

Standing Committee on Finance and Public Administration

ANSWER TO QUESTION ON NOTICE

Budget Estimates Hearing – May 2009

Australian Electoral Commission

Finance and Deregulation Portfolio

Outcome 1 Program 1.1.1

Topic: Enrolment addresses for Members of Parliament

Question reference number: F57

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Date set by the committee for the return of answer: 10 July 2009

Number of Pages: 2

Senators Fifield and Ronaldson asked:

Senator FIFIELD—Didn't the AEC receive some legal advice some time before the 2004 election which called into question the particular circumstances in which members and senators could be enrolled at an address other than where they actually lived?

Mr Pirani—Not that I am aware of.

Senator FIFIELD—I had a recollection that there was.

Mr Pirani—I will take that on notice, but I do not recall specific advice.

Senator FIFIELD—According to the section that you referred to, could a member or senator, for instance, have their electorate office as their enrolled address?

Mr Pirani—No.

Senator FIFIELD—Presuming that the place of enrolment is not where you live, what is the address for where you are enrolled? Or are you just deemed to be on the electoral roll in a particular division but without an address?

Mr Pirani—I will take that one notice. The provision in the act is not that clear in relation to that. I do recall that I have read something that appeared to indicate that you could not have your electoral office if it was not a place where a person was entitled to live, and so that would be inappropriate. But I would prefer to take that on notice while I just check on this.

...

Senator FIFIELD—If you could, I would be interested as to whether a member or senator is entitled to have a virtual address—sort of floating in the ether—whether the entitlement is to just be on the electoral roll in the division in which you live without any reference to an address.

Mr Pirani—I will take that on notice.

...

Senator RONALDSON—When you are providing that, can you give us advice, please, in relation to your ruling as to what must be nominated—whether it must be your actual address where you live but you can be listed on another roll using that actual address.

Answer:

The Australian Electoral Commission has advised that it received external legal advice from the Australian Government Solicitor in 2001 on several occasions dealing with the enrolment addresses for Members of Parliament and the interpretation of

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subsection 99(4) of the *Commonwealth Electoral Act 1918* (the Electoral Act). The receipt of the legal advice led to a letter being developed that was to be sent to Members of Parliament. That letter said in part:

“As a result of a query from a Member of the House of Representatives regarding the correct address to be used for the purposes of enrolment under subsection 99(4), legal advice was sought. The legal advice is that, where a Senator or Member claims enrolment under the provisions of subsection 99(4), then the address which must appear on the roll for the claimed subdivision is the Senator’s or Member’s residential address, even though that address is not located within the claimed subdivision.”

The AGS advices specifically concluded that the address shown must be a residential address (ie the place of living of each elector) as required by section 83 of the Electoral Act and that a failure to include a residential address or to include some other notional address (eg the electorate office) would not meet the requirements of the Electoral Act. The address needs to be the actual place of living of the Senator or Member at the time the enrolment application is made to the AEC.

If a Senator or Member does not wish to show on the electoral roll the address where they are actually living, then they would need to avail themselves of the provisions of section 104 of the Electoral Act. Section 104 provides for electors to request that their address details are deleted from the electoral roll where they consider that having their address shown on the electoral roll would place their personal safety, or that of their family, at risk.