

Mr Alistair Sands  
Committee Secretary  
Senate Standing Committee on Finance and Public Administration  
Parliament House  
Canberra ACT 2600

Dear Mr Sands

**Submission to the Senate Standing Committee on Finance and Public Administration's Inquiry into the Electoral and Referendum Legislation Amendment Bill 2006**

Thank you for your letter of 12 December 2006 informing me of the referral of the Electoral and Referendum Legislation Amendment Bill 2006 (the Bill) to the Senate Standing Committee on Finance and Public Administration (the Committee), and inviting my comments.

To assist with the Committee's inquiry, please find enclosed a submission from the Australian Electoral Commission (AEC) addressing the key measures of the Bill. An attachment on the mechanics of the proposed electronic voting trials is also provided.

The AEC would welcome any invitation from the Committee to give evidence at public hearings on this matter.

If you wish to discuss anything in this submission, please feel free to contact Dudley Grounds, Director, Legal Services, on (02) 6271 4474.

Yours sincerely

Ian Campbell  
Electoral Commissioner

January 2007

**AUSTRALIAN ELECTORAL COMMISSION**

**SUBMISSION TO THE  
SENATE STANDING COMMITTEE ON  
FINANCE AND PUBLIC ADMINISTRATION**

**INQUIRY INTO THE  
ELECTORAL AND REFERENDUM  
LEGISLATION AMENDMENT BILL 2006**

**January 2007**

## **1. Introduction**

1.1 The Electoral and Referendum Legislation Amendment Bill 2006 (the Bill) proposes amendments to the *Commonwealth Electoral Act 1918* (the Electoral Act) and the *Referendum (Machinery Provisions) Act 1984* (the Referendum Act) as discussed below. The Bill will make changes to postal voting arrangements, and for the first time, provide for trials of electronic voting methods. The Bill would also amend provisions relating to enrolment from outside Australia, provide for the establishment of pre-poll centres in exceptional circumstances, and repeal section 350 of the Electoral Act relating to the defamation of candidates.

1.2 The proposed amendments will provide the opportunity for the Australian Electoral Commission (AEC) to further refine and improve its procedures to optimise voter participation in elections and referenda.

## **2. Postal voting**

### **2.1 Expanded Grounds for Application for Registration as a General Postal Voter**

2.1.1 Where they are serving outside of Australia, the Bill provides for Australian Defence Force (ADF) members and defence civilians, and Australian Federal Police (AFP) officers and staff members, to register as general postal voters. The Bill also provides for eligible overseas electors to register as general postal voters. This would introduce three new categories of people to whom the AEC will automatically send postal voting material once it becomes available. The people in these categories would, like all general postal voters, first be required to apply to the appropriate Divisional Returning Officer (DRO) for registration as a general postal voter.

2.1.2 Currently, if such people wished to cast a postal vote they must first lodge an application. Such applications, however, may not be made until after the issue of the writ or the public announcement of the proposed date for the election or referendum. The DRO or Assistant Returning Officer then sends postal voting material in response to the application.

2.1.3 Applications to register as a general postal voter may, however, be made at any time. Once an application for registration is approved, the DRO will automatically send, or arrange for the delivery of, postal voting papers to the person as soon as they are available. This will maximise the time available for receipt, completion and return of postal voting material.

2.1.4 By widening the criteria for eligibility for registration as a general postal voter, the proposed amendments should make voting more accessible to these people. This is because postal voting material will automatically be dispatched to them once it is available, rather than requiring the elector to initiate the action by making an application for a postal vote in the standard manner and, providing they remain eligible, enabling them to remain registered over multiple elections.

2.1.5 The AEC recognises the need to protect ADF and AFP operational security and personnel, and notes the provisions in the Bill that prevents AEC staff from knowingly including on the Register of General Postal Voters, or in any roll products, information that would reveal certain details of such personnel.

## **2.2 Deadline for Postal Vote Applications**

2.2.1 The Bill provides a clear deadline of 6pm on the Thursday before polling or voting day by which postal vote applications are to be received in order for postal voting material to be dispatched by the AEC. The Electoral Act currently provides that when postal vote applications have been received after the last mail clearance at the nearest post office on the last Thursday before polling day (which may vary between post offices), the AEC shall not post the voting material to those applicants.

2.2.2 Notwithstanding these changes, and despite the best endeavours of the AEC in despatching the materials as soon as possible after receiving a postal vote application, it nonetheless cannot be guaranteed that an applicant will receive the postal voting material in time to complete it and return it in the post on, or before, polling day. To address this issue, the AEC will run advertisements to encourage people to make applications for postal votes as early as possible.

