

**AUSTRALIAN ELECTORAL COMMISSION**

**SUPPLEMENTARY SUBMISSION  
TO THE JOINT STANDING COMMITTEE ON ELECTORAL  
MATTERS' INQUIRY INTO THE 2001 FEDERAL ELECTION**

**FURTHER SUBMISSION IN RESPONSE TO QUESTIONS ON  
NOTICE**

**Canberra  
26 February 2003**

# Table of Contents

1. Introduction.....	3
2. Pay rates for polling place staff.....	3
3. Eligible Overseas Electors .....	4
4. Homeless people’s submissions.....	7
5. Reversing the onus of the injunction.....	8
6. The Hon. Chris Gallus MP, Member for Hindmarsh’s submission and public hearing transcript.....	11
7. Formal notification of the calling of an election, and drafting and return of writs.....	13

## **Further submission on questions on notice**

### **1. Introduction**

1.1 This submission by the Australian Electoral Commission (AEC) is presented to the Joint Standing Committee on Electoral Matters (JSCEM) in response to its 'inquiry into the conduct of the 2001 federal election', as advertised in the national press on 25 May 2002.

1.2 The submission details AEC responses to questions on notice provided by the JSCEM on 17 December 2002. The majority of responses to the questions on notice of 17 December 2002 were answered in submissions provided by the AEC to the JSCEM on 7 February 2003.

1.3 This submission is organised under headings that relate to other submissions to the inquiry. However, the text relates to issues that have arisen as a result of discussing these submissions. As a result, some of the issues discussed here were not discussed in the original submissions.

1.4 The AEC has on previous occasions commented on issues similar to those responded to here. Where this has occurred, the submission provides references to those previous comments.

### **2. Pay rates for polling place staff**

2.1 The JSCEM asked for comparisons of pay rates for AEC casual polling place staff and casual polling place staff employed for State or Territory elections.

2.2 The review of rates for election casuals employed under the *Commonwealth Electoral Act 1918* (the Act) conducted after the 1999 Referendum, which was discussed at paragraph 3.23 of the AEC's submission of 7 February 2003 to the JSCEM dealing with general questions on notice, undertook a comparison of election casual pay rates for the AEC and State and Territory electoral bodies.

2.3 After requesting pay rate information from the State and Territory electoral bodies, the review concluded that exact comparisons were difficult, given that the classification structures and pay points varied. Additionally, the use of package rates by many agencies made it difficult to link comparative jobs. As indicated in the AEC's submission of 7 February 2003 dealing with general questions on notice, the comparative analysis revealed that AEC pay rates for polling officials and election casuals were within the range used by other Electoral bodies.

2.4 The table below provides a comparison of current pay rates for the WA, Victoria, and NSW state electoral bodies, and the AEC.

**Table 1: Polling official rates of pay comparison**

<b>Classification</b>	<b>NSW</b>	<b>VIC</b>	<b>WA</b>	<b>AEC</b>
Ordinary Issuing Officer	\$303.70	\$274.00	\$293.00	\$265.00
Declaration Issuing Officer	\$303.70	\$305.20*	\$331.80*	\$281.50*
2IC	\$411.90	\$417.50*	\$404.00*#	\$408.00*
General Assistant	\$17.50ph	NA	\$15.65 ph	\$14.9275ph
OIC 1-3 Issuing Points	\$515.85* (1 issue point) \$538.95* (2-3 issue points)	\$522.88* (1-4 issue points)	\$465.00*#	\$491.00*
OIC 4-7 Issuing Points	\$563.10* (4-5 issue points) \$589.35* (6-7 issue points)	\$533.88* (5-7 issue points)	\$503.00* (4-6 issue points)	\$521.00*
OIC 8-15 Issuing Points	\$616.65* (8-9 issue points) \$660.75* (10-12 issue points) \$676.50* (13+ issue points)	\$575.88* (8-12 issue points) \$587.88* (13-18 issue points)	\$541.00* (7-9 issue points) \$581.00* (10+ issue points)	\$560.00*
OIC 16+ Issuing Points	NA	\$619.88* (19+ issue points)	NA	\$618.00
Mobile Team Leader	NA	NA	\$21.85ph	\$19.2424

Notes:

WA rates as at October 2000

AEC rates as at August 2001

VEC rates as at July 2002

\* indicates Package includes training

# indicates Overtime paid after 10pm on election day

### 3. Eligible Overseas Electors

3.1 In its submission to the inquiry, the Southern Cross Group estimated that the number of Australians overseas aged 18 or over was 615,000.<sup>1</sup> The JSCEM asked whether the AEC had undertaken any research to determine why only 10,636 voters were on the Eligible Overseas Elector (EOE) register.

