



Australian Electoral Commission Submission

Postal Services Modernisation

Proposed amendments to the Australian Postal
Corporation (Performance Standards)
Regulations 2019

February 2024

Classification: OFFICIAL

Introduction

The Australian Electoral Commission (AEC) is responsible for maintaining an impartial and independent electoral system for eligible voters. Federal electoral events are the largest peacetime logistical operation in Australia, and are highly complex to deliver. As voting is compulsory in Australia, the AEC, as required by the *Commonwealth Electoral Act 1918* offers a variety of voter services including postal voting. To deliver the franchise – that is, an Australian citizen’s right to vote – the AEC is reliant on an effective, consistent, and reliable postal service. The AEC also delivers hundreds of industrial elections and protected action ballots each year, almost all of which are entirely delivered by post. In addition to electoral event delivery, the AEC is responsible for the management of the Commonwealth electoral roll and maintenance and provision of the roll for states and territories, which involves regular use of the postal service, as required by our legislation to correspond with electors regarding their enrolment.

This submission provides feedback on the proposed amendments to the Australian Postal Corporation (Performance Standards) Regulations 2019 (the draft Regulations), in the context of the AEC’s service delivery requirements. Feedback will focus on the proposed changes to the frequency and speed of mail delivery, in addition to the removal of performance standards regarding the speed of delivery for priority letters. The AEC does not have any feedback on the proposal to update the geographic classification for retail outlets, other than to note that this may increase elector reliance on mail services.

For broader information about the scope of the AEC’s current and future use of letter delivery services, please refer to the [AEC’s initial submission](#) to the postal services modernisation review dated April 2023.

Background

The *Commonwealth Electoral Act 1918*, the *Referendum (Machinery Provisions) Act 1984* and the *Fair Work (Registered Organisations) Act 2009* mandate a range of circumstances where the AEC must use the postal service, during and outside of electoral events.

Specifically, the AEC uses Australia Post for a range of services including for postal voting, the distribution of information to Australian households regarding electoral events in the form of an Official Guide, the distribution of non-voter and multiple-voter notices to electors, the distribution of materials for industrial elections and protected action ballots, and the distribution of enrolment related communications.

While there are programs in train for the AEC to digitise some processes where legislation enables, including as part of our long-term Indigo Modernisation Program, these will not have any significant effect on the scale of the AEC’s use of Australia Post’s letter services over the next 5-10 years at least, especially during event delivery where usage of the postal service is expected to increase.

Draft Regulations

Relaxed delivery timelines for regular letters and reduced frequency of letter delivery in metropolitan areas

The AEC relies on the timeliness of the regular letter service for enrolment-related notices, multi-voter and non-voter penalty notices, and the delivery of the industrial elections and ballots program, as well as elements of the postal voting process. Under legislation, certain communications must be conducted by written notice and more importantly, for enrolment, some have legislated timeframes for elector response after which an action is taken. For example:

- Notice of Objection (s116 and s118 of the CEA) – the elector has 20 days to respond to a notice from the Electoral Commissioner objecting to their enrolment in a particular division, after which a determination will be made.
- Notice of proposed action to update, transfer or enrol a person (s103A and s103B) – a person has 28 days to respond to the written notice, after which the action will be taken.
- Application on receipt to claim (s102) – the elector only has 5 working days to enrol during a Close of Rolls period. The application must be received by 8pm on the day of the Close of Rolls (s102(4a)).

While relaxing delivery timeframes for regular letters by one day may appear a minor change, when coupled with reduced frequency of delivery in metropolitan areas to every second day and existing provisions for deliveries at least two days per week for some delivery points, the changes are significant. Regular mail could now take up to **six business days** after posting to arrive **in capital cities within the state**, and **over 10 days** to delivery points **outside of capital cities for delivery between states**.

For example, under the new delivery timeframes, depending on the elector's location, it may take up to 20 days for an elector to receive a paper postal vote application (if they request a paper form) and return the form to the AEC. The timeframe impacts the AEC's ability to ensure the elector then receives their ballot paper before polling day.