2.2.3 Where a postal vote application does not meet the proposed deadline, the Bill would require the AEC to make reasonable efforts to contact those applicants to advise them that their applications have not met the deadline and of the need for them to vote by other means. Such contact would ordinarily be made by telephone. This requirement is consistent with what the AEC has previously done in such situations.

## **2.3 Delivery of Postal Voting Material**

2.3.1 The Bill amends the provisions regarding delivery arrangements of postal voting material depending upon when the application for a postal vote was received by the AEC. The Bill provides in some circumstances for postal voting materials to be despatched by means other than post that are reasonable and practicable. These amendments are aimed at ensuring that electors receive the postal voting material by the timeliest method.

2.3.2 The comments at paragraph 2.2.2 concerning postal vote applications also apply to postal voting material.

## **2.4 Expanded Range of AEC officers**

2.4.1 The Bill expands the range of AEC officers who can receive completed postal voting envelopes. To comply administratively with this change, the AEC will develop procedures and conduct training for relevant AEC officers, ensure that a ballot box is provided in each capital city office in which to place completed postal votes and ensure that relevant DROs make arrangements for the collection of such ballot boxes. While AEC officers will make every effort to ensure that the postal voting envelopes are

delivered to the appropriate DRO in time to be included in the count, this will mainly be determined by when and where the elector hands in the completed envelope.

### **3. Trials of Electronic Voting Methods**

3.1 The Bill introduces two trials of electronic voting methods at the next election: one for sight-impaired people and one for defence personnel serving overseas. If a referendum is held at the same time as the election, the trial of electronic methods will be extended to voting for the referendum as well. While the Bill sets the parameters of the trials, regulations will provide for the detailed operation of the trials.

3.2 The trial for sight-impaired people will require the AEC to develop an electronically assisted voting method that will produce a printed record of each vote cast. The Bill does not prescribe the form that this printed record would take, and it is likely that it would not be an exact replication of the ballot paper. Current thinking is that the printed vote record will be in a barcode format which is capable of subsequently producing a document reflecting the elector's vote for inclusion in the scrutiny.

3.3 As it is a trial, the electronically assisted voting method is expected to be available at up to 30 locations around Australia. These locations will utilise pre-poll voting centres so that sight-impaired electors would have an extended opportunity to avail themselves of the electronically assisted voting method if they so choose. A sight-impaired elector will be able to cast an electronically assisted vote in the lead up to polling day or on polling day itself.

3.4 The AEC has already had discussions with relevant organisations, such as Blind Citizens Australia, to obtain information to assist in the successful implementation of the electronically assisted voting trial for sight-impaired people. If the Bill is passed, the AEC will initiate a targeted advertising campaign to raise awareness of the availability of the electronically assisted voting method with sight-impaired electors in the vicinity of the selected pre-poll centres.

3.5 The trial for particular defence personnel serving outside Australia will require the AEC to develop a remote electronic voting method for that purpose. In order to make use of the remote electronic voting method, eligible ADF members and defence civilians would first be required to be registered with the AEC as Remote Electronic Voters. The AEC will be required by the Bill to produce a printed record of each electronic vote received by the AEC.

3.6 In a similar fashion to offence provisions in the Electoral Act and Referendum Act, the AEC would become responsible for administering any new offence provisions created by regulations supporting the electronic voting trials. It is anticipated that such offence provisions would be consistent with existing offences and penalties in the Electoral Act, with the addition of new offences particular to the nature of electronic voting.

3.7 An attachment to this submission provides more detail on the mechanics of aspects of the electronic voting trials.

#### **4. Proof of Identity for People Enrolling from Outside Australia**

4.1 A proof of identity scheme for all applicants for enrolment and re-enrolment, and for those persons changing their enrolment details was introduced into the Electoral Act on 21 November 2006 by the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006*. The scheme will not apply unless regulations to implement the scheme are in operation. The *Electoral and Referendum Amendment Regulations 2006* (POI Regulations) were made by the Governor-General on 13 December 2006 and are to commence on 16 April 2007. These Regulations will prescribe the proof of identity that must be provided to the AEC when making an application for enrolment or changing enrolment details.

4.2 The Bill will amend the proof of identity scheme to allow applicants from outside Australia the option of providing an Australian passport number, rather than a driver's licence number, to satisfy the requirements. As the proposed amendment will require consequential amendments to the POI Regulations, the provision will commence upon Proclamation or 6 months after Royal Assent. The delayed commencement provides the opportunity to have regulations drafted. If the Bill is given Royal Assent before the POI Regulations commence, ideally the regulations providing for the provision of a passport number would be made to coincide with the commencement of the POI Regulations on 16 April 2007. This would synchronise the commencement of all aspects of the proof of identity scheme and would enable enrolment forms to be redesigned to account for all proof of identity requirements.