<sup>1</sup> 2002. Southern Cross Group. Submission 148, p7.

3.2 It should be born in mind that the qualifications for applying to be an EOE are limited to Australians who apply before leaving Australia or within two years of departure. It should also be born in mind that electors can only remain an EOE for six years after departure unless they reapply for registration on an annual basis. This means that significantly fewer than the 615,000 Australians living overseas are actually eligible for EOE status.

3.3 The AEC is not aware of any research conducted into the reasons for electors not registering as eligible overseas electors. It is possible to speculate, but only in the most obvious terms.

3.4 It is clear that many people going overseas either temporarily or for longer periods do not contact the AEC. There are potentially many reasons for this, but two appear the most obvious. The first is the low priority given by electors to maintaining enrolment during travel or relocation overseas. Experience shows that many electors give consideration to enrolment only during an election period. Electors may only consider their enrolment status when an election is pending and, if they ceased residing in Australia more than two years previously will not qualify for EOE status.

3.5 The second reason is the lack of awareness of the possible repercussions of failing to inform the AEC of their absence from their enrolled address, such as removal from the electoral roll.

3.6 Many of the electors who do contact the AEC advise that they will be travelling or residing in remote areas rendering it difficult to arrange to vote whilst overseas. In such cases electors often indicate a preference for being removed from the roll. In some cases people don't know how long they will be away or do not intend to return to reside in Australia within 6 years of their departure and thus are not qualified under the EOE provisions of the Act. It is also possible that large numbers of those travelling overseas are in the younger age cohort and it is known that this group is less likely to enrol or maintain accurate enrolment details, and therefore less likely to be registered as an EOE.

3.7 Further, where an elector registers as an EOE but fails to vote or apply for a postal vote in an election they lose their entitlement to EOE status. If the elector is still overseas, or has moved back to Australia and is living in another Division to the one they were previously enrolled in, they will also be immediately removed from the roll.<sup>2</sup>

3.8 As an alternative to registration, where an elector advises the AEC that they will be temporarily overseas and intend to return to their enrolled address, the AEC may, on written advice from the elector, annotate the elector's enrolment record to indicate that the person is temporarily overseas. The annotation includes an anticipated return date. This annotation will remain even if the elector is not able to vote whilst overseas. The annotation assists in processing non-voters and also ensures that the elector is not removed from the roll following review activities. A total of 22,772 elector records are currently annotated as temporarily overseas.

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<sup>2</sup> Section 94(14) of the Act.

3.9 The JSCEM asked how many of those on the EOE register actually voted in the 2001 federal election.<sup>3</sup> Of the eligible overseas electors registered, 5,822 voted at the 2001 federal election. Of the electors whose records had been annotated to show that they were temporarily overseas, 4,036 voted at the 2001 federal election. A further 48,351 votes were recorded overseas.

3.10 The JSCEM suggested that a number of submissions indicated that AEC staff appeared reluctant to publicise the EOE register (specifically submissions 34, 60, 65, 79, and 125).

3.11 It is difficult to conclude from the submissions quoted that there has been a reluctance on the part of AEC staff to 'publicise the EOE register.' Of the examples provided, it is probable that the majority were ineligible for EOE status. There is no reason to provide information on the EOE register to people who clearly do not qualify under the provisions of the Act.

