territory of Cocos (Keeling) Islands;
- (f) the Territory of Christmas Island;
- (g) each of the other Territories.

(1A) The Electoral Commissioner must ascertain the numbers under subsection (1) on:

- (a) the first day (the reference day) after the end of the period of 12 months referred to in that subsection; or
- (b) if the reference day is a Saturday, a Sunday or a public holiday in the Australian Capital Territory— next day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

(1B) The Electoral Commissioner must ascertain the numbers under subsection (1) using the statistics for the following populations that the Australian Statistician has, most recently before the reference day, compiled and published in a regular series under the *Census and Statistics Act 1905*:

- (a) the population of each State;
- (b) the population of the Australian Capital Territory (not including the Jervis Bay Territory);
- (c) the population of the Northern Territory;
- (d) the population of the Jervis Bay Territory;
- (e) the population of the Territory of Cocos (Keeling) Islands;
- (f) the population of the Territory of Christmas Island;
- (g) the population of each of the other Territories.

(1C) The reference in subsection (1B) to statistics being published includes a reference to statistics being published electronically or in an electronic format.

Source: *Commonwealth Electoral Act 1918*

An implication of section 46(1B)g of the *Commonwealth Electoral Act 1918* is that the population of each of the 'other Territories' is to be compiled and published in a regular series by the Australian Statistician. Prior to the amended legislation, this was not the case. These other Territories currently comprise:

- Territory of the Coral Sea Islands
- Territory of Ashmore and Cartier Islands
- Heard and McDonald Islands Territory
- Australian Antarctic Territory.

Section 47 of the amended legislation requires the Australian Statistician to provide, on request by the Electoral Commissioner, the statistics described in section 46(1B) and, in respect of the Northern Territory and the Australian Capital Territory, an estimate of the net undercount at the last census, the standard error of this estimate, and the 95% confidence interval around the estimate. The net undercount is the difference between

REQUIREMENTS UNDER
THE AMENDED
COMMONWEALTH
ELECTORAL ACT 1918
continued

the gross undercount (the number of people who should have been counted in the census but were not) and the gross overcount (the number of people who should not have been counted, or were counted more than once).

47 Supply of statistical information by Australian Statistician

(1) The Australian Statistician must, on request by the Electoral Commissioner, supply the Electoral Commissioner with:

- (a) the statistics referred to in subsection 46(1B); and
- (b) the following information in relation to each of the Australian Capital Territory and the Northern Territory:
 - (i) the Australian Statistician's estimate of the net undercount for that Territory at the last Census;
 - (ii) the standard error of the measure of that estimate of the net undercount;
 - (iii) the upper and lower limits of the 95% confidence interval for the measure of that estimate of the net undercount; and
- (c) any other statistical information that the Electoral Commissioner requires for the purposes of this Division.

(2) For the purposes of this section:

- (a) the standard error of the measure of the estimate of the net undercount for a Territory at the last Census is the standard error estimate of the sampling error of the estimate of the net undercount as determined by the Australian Statistician; and
- (b) the upper limit of the 95% confidence interval for the measure of the estimate of the net undercount for a Territory at the last Census is the Australian Statistician's estimate of the net undercount increased by a number equal to twice the standard error of the measure of that estimate of the net undercount; and
- (c) the lower limit of the 95% confidence interval for the measure of the estimate of the net undercount for a Territory at the last Census is the Australian Statistician's estimate of the net undercount less a number equal to twice the standard error of the measure of that estimate of the net undercount; and
- (d) the Australian Statistician is to determine the following as population numbers (rather than as percentages or factors):
 - (i) the Australian Statistician's estimate of the net undercount for a Territory at the last Census;
 - (ii) the standard error of the measure of that estimate of the net undercount.

Source: *Commonwealth Electoral Act 1918*

In certain circumstances, specified in section 48 of the amended *Commonwealth Electoral Act 1918*, the Electoral Commissioner will add twice the standard error of the estimate of net undercount to the population of the Northern Territory and the Australian Capital Territory, and recalculate these territories' electoral entitlements.

ABS ACTIONS IN
RESPONSE TO
AMENDMENTS TO THE
COMMONWEALTH
ELECTORAL ACT 1918

To ensure public visibility, transparency of process and certainty of the statistics to be used at the forthcoming electoral determination, the ABS has taken the following steps.

1. The scheduled release dates of the quarterly publication containing relevant population estimates, *Australian Demographic Statistics* (cat. no. 3101.0), have been set and published 18 months in advance. Population estimates for 31 March 2005 are scheduled to be published in *Australian Demographic Statistics* (cat. no. 3101.0) on 22 September 2005; estimates for 30 June 2005 are scheduled to be published on 9 December 2005.

