

SUMMARY OF MAIN POINTS ON POSTAAL VOTING APPLICATION FORMS

from

The Australian Electoral Commission's Submission No.88 March 12, 1999

Section 8.6 (8.6.18- 8.6.31) attached to

the Australian Electoral Commission's submission of 2001

- 8.6.1 The AEC has expressed its concerns to the last two JSCEM inquiries about the increasing practice by the major political parties, since the 1993 federal election, of widely distributing postal vote applications across Divisions, in the absence of any requests for such a service by the electors themselves (see history at Attachment 9).
- 8.6.2 (Unqualified applicants) The AEC is not convinced that many of these postal vote applicants are strictly qualified to apply for a postal vote under section 183 and schedule 2 of the Electoral Act. . . . Postal voting may be evolving into the method of voting of first choice because of undoubted convenience. This is not in accordance with the original intentions of the Electoral Act, which recognises ordinary voting at the polling booth on polling day as the standard method of voting at federal elections.
- 8.6.3 (Double voting) The blanketing of Divisions with PVA's by those major political parties with the resources to do so, means that many electors are delivered with two or more postal vote applications. For some electors this might suggest that they can avail themselves of more than one vote. (significant increase in DRO work)
- 8.6.4 (Diversion of votes) Electors may be misled into believing that their PVA's are sent directly to the AEC for processing, because it is not generally made clear on the return envelope that the address is actually for a political party office and not the AEC.
- 8.6.5 (Mass distribution) The AEC is not privy to the use made of the personal information on PVA's processed by the political parties, but it is a fair assumption that the political parties record the personal detail of, and probable political support, from those individual electors. It is a fair assumption that this personal information is then added to the enrolment databases and used to refine political campaign strategies, such as direct mailing becoming an integral part of the campaign machinery of the major political parties.
- 8.6.6 (Mass delivery of PVA's to the AEC) The processing inefficiencies that result, and the strains placed on the management of the issuance of ballot papers and declaration envelopes should be obvious.
- 8.6.7 (Loss of PVA's) There is a real risk that political parties holding large numbers of PVA's may lose or misplace some or all of these, or send them to the AEC after the deadline for receipt, or too close to the deadline.
- 8.6.8 (Delayed result) A significant increase in postal votes, particularly in marginal Divisions, will have the inevitable consequence of slowing down the processing of declaration votes and the final declaration of the result in a Division.
- 8.6.9 The AEC reiterates these general concerns about PVA's distributed by political parties in relation to the particular problems experienced at the 1998 federal election. The Electoral and Referendum Amendment Act 1998 inserted into the Electoral Act the following provision, which was in operation for the 1998 federal election.
- 184AA Application form for postal votes
- (1) An application form for a postal vote may be physically attached to, or form part of, other written material issued by any person or organisation.

(2) For the purposes of the Copyright Act 1968, if a person other than the owner of the copyright in the application form for a postal vote reproduces the application form, the person is not taken to have infringed the copyright of the application form.