3.12 On the AEC's reading, submission 34 does not suggest criticism of AEC staff reluctance to publicise the EOE register but rather targets the perceived lack of flexibility in the overseas enrolment and voting provisions. The author specifically states that 'the two-year limit on eligibility is too restrictive.' As indicated in submission 174, the limitation on overseas enrolment is a matter for the Parliament in the first instance, not the AEC.<sup>4</sup> The submission indicates that the person advised the AEC that they were leaving Australia 'indefinitely.' The EOE provisions of the Act require that, in order to be eligible, an elector must have the intention to resume residing in Australia within 6 years. The person was therefore not entitled to register as an EOE and their name was removed from the roll, with their agreement.

3.13 In submission 60, the author states that the AEC did not explain that they could register as an overseas elector. Investigations show that the author advised the AEC in writing that she was 'leaving Australia to live overseas.' In this letter, as in her submission, she indicates she was told that if she 'ever returned to Australia' she should re-enrol. This would indicate that, at the time of leaving Australia the elector had no fixed intention of returning and was therefore not eligible for EOE status.

3.14 Submission 65 claims that the author was exempt from voting whilst overseas because, after contacting the AEC, she was advised to write to the AEC to say she was going overseas to study and did not yet have a fixed address. It appears that this advice was provided to the elector in response to an inquiry about voting in the 2001 election, and resulted in her enrolment record being annotated to show her as being temporarily overseas to ensure she was not penalised for not voting whilst overseas. The annotation would also ensure her name was retained on the roll in the event that review activity showed her not to be at her enrolled address. Had she been advised to register as an EOE and then found herself unable to vote, her registration would have been cancelled and potentially, her name removed from the roll. The action taken by the AEC did not prevent the elector voting but rather

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<sup>3</sup> Transcript, p305.

<sup>4</sup> 2002. AEC. Submission 174, paragraph 27.3

protected her from action following an inability to vote and ensured she remained enrolled during her temporary absence.

3.15 Submission 79 was from a person who states that he left Australia 18 years ago. The author gives no indication that he has ever sought information from the AEC, merely stating that he has 'no information on how to register as an overseas elector.' The fact that the person has been overseas for 18 years would indicate that he might not in any case have been eligible for EOE registration at the time he left Australia.

3.16 Submission 125 is critical of 'the processes and interpretations by Electoral Officers....' The author indicated that she made no enquiries regarding her enrolment when she first left Australia as she 'did not anticipate permanently residing overseas'. From the submission it could be construed that she now considers herself to reside permanently outside of Australia. This view is supported by her admission that she has been living overseas for the last 15 years.

3.17 The author goes on to state that 'I have been visiting in Australia at different times and was at one address (the family farm) for more than 6 weeks,' and at this time registered in the Division of Mallee. (It is questionable whether a visit of 6 weeks constitutes residence for the purpose of enrolment.) The submission goes on to state that she made telephone enquiries to the AEC about being an overseas voter. She claims to have understood from those conversations that once enrolled 'there was nothing more to do except to either apply for postal votes or vote at the nearest embassy.' Since the advice was provided during a telephone conversation the content cannot now be substantiated.

3.18 AEC records indicate that a response to a non voter notice sent to this elector following the 2001 federal election was received from (presumably) a family member advising that the elector, while enrolled at the address, was residing permanently overseas. This being the case, the elector had no entitlement to enrolment, with or without EOE status.

3.19 Given that the AEC did not receive any written advice from the elector about her overseas residency and received a claim for enrolment for an address at which it now appears she was not a resident, it is appropriate that the elector was not registered as an EOE or recorded as being temporarily absent as it seems unlikely that she was in fact entitled to either status.

#### **4. Homeless people's submissions**

4.1 In submission 174 the AEC supported the thrust of the submission from the Homeless Persons Legal Clinic and recommended changes be made to the Act.<sup>5</sup> The JSCEM asked the AEC to provide a more detailed assessment of the amendments required and the implications these would entail.

4.2 The AEC supports moves to ensure the franchise of homeless people. It is important however that caution is exercised to minimise opportunities for enrolment fraud. As stated in its submission, the AEC considers that the

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<sup>5</sup> 2002. AEC. Submission 174, section 23.

provisions relating to enrolment by itinerant persons also apply to homeless people. However, these provisions could be amended slightly to make this clear.