2. It is expected that the Electoral Commissioner will request that the Australian Statistician provide, on 17 November 2005, a set of statistics for an electoral determination (End note 6). If so, the population estimates for 31 March 2005 published in *Australian Demographic Statistics* (cat. no. 3101.0) on 22 September 2005 will be the ones provided by the Australian Statistician, these being the statistics "most recently before the reference day, compiled and published in a regular series under the *Census and Statistics Act 1905*" (section 46(1B) of the Act).

3. The ABS has commenced publishing the quarterly population estimates for each of Jervis Bay Territory, Territory of Cocos (Keeling) Islands and the Territory of Christmas Island (section 46(1B)d, e and f of the Act) in *Australian Demographic Statistics* (cat. no. 3101.0) - see table 7.

4. The ABS has commenced collecting and compiling annual estimates of the population of each of Australia's other territories (section 46(1B)g of the Act), in respect of 30 June each year, based on information provided by the Department of Environment and Heritage and the Department of Transport and Regional Services. These June statistics are now published in each issue of *Australian Demographic Statistics* (cat. no. 3101.0). When required for an electoral determination, estimates will be obtained and published in *Australian Demographic Statistics* (cat. no. 3101.0) for the appropriate reference quarter.

5. Estimates of the 2001 Census of Population and Housing net undercount for the Northern Territory and the Australian Capital Territory, and the associated standard errors, are presented below. These statistics are consistent with those published in April 2003 by the ABS in *Information Paper: Census of Population and Housing, Data Quality - Undercount, 2001* (cat. no. 2940.0), and those included in the ABS submission to the Joint Standing Committee on Electoral Matters inquiry.

2001 Census net
undercount and standard
errors

Table 1 shows the estimated net undercount, and associated standard errors, for the 2001 Census of Population and Housing as required by section 47 of the *Commonwealth Electoral Act 1918*. Population estimates have already been adjusted to account for estimated net undercount in the census. For the Northern Territory and the Australian Capital Territory, in circumstances referred to in section 48 of the *Commonwealth Electoral Act 1918* (End note 1), the Electoral Commissioner will add twice the standard error of the estimate of net undercount to each Territory's population, and recalculate its electoral entitlement.

For further information on the 2001 census net undercount, see *Information Paper: Census of Population and Housing, Data Quality - Undercount, 2001* (cat. no. 2940.0).

STATISTICS FOR PARLIAMENTARY REPRESENTATION *continued*

2001 Census net
undercount and standard
errors *continued*

TABLE 1. 2001 CENSUS NET UNDERCOUNT, STANDARD ERRORS AND CONFIDENCE INTERVALS, NT AND ACT

Territory	Estimated net undercount	Standard error	Two standard errors	Lower 95% confidence limit	Upper 95% confidence limit
Northern Territory	7 814	1 306	2 612	5 202	10 426
Australian Capital Territory	3 282	1 221	2 442	840	5 724

END NOTES

1 Commonwealth Electoral Act 1918, (see <http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401607?OpenDocument>) and

Commonwealth Electoral Procedures, Australian Electoral Commission, 2004, Commonwealth of Australia (see http://www.aec.gov.au/_content/how/procedures/electoral_procedures/comm_elect_procedures.pdf)

2 Media Release: Commissioner Issues Federal Electoral Determination and Attachment One, 20 February 2003, available on the Australian Electoral Commission website http://www.aec.gov.au/_content/what/media_releases/2003/feb/2003_redistribution.htm

3 Report of the Inquiry Into Increasing the Minimum Representation of the Australian Capital Territory and the Northern Territory in the House of Representatives, Parliamentary Paper 712/2003, tabled 1 December 2003, Joint Standing Committee on Electoral Matters, available on the Australian Parliament House website <http://www.aph.gov.au/house/committee/em/territories/report.htm>

4 Attorney-General (Australia) (Ex relator McKinlay) v Commonwealth (1975) 135 CLR 1; and Attorney-General (New South Wales) (Ex relator McKellar) v Commonwealth (1977) 139 CLR 527.

5 Explanatory Memorandum of the *Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004*, The Parliament of the Commonwealth of Australia - House of Representatives.

6. Under Section 46 (1A) of the *Commonwealth Electoral Act 1918*, 17 November 2005 will be the 'reference day' (i.e. the first day after the end of the 12 months after the first meeting of the House) for the electoral determination required in late 2005. See the Australian Electoral Commission website http://www.aec.gov.au/_content/what/faqs/redistributions.htm then select "When will the next entitlement determination occur?"

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