#### **5. Pre-poll Voting Offices**

5.1 The Bill will enable the AEC to establish pre-poll voting centres quickly by not requiring the gazettal of centres beforehand when exceptional circumstances apply. This would grant the AEC the flexibility to deal with unexpected circumstances. The AEC will nevertheless still be required to gazette the centres as soon as practicable.

5.2 The Bill will further require the AEC to make the details known of the place and days and hours of operation of pre-poll centres established in such exceptional circumstances. The AEC acknowledges the need to publicise such details in order to inform potential pre-poll electors in the area, political parties and relevant candidates of those arrangements, and will take all reasonable steps to ensure that such details are made known as soon as practicable.

#### **6. Removal of Provision Relating to Defamation of Candidates and False Statements**

6.1 The Bill repeals section 350 of the Electoral Act pertaining to defamation of electoral candidates. If repealed, defamation matters would be dealt with according to the civil laws of defamation. This means that the AEC would no longer be required to administer this aspect of elections. The AEC, however, would continue to administer other conduct and behavioural offence provisions that remain in the Electoral Act and Referendum Act.

## **Trials of electronic voting methods**

### **Trial of electronically assisted voting for sight-impaired people**

Votes cast by sight-impaired people will be pre-poll declaration votes and may be cast in the lead up to the election or on election day.

The proposed process for casting an electronically assisted vote is as follows:

1. A sight-impaired voter will present at a pre-poll voting centre and will be assisted to complete a declaration envelope.
2. The polling official will read the declaration to the voter.
3. A template will be provided to assist the voter in signing the declaration.
4. Voters will then be escorted to the voting machine where they will receive an orientation of the desk and computer and offered a practice session on the computer.
5. When the voter is ready, the polling official will select the Division for which the voter is enrolled and leave the voter to cast his or her vote. Voice and screen prompts will assist the voter in the voting process.
6. Once the voter has cast his or her vote, the computer will then print a separate sheet of paper for the votes cast for the House of Representatives and the Senate, and, if one is held at the same time as the election, for the referendum.
7. So as to maintain the secrecy of the vote, each printout will include a barcode that will contain the voter's preferences.
8. When the voter indicates that they have finished voting, a polling official will check that the barcoded votes have been printed correctly and will assist in enclosing the printouts in the declaration envelope.
9. The declaration envelope will then be placed in a ballot box and transported with all other pre-poll envelopes to the home division.
10. Once the Divisional Returning Officer determines that the declaration envelope can be admitted to the count, the envelope will be opened along with other pre-poll votes from across Australia.
11. When the Returning Officer finds a barcoded ballot paper, he or she will scan the barcode and print the voter's preferences. For authenticity and validity purposes, this printout of the voter's preferences will be stapled to the barcode printout.
12. The ballot papers will then be counted along with all other ballot papers.

## **Trial of remote electronic voting for defence personnel serving outside Australia**

Remote electronic voting will be provided on the Defence Restricted Network, a secure intranet, to Australian Defence Force members and defence civilians serving in limited areas overseas.

The proposed process for casting a remote electronic vote is as follows:

1. The Department of Defence will identify the personnel who will be deployed in selected areas during the period that a federal election may be held.
2. Relevant Defence personnel will receive an application to become a Remote Electronic Voter (REV). These personnel may already be overseas or about to be deployed.
3. The application will require enrolment information, such as name, enrolled address and date of birth.
4. Approved REVs will receive an information pack instructing them how to use the remote electronic voting method.
5. At the close of nominations, the AEC will populate the REV database with the close of roll data for approved applications.
6. On the Monday after the close of nominations, the REV database will be available for Defence personnel to use.
7. Once the REV accesses the Defence Restricted Network and logs in, he or she will navigate to, and log into, the electronic voting method.
8. The REV database will display the ballot papers applicable for that REV on the screen.
9. After casting his or her vote, the REV will be issued with a receipt.
10. The REV database will be unlocked after the close of voting and:
  - all ballot papers will be printed; and
  - voter data will be imported into the AEC systems to manage multiple and non-voter processes.
11. House of Representatives ballot papers will be forwarded securely to the relevant Divisional Returning Officer for counting.
12. Senate ballot paper data will also be extracted from the voting database and forwarded to the Senate Returning Officer for each state. This data will be imported directly into the Central Senate Scrutiny software.
13. As a safety net, the AEC proposes that personnel registering as REVs also be provided with the opportunity to register as General Postal Voters so that postal vote material may be sent to them once the ballot papers are available. In this way, if REVs are unable to access the Defence Restricted Network, they may still be able to cast a postal vote.