4.3 To permit persons to enrol for an address 'in the subdivision with which they have a close connection' as suggested by the clinic, rather than in accordance with the hierarchy set out in the itinerant provisions, could potentially leave the roll open to manipulation if numbers of people were to claim a close connection with a close seat with the intention of affecting the result of the election. Accordingly, caution would need to be exercised in contemplating such a change.

4.4 In respect of the recommendation concerning service provision to homeless voters, the AEC has undertaken to include the homeless as a target group in the preparation of the communication plan for the next federal election.

4.5 During the forthcoming review of enrolment forms, consideration will be given to amending the application for enrolment by an itinerant elector to clarify it with respect to homeless people.

## **5. Reversing the onus of the injunction**

5.1 The JSCEM asked for the AEC's view on a proposal to reverse the onus of injunctions in relation to offences commonly committed against the Act during the election period (for example, sections 328, 329 and 331).

5.2 The JSCEM would be aware that currently section 383 of the Act provides for either the AEC or a candidate in the election to seek an injunction in the Federal Court to prevent the publication and/or distribution of election material that contravenes the Act.

5.3 By suggesting reversing the onus of injunctions, the JSCEM is effectively asking whether the AEC can make binding legal determinations concerning electoral material, in contrast to the current practice in which the AEC makes administrative decisions about what may or may not appear to be in contravention of the Act.

5.4 The AEC sought advice as to whether providing the AEC with the statutory authority to make a legal determination amounted to granting the AEC judicial authority. Legal advice obtained from the Office of General Council (OGC) suggested that a legislative amendment that authorised the AEC to make a legally binding determination with respect to suspect electoral material would violate Chapter III of the Commonwealth Constitution. Chapter III of the Constitution provides that only the High Court or other Courts established in accordance with Chapter III are authorised to make legally binding determinations about offences against Acts.

5.5 Specifically, the AEC asked:

- whether reversing the onus on injunctions issued pursuant to section 383 of the Act would be constitutionally valid; and
- whether specific clauses could be inserted into pre-existing provisions (such as sections 328, 329, 331) to give the AEC statutory authority to



make determinations about electoral material irrespective of any amendment to section 383.

5.6 The legal advice provided suggested that the answer to both questions was 'no' by way of Chapter III of the Constitution.

5.7 Consequently, the AEC has been advised that it does not have, nor could it be given, the legislative authority to make legally binding determinations in relation to electoral material.

5.8 That said, the AEC does have legal advice suggesting that it might be possible to reverse the onus in relation to the operation of sections 328, 329 and 331 of the Act, but not in such a way that either the AEC or a candidate in the election would not have to go to court to compel compliance with the Act.

5.9 Rather, legislative amendments may be able to provide for a situation where if either the AEC or a candidate presents the Federal Court with *prima facie* evidence of a contravention of the Act (such as preliminary advice from the Director of Public Prosecutions (DPP)) then the onus would be on the other party to the proceedings to establish the contrary. A provision of this kind would not infringe Chapter III of the Constitution as it merely places upon one of the parties to a proceeding the burden of proving a fact in issue.

5.10 It should be noted, however, that reversing the burden of proving a fact in issue along these lines would not change the amount of time taken to restrain a party from contravening the Act—it merely reverses the onus of proving whether the fact alleged is true or not. In other words, this option would not provide any improvement in the time taken to resolve disputes over the distribution of potentially legal electoral material.

### ***Cease and desist orders***

5.11 An alternative approach, though advice from OGC suggests that it is not without constitutional difficulties, would be to insert a general 'public interest' type provision into the Act. This would provide a statutory foundation for the AEC to issue 'cease and desist' orders when particular behaviour surrounding elections interfered with the administration of Commonwealth elections. If the AEC issued a cease and desist order non-compliance would be punishable by a court.

5.12 However, OGC have pointed out that legislative amendments inserting public interest-type provisions raise difficult constitutional issues that would require further detailed consideration by OGC.

5.13 Nevertheless, if there were to be a shift in focus in the way the AEC dealt with complaints concerning electoral material—say a shift from compliance to enforcement—with the AEC empowered to determine the legality of electoral material (via 'cease and desist' orders provided by a public interest type of provision), several other problems arise which might undermine any attempt to hasten proceedings with respect to removing and/or preventing the distribution of electoral material which contravened the Act.