In the context of multiple-voters and non-voters, relaxed delivery timelines may impact the AEC's capacity to comply with the legislated non-voter regime which requires apparent failure to vote notices to be issued within three months of polling day. There may also be risks to prosecution action as a result of needing to extend reply periods and return to sender waiting periods to account for relaxed delivery timelines for regular mail services. For the 2023 Referendum, the AEC sent over 1.4 million apparent failure to vote notices using the regular letter service and this will be followed by just under 950,000 reminder notices.

The AEC may need to explore priority and express post mail, including reply paid options (the AEC currently includes a reply paid service for elector correspondence and this will need to continue) to support electors where there is a legislated timeframe for a response; notwithstanding that priority mail changes are also in scope as part of the proposed draft

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regulations. In addition, where the AEC does have flexibility to determine response timeframes, substantial changes will still be required for a range of AEC business processes and systems to accommodate the relaxation in the delivery timeframe for regular mail. This will have a substantial financial impact on the AEC as it bears the cost of implementing new and adapting existing business processes where needs were previously met through regular mail.

If amendments also apply to the delivery of unaddressed bulk mail, the following are examples of how the AEC will be impacted:

- The AEC distributes an Official Guide to all (approximately 11.3 million) households prior to an electoral event. The Guide complements digital communications and – as a key source of information to voters – will continue to be distributed into the future. In the last federal election, the guide was received and read by more than a third of voters – amounting to approximately 5.9 million people. A delayed delivery service to an already tight timeframe would potentially compromise the AEC's ability to ensure voters receive the Official Guide in a timely manner prior to the commencement of voting.
- The Referendum Act requires the AEC to coordinate the production and distribution of a pamphlet (referendum booklet) with the arguments for and against the proposed law to change the constitution. For the 2023 Referendum, the AEC distributed 12 million referendum booklets to households in an extremely tight timeframe, in metropolitan, regional and remote areas. A relaxed delivery frequency would potentially reduce the likelihood of voters receiving the pamphlet before they cast their vote, which may also pose a risk to the AEC's confidence in meeting its legislative requirement.

Deregulation of the priority letter service

Postal voting

The AEC's postal voting service is totally reliant on Australia Post's priority mail service to achieve legislated timeframes embedded throughout the postal vote process.

Priority post timeframes are currently prescribed in the Regulations, which ensures Australia Post is accountable for the services and provides a level of certainty for the AEC and electors.

The AEC notes the priority mail service and delivery timeframes are proposed to be removed from the Regulations. While these can be negotiated and embedded in a commercial arrangement, the removal of regulatory oversight means changes to the arrangements are at the discretion of Australia Post, introducing a degree of uncertainty and risk for the AEC and electors regarding this critical service. This may also raise concerns with stakeholders about the transparency of important election related processes.

As Australia has a compulsory voting system, the Commonwealth Electoral Act requires a variety of voter services to assist electors with casting their vote in a federal election, by-election and referendum. An elector is eligible for a postal vote if they live more than 8km from a polling place, are travelling at the time of the election, are in hospital, are unable to leave their workplace to vote, or are in prison, as some examples. Silent electors (those whose address details are suppressed from the publicly available electoral roll due to safety concerns) are also primarily serviced through postal communication and postal voting.

At the 2023 Referendum, the AEC sent approximately 2.1 million postal votes using the priority letter service, and electors returned approximately 1.8 million using a priority reply-paid envelope provided by the AEC (these figures are 2.7 million and 2.38 million respectively for the 2022 federal election). These figures represented a significant increase from the 2019 federal election, when the AEC sent approximately 1.5 million postal votes and electors returned approximately 1.23 million postal votes. Although this spike in postal voting at the 2022 federal election can partially be attributed to the COVID-19 pandemic, the AEC anticipates a continued rise in postal voting, as indicated by rises in postal voting between the 2013, 2016 and 2019 federal elections.

The priority mail service is essential to completing each step in the postal voting process within legislative timeframes, these are outlined below:

Postal Vote Applications - Electors can apply for a postal vote as soon as an election is announced. While most applications occur online, around 12.4% (257,589 at the Referendum) were paper applications sent to the AEC via Post (30% or 821,556 for the 2022 federal election). Under legislation, political parties are also able to distribute paper forms which increases the volume of forms returned by post. The return of paper forms usually occurs via the **regular mail service**. Delays in receiving postal vote applications has flow-on effects for the postal vote process as it impacts the AEC's ability to prepare and distribute postal vote packs (which contain the elector's ballot paper/s) within legislative timeframes (see below).