- 8.6.10 This provision represents a recognition and acceptance by the Parliament that PVA's will be distributed by persons and organisations other than the AEC, which nevertheless holds the overall statutory responsibility for the proper conduct of postal voting. (As an extension of this, it also represents a watering down of the Commonwealth's primary claim to copyright in the PVA form. (nb the outcome of AEC v Baillieu and Poggioli 1996)
- 8.6.11 (The effect of) the blanket distribution of PVA's across Divisions by both major political parties (with the expected increase in postal voting) on the significant overall increase in postal voting at the 1996 federal election.
- 8.6.12 The statistics are extraordinary (47% increase over the 1996 election).. It is worth questioning whether all those who utilised the PVA's provided by the political parties were in fact entitled to cast a postal vote.
- 8.6.13 The PVA is an "approved" form under section 184 (1) of the Electoral Act and this is defined in section 4 (1) of the Act as "approved by the Electoral Commission by notice published in the Gazette." The approved PVA as produced by the AEC has attached to it a considerable amount of relevant information, including the qualifications for applying for a postal vote. It is difficult for a potential applicant to avoid reading the attached information and this ensures that applicants are actually qualified to apply (Attachment 21)
- 8.6.14 The approved PVA, reproduced by a political party may only have attached to it a political party campaign material encouraging the elector to support that party. This means that many electors who receive PVA's from the political parties may not appreciate that qualifications for postal voting do exist, and may simply assume that they are entitled to cast such a vote because they have been delivered with an unsolicited application form.
- 8.6.15 To ensure that potential PVA applicants, who utilise the political parties as a conduit to the AEC are consistently advised of the qualifications for postal voting, the AEC will be gazetting a PVA form that includes the relevant advisory information on postal vote qualifications. This will mean that the political parties will be required under the Electoral Act to reproduce not only the actual PVA form but also the information on qualifications.
- 8.6.16 The AEC will consider making the approved PVA form similar to the PVA Form 13 approved by the NSW Electoral Commission (Attachment 22) (this requires the applicant to tick off the reason for applying)
- 8.6.17 The blanketing of Divisions with PVA's, from both major political parties, resulted in considerable confusion in the electorate with multiple PVA's from the same electors being received at Divisional Offices...
- 8.6.18 On receipt of more than one PVA from the same elector, the Electoral Act does not explicitly allow Divisional staff to decide not to issue more than one set of voting materials to the same person.
- 8.6.19 If multiple votes are returned to the AEC the legislation dictates that those votes must enter the count if they pass through the initial scrutiny. (If more than the winning margin the AEC would consider a petition to the Court of Disputed Returns). The AEC recognised this problem developing early. (contact by telephone)...In those cases where the elector could not be contacted, or did not understand or appreciate the approach from Divisional staff, multiple sets of voting materials were issued, accompanied by a letter warning about the penalties for multiple voting.

- 8.6.20 The AEC believes that this rapid response, with an administrative solution to the problem of possible widespread multiple voting stimulated by the mass distribution of postal vote applications by the major political parties, may have saved a number of marginal Divisions from a challenge in the Court of Disputed Returns. (suggests an amendment to the Act)
- 8.6.21 A further amendment to the Electoral Act to prevent the entry of any declaration vote into the count after the preliminary scrutiny, might also be considered.
- 8.6.22 Section 97 (10) of the Constitutional Convention (Election) Act 1997 provides as follows. If two or more certificate envelopes have been received in the name of one elector, the DRO must decide which one (if any) of the envelopes should be accepted for further scrutiny.” (recommends its adoption)
- 8.6.23 Political parties might be encouraged to return ‘their’ PVA’s as soon as possible to the AEC. Sa soon as possible to the AEC
- 8.6.24 (The detour of PVA’s) The AEC sighted many examples of reply paid envelopes on which the return address was not distinguished as a political party office and which appeared to suggest an ‘official’ destination, namely the AEC.
- 8.6.25 Otherwise unidentifiable reply paid envelopes provided for the return of PVA’s were addressed as: (Examples given)
- 8.6.26 Example given of better practice in the pending NSW State electin.NSW
- 8.6.27 Because the political parties ensured that their PVA’s were distinguishable from the official AEC PVA’s. It is possible to comment on the rate of return of PVA.s from the political parties to the AEC and the impact on AEC operations.
- 8.6.28 (analysis of the marginal seat of Eden-Monaro). The electorate office received 1,567 PVA’s at a steady rate, the Divisional Office 3,871 in distinct surges.
- 8.6.29 The PVA’s of 130 electors were received too late for the AEC to issue their voting package. 444 did not receive them at all.
- 8.6.30 (DRO’s forced into direct action with political party staff and offices) There is a danger that this direct association between Divisional staff and political party office staff could be interpreted by some as compromising the neutrality of the AEC)
- 8.6.31 The JSCEm is asked to recognise the fundamental changes to voter behaviour that may be occurring in response to the mass distribution of unsolicited PVA’s; the impact on the efficiency of AEC operations, and to consider whether this is the direction in which the federal electoral system should be evolving.