5.14 Firstly, who would exercise the discretion to determine the suspect material? Would the decision be made at Central Office, Head Office, Divisional Office, or booth level? Clearly, deciding where the determination

would take place would be dependent upon a number of factors. For example, polling booths are not relevant sites until polling day.

5.15 If the determination were made at Central Office, then presumably this would involve delays in communicating the complaint from the site of infraction to the Central Office, faxing any related documents and waiting for a determination. The decision would still have to make its way back down the line, perhaps through Head Offices to the Divisional Returning Officer (DRO) and then to the party responsible for the material.

5.16 Moreover, the AEC is of the view that this type of approach would carry with it an implied responsibility to communicate the determination to any and every location where any of the same material might be located. This in itself would prove an administrative burden (and risks the possibility that some areas or booths may not receive information at all or in time) especially on polling day.

5.17 Alternatively, if the determination were made at the Divisional level, two further considerations arise. There are 150 Divisions in Australia. The AEC is concerned that there would be a varying interpretation of what constituted a breach of the relevant offence provisions.

5.18 Secondly, if the decision of a DRO were objected to, other administrative problems arise. If a person or party objects they would have to file an appeal with the Federal Court. Not every Division in Australia is within easy reach of a registry of the Court. People in rural and remote areas would be denied the same access to the Court as their metropolitan counterparts. Moreover, appeals to Courts carry a financial burden that would be borne by the persons or party affected.

5.19 Consequently, the AEC is concerned that there may be an increase in the number of election petitions filed as result of an inability of a person or party to appeal a decision of a DRO—a decision that may have been made on polling day. Affected candidates may find it relatively easy to meet the threshold necessary to prove the facts alleged in an election petition, namely, that being denied the opportunity to distribute election material to voters at a crucial time in the election period had a substantively negative impact on their election chances.

5.20 In light of the above, enabling DROs to order the removal of material may well result in a greater reluctance of them to do so. Firstly, DROs would be wary of the potential for litigation arising as a result of any order issued by them. Secondly, DROs would be concerned about the prospect of being detained in Court proceedings during the busiest and most demanding time of their employment.

5.21 The problems associated with enabling DROs to make these legal determinations would be exacerbated profoundly if it were conferred on OICs at booths on election day who are employed on a casual basis and who would generally lack a comprehensive knowledge of the legal issues pertinent to electoral material.

### ***Administrative alternatives***

5.22 Two alternative approaches to current practices not requiring legislative amendment could be implemented.

5.23 Firstly, if the DPP's preliminary advice to the AEC is that certain material disclosed an offence against the Act, the AEC could immediately, without contacting the offending party, refer the matter to the Australian Government Solicitor (AGS) to begin proceedings pursuant to section 383 of the Act. Presumably, this would minimise the time lag between receiving the complaint and taking enforcement action. However, this approach would deny parties the opportunity to remove or cease the distribution of the suspect material at first instance.

5.24 A second approach would be for the AEC office in each State to seek the advice of AGS rather than the DPP on the criminality of the alleged offence, seek compliance from the offender, and if the offender refuses to comply have AGS file an injunction with the Federal Court pursuant to section 383. This would hasten proceedings by removing the time lag between requesting DPP advice, receiving that advice and communicating any relevant information to the offending party and then engaging AGS services in the injunction application.

5.25 However, this approach appears to remove from the DPP its proper role as the Commonwealth's prosecution service, bestowing this responsibility on the AGS instead. Such an approach appears to be a significant departure from current agency-wide arrangements. In the event of a change in administrative procedures a Service Agreement between the AGS, DPP and AEC might provide an avenue to clarify the respective roles of the relevant agencies.

5.26 Moreover, it is important to clarify that any time-delay difficulties experienced do not result as a consequence of referring matters to the DPP. The AEC refers matters as soon as it has the relevant material to send to the DPP and the turnaround time of the DPP is extremely efficient. In the period leading up to an election the DPP returns advice within 24 hours, and on election day the turnaround time is one hour or less.