Distribution of postal vote packs to electors: On receipt of a valid application, the AEC must print and distribute a postal vote pack to the elector. The AEC must accept postal vote applications up to 6pm, **three days prior to polling day** (the Wednesday prior to polling day), which leaves only the Thursday prior to polling day to lodge the postal vote packs with Australia Post for delivery by the Friday before polling day. While the AEC utilises the Express Post service in the week prior to polling day, the priority mail service is utilised throughout the entire postal voting period to ensure electors receive their packs as soon as possible. Expanding use of the Express Post service will significantly increase election costs. Electors must receive their packs and complete their ballot papers by close of polling at 6pm on polling day.

Return of postal votes to the AEC: Electors are provided with priority reply paid envelopes to return their vote to the AEC. Electors are required to return their completed postal vote to the AEC no later than 13 days following polling day.

Postal voting is a fundamental service offering for eligible electors with a legitimate inability to readily access a polling place. Postal votes cannot be distributed to electors by electronic means; therefore, the AEC is reliant on a reliable and consistent priority postal service to deliver the franchise to almost 15 percent of all electors.

Effect of deregulation on certainty of service availability

The deregulation of the priority letter service also introduces uncertainty and risk regarding service availability, quality and reliability.

If the priority letter service were unavailable, even temporarily, the AEC would be required to utilise express post services. It is expected this would be up to five times the amount paid to use the current priority letter service. Based on volumes for the 2023 Referendum, for instance, the exclusive use of express post services could cost the Australian taxpayer in the vicinity of an additional \$16 million.

Non-voters and multi voters

The AEC also uses priority services for the distribution of multiple-voter notices to electors. Following the 2023 Referendum, the AEC distributed over 4,200 priority paid letters to electors (including reminder notices).

There are strict deadlines associated with the AEC's regulatory functions, in the case of multi-voters, referrals must be submitted to the Australian Federal Police within six months of polling day. There are also specific requirements in some jurisdictions (for example, Victoria) for non-voter prosecution court documents to be sent by priority mail. The AEC's ability to meet these requirements may be impeded if the proposed Regulation amendments take effect.

Conclusion

A reduction in the frequency and speed of postal services will significantly and negatively impact all Australian electoral management bodies and may adversely influence electoral integrity and trust in the electoral process if voter services are impacted as a consequence. The AEC is deeply concerned by the proposal to relax letter delivery frequency and the potential for increasing prices, noting legislative requirements to communicate and deliver voter services by post, and the inability and impracticality of readily digitising.

The AEC greatly values the service offering provided by Australia Post and the important partnership in delivering electoral services over many years. Preparations for the next federal election are well underway, and throughout 2024 and beyond the AEC will also deliver hundreds of industrial elections, protected action ballots and potentially further by-elections. In particular, millions of electors rely on the postal service to have their say in elections and it is fundamental that they can trust and rely on this critical service offering, and the broader electoral system is not impacted as a result of the changes proposed in the draft Regulations. For many electors participating in federal events and industrial elections, postal voting is their only means of casting a vote and participating in the democratic process.

If the proposed changes were to be implemented, concomitant change would be required in order to ensure no detrimental impact to the AEC's ability to enfranchise Australians. That could include:

- a change to electoral legislation to adjust timeframes for postal voting and other aforementioned activities, along with a significant investment and lead time to design and fully implement any alternative voting methods approved by parliament;
- a public commitment and guarantee by Australia Post that the current service level for letter delivery and priority mail can be met during electoral events, including by-elections (though this may be challenging for Australia Post to implement given there is no fixed date for federal elections);
- a significant increase in the cost of election delivery due to the requirement to utilise other letter services or couriers to ensure legislative obligations are met and voters are enfranchised.

The AEC looks forward to further discussion and engagement well ahead of any further diminution in service given the potentially significant impact.