## **6. The Hon. Chris Gallus MP, Member for Hindmarsh's submission and public hearing transcript**

6.1 The JSCEM asked the AEC to outline the standard procedure for processing of Return to Sender (RTS) mail received from MPs offices and how long these standard procedures take to complete. RTS mail is mail that has been returned to MPs after they have conducted a mail out.

6.2 In its submission 66 to the Inquiry into the integrity of the electoral roll, the AEC identified the following reasons why MPs receive RTS mail:

- not all electors are pleased to receive constituency mail from Members of Parliament and may seek to stop any further communication by RTS mail;
- the rolls are continuously amended and Members of Parliament have used out-of-date versions in addressing their mail in the past;

- the Australian elector population is relatively mobile, resulting in a high level of daily enrolment transactions; and
- not everyone transfers their enrolments as promptly as they should, so that the rolls will never be 100% accurate at any point in time.<sup>6</sup>

6.3 A summary of current procedures is at **Attachment A**. These procedures are under review, with new procedures in draft form currently being circulated for comment.

6.4 The time taken to process a batch of RTS mail will vary depending on the volume of mail and the quality of data provided and also on competing operational requirements. However, to completely process a batch of RTS mail to the point at which those electors found to be no longer entitled to enrolment are removed from the roll will take at least three months.

6.5 The JSCEM also asked why Chris Gallus was not provided with information about how many of the electors whose mail had been returned to her had voted in the Division of Hindmarsh for the 2001 federal election.

6.6 The AEC has outlined the reasons for this in submission 174, which are as follows:

On 22 July 2002, the DRO for Hindmarsh received a letter from Chris Gallus dated 19 July 2002, asking how many of the 755 electors no longer on the roll for Hindmarsh were on the roll for the 2001 federal election and how many had voted.

Once action is taken and original RTS mail destroyed, AEC procedures do not require that the people involved in each batch of RTS mail be able to be identified later.

Because of this, on 7 August 2002, the acting DRO for Hindmarsh sent a letter to Chris Gallus that, amongst other things, indicated that copies of RTS mail from the 755 electors had been destroyed as there was no further action required, and therefore, that it was not possible to determine whether the electors concerned had voted for the Division of Hindmarsh at the 2001 federal election.<sup>7</sup>

6.7 In other words, once the RTS mail has been processed and necessary follow up action finalised, AEC procedures require that the mail be destroyed. There is thus no way of identifying electors subject to RTS mail follow up and it is therefore not possible to determine whether any of these electors voted at a particular election for a particular Division.

6.8 In order to allay Chris Gallus' concerns, the AEO for South Australia has already advised Chris Gallus that he proposes to conduct a trial at the next federal election to see if there is a significant number of people who enrol in Hindmarsh just before the close of roll, vote in the electorate, and then leave the Hindmarsh roll soon after the election.

6.9 With regard to the level of communication between the AEC and MPs over the processing of RTS mail, the draft procedures for processing RTS mail from MPs provide detailed instructions to Divisional and Head Office staff on all aspects of RTS mail processing.

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<sup>6</sup> 2001. AEC. Submission 66 to the Inquiry into the integrity of the electoral roll, paragraph 5.16.

<sup>7</sup> 2002. AEC. Submission 174, paragraphs 33.13-33.14.

6.10 In particular, communication with MPs as part of this process is proposed to be formalised with the use of standard letters, standard statistical reporting and a uniform approach to record keeping.

6.11 If the new procedures are adopted in their current form, MPs can expect the following communications from the Divisional Office:

- Acknowledgement of receipt of their RTS mail. This letter will include statistical information including the allocation of a batch number, the number of envelopes received by the Divisional Office and the number of envelopes requiring no further action. Those envelopes requiring no further action will be returned with the letter and appropriately endorsed for the Member's information. The letter will be sent as soon as the preliminary checking of the RTS batch has been completed.
- Results of Investigations. This letter will provide statistical information on the findings regarding the RTS envelopes that required further investigation. This letter will be sent as soon as all further investigations of envelopes in the batch have been completed.

6.12 In other words, should the draft procedures be adopted, MPs can expect more timely communication regarding the AEC's processing of RTS mail as well as detailed statistics presented in a standard format. In addition to this, AEC staff will be available to discuss, or further explain, any aspects of the process to MPs or their staff.

## **7. Formal notification of the calling of an election, and drafting and return of writs**

7.1 The JSCEM asked for an update on the progress of negotiations between the AEC and the Department of Prime Minister and Cabinet (PM&C) over the procedures for notifying the Electoral Commissioner about the calling of an election.

7.2 The AEC can report that a letter was sent to PM&C on 20 November 2002 asking for a formal meeting to discuss a process for, after preliminary discussions, informing the Electoral Commissioner of the Governor General's agreement to the holding of a general election, and to identify an appropriate agency to prepare the writs for an election.

7.3 Initial discussions following the correspondence have taken place and a formal meeting to discuss the matter is currently being organised.

7.4 The JSCEM asked whether there had been any outcome from the AEC's investigations into amending the Act to ensure a uniform closing date for petitions to the Court of Disputed Returns.

7.5 The AEC asked OGC to investigate two options for allowing a uniform commencement and closing date for petitions to the Court of Disputed Returns:

- an amendment to the Act to deem all writs to be returned on the date of the return of the last writ; or
- an amendment to the Act to require that the 40 day period be counted from the day of the return of the last writ.

7.6 On 6 February 2003, OGC advised the AEC that the preferable way to achieve a uniform closing date for petitions would be to amend the Act to state that the start of the 40-day period for all petitions challenging results of the general election and concurrent Senate election would be counted from the date that the last writ was returned. This is in line with the current mechanism used in ATSIC elections, where the 40-day period begins after the last declaration of a poll in a round of ATSIC elections.

# ATTACHMENT A

## Summary of the Procedures for the handling of RTS Mail from Members and Senators

1. On receipt of RTS mail from Members and Senators, AEC staff check the enrolment details of addressees against the electoral roll provided that:
  - the addressee's name (including given names) and address is shown in sufficient detail to allow a positive match with an entry on the electoral roll; and
  - the returned envelope is marked with an official Australia Post 'Return to Sender' stamp, or with other clear information indicating that the addressee may have left their enrolled address.
2. If enrolment checks by the AEC indicate that an elector is correctly enrolled, the envelopes are endorsed as such and returned to the Senator or Member.
3. Where preliminary checks indicate that an elector may have left their enrolled address, the AEC makes further enquiries by phone or post to the elector's residence. In cases where a response to an enquiry indicates that an elector has permanently left the enrolled address (including no reply or returned unclaimed), official objection action under Part 9 of the *Commonwealth Electoral Act 1918* (CEA) is commenced. Objection action takes a minimum of two months to complete given the provisions of the CEA. An elector's name remains in the ELIAS database until it is removed from the roll at the conclusion of the objection process.
4. Upon completion of all investigations for a batch of RTS mail, Senators and Members will be provided with information regarding the results of AEC enquiries. In cases where investigations take the form of an enquiry letter, the AEC retains the original RTS mail as evidence in support of ongoing enrolment action, and a report, listing the names of electors and the results of investigations, is provided. RTS mail envelopes not subject to further investigation are returned with a summary listing.

### **Notes:**

Generally, RTS mail marked 'left address' is a reasonable indicator that the addressee is no longer resident, but not in all cases.

It is apparent that some electors do not wish to receive mail from Senators, Members or political parties and return it unopened with various endorsements on the envelope. AEC investigations in Victoria in 2001 indicated that these may account for up to 15% of Senators and Members' RTS mail.

Mail with a lapsed post office box address can be returned RTS when the elector is still resident at their enrolled address. Investigations indicate that these account for 8% of Senators and Members' RTS mail. In rural Divisions this figure may be higher as a consequence of rural road re-numbering or the conversion of lot numbers to street numbers.

Electors who are absent from their enrolled addresses for extended periods (on overseas holidays etc.) may not make proper arrangements for the collection of their mail or may let their houses in their absence. Provided that they have a fixed intention to return to that address, under the provisions of the CEA they are entitled to

remain enrolled for that address. Fortunately, in some cases electors provide the AEC with information regarding their movements.

Some electorates (particularly rural Divisions) may experience problems with street mail delivery.