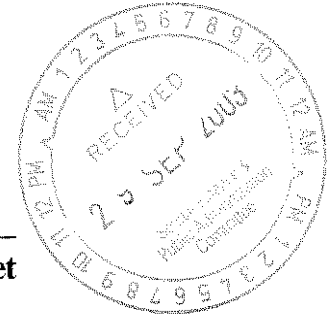




**COPY**



**Australian Government**

**Department of the Prime Minister and Cabinet**

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SECRETARY

Mr Alistair Sands  
Secretary  
Finance and Public Administration References Committee  
Parliament House  
CANBERRA ACT 2600

Dear Mr Sands

I refer to your letter of 27 August 2003 concerning the Members of Parliament Staff (MOPS) Inquiry and the detailed questions the Committee wished to ask of me.

I have addressed the substantive issues as follows:

- A. The making and administration of determinations under the Act**
- 1. What determinations have been made under section 12? Who gets them? How are they prepared? How might a Member, or a member of the public, know what section 12 determinations exist? Can the Committee obtain copies of these determinations?**

Under Section 12 of the MOP(S) Act, the Prime Minister may determine that a senator or member be empowered to employ staff under Part III of the Act.

On 26 November 2001, the Prime Minister authorised the Special Minister of State, Senator the Hon Eric Abetz, to exercise the powers conferred on him under section 12 of the Act in relation to:

- Government Whips;
- the convenor of the Government Members Secretariat;
- the Presiding Officers in the Senate and the House;
- the Deputy President and the Deputy Speaker;
- the Whips of recognised non-government parties in the Senate and the House;
- shadow ministers;
- Australian Democrats; and
- independent senators and members not affiliated with a major party.

The Special Minister of State is required to consult the Prime Minister before making a determination that empowers any senator or member not included in one of the above classes to employ staff under the Act.

Section 12 determinations are issued by the Special Minister of State. The determinations are prepared by the Ministerial and Parliamentary Services Group of the Department of Finance and Administration (Finance). The original determinations are held by Finance. I understand that there are a number of mechanisms whereby senators and members are made aware of matters determined by the Special Minister of State. These include administrative circulars, correspondence, and material available on the Intranet.

I understand that you have also asked these questions of my colleague, Dr Ian Watt, and that he will be responding to the Committee's request regarding copies of determinations.

- 2. What arrangements have been approved by the Prime Minister under section 13 and section 20? Who prepares and administers these arrangements? How standardised are they? What variations exist? Where can these be located? Can the Committee obtain copies of these determinations?**

Section 13 and section 20 empower office-holders and individual senators and members respectively to engage their own personal staff (including electorate staff) (subsections 13(1) and 20(1) respectively) subject to conditions determined by the Prime Minister (subsections 13(2) and 20(2) respectively).

In accordance with subsection 13(2), the Prime Minister has determined that the power of office-holders to employ personal staff is subject to the following conditions:

- staff can only be employed in positions allocated by the Prime Minister; and
- salaries and conditions for positions at the level of Special Adviser and above are determined by the Special Minister of State in accordance with arrangements and parameters determined by the Prime Minister.

The Prime Minister has authorised the Special Minister of State to exercise his powers under subsection 13(2) of the Act to approve the employment arrangements for the staff of office-holders, and to determine any further employment conditions for such staff.

The Prime Minister has also authorised the Special Minister to exercise all of his powers under subsection 20(2).

The arrangements are administered by Finance. As noted above, Dr Watt will be responding to the Committee's request regarding copies of determinations.

- 3. What determinations has the Prime Minister made under section 14(3) or 21(3)? Who prepares and administers these arrangements? Where can these be located? Can the Committee obtain copies of these determinations?**

Under subsections 14(3) and 21(3), the Prime Minister may vary the terms and conditions of employment of MOPS Act staff.

The Prime Minister has authorised the Special Minister of State to exercise his powers under both of these subsections, including issuing determinations on his behalf to give effect to Australian Workplace Agreements (AWAs) and a certified agreement for staff employed under the Act.

As noted above, Dr Watt will be responding to the Committee's request regarding copies of determinations.

- 4. What determinations have been made under section 16(5) or 23(4)? What has been their purposes? How have they worked? Can the Committee obtain copies of these determinations?**

Under sections 16 and 23 of the MOPS Act, the staff of an office-holder or a senator or member respectively are terminated when the office-holder or senator or member loses office. However, subsections 16(5) and 23(4) allow the Prime Minister to deem the employment of such staff to continue until a specified date.

Past practice has been that staff who are terminated in these circumstances are allowed two weeks "settling out" pay. The Prime Minister has authorised the Special Minister of State to exercise this power on his behalf and has indicated that he would wish to be advised in writing of any case where the Special Minister of State might deem employment to continue for a period in excess of two weeks.

As noted above, Dr Watt will be responding to the Committee's request regarding copies of determinations.

- 5. Which of the various determinations mentioned above are publicly available? Which are available to all MOPS staff and Members? What is the rationale for the levels of availability that exist?**

This is a matter for Finance and it is expected that Dr Watt will address these matters in his response to the committee.

**B. Delegation of powers under the Act**

- 1. Are these letters of authorisation published or tabled, or somehow made available? Can the Committee obtain copies of these letters?**

Copies of the letter from the Prime Minister to the Special Minister of State of 26 November 2001 and 6 December 2001 are attached.

- 2. Are they a blanket authorisation to undertake all the PM's functions under the Act? If not, what areas of action are outlined in them?**

No.

The Special Minister of State is able to determine the terms and conditions of engagement for ministerial consultants. The decision to engage a consultant remains one for the Prime Minister. The Special Minister of State is also authorised to prepare the annual report on the engagement of consultants under the Act.

The Special Minister of State is also authorised to exercise the Prime Minister's powers in relation to empowering senators and members to employ staff but only in relation to those office-holders specified by the Prime Minister. The Prime Minister allocates the positions and sets the arrangements and parameters for the salaries and conditions of employment for positions at the Special Adviser level and above. The Special Minister of State is able to approve arrangements for the employment of staff by office-holders.

Further, the Special Minister of State is able to exercise the Prime Minister's power in relation to determining the terms and conditions of employment and to vary those terms and conditions by AWAs and certified agreements for MOP(s) Act staff, both Part III and Part IV.

Finally, the Special Minister of State is able to direct that where a person's (Part III and Part IV) employment has been terminated (where employing member ceases to hold office, or dies) the employment shall be deemed not to have been terminated and to continue. It is expected that in most cases that employment would continue for two weeks from the date of termination, and the Prime Minister has indicated that he would wish to be advised in writing of any case where the Special Minister of State might deem employment to continue for a longer period.

I have taken this opportunity to respond to two of the questions on notice asked by the Committee on 2 September 2003.

The first question concerned my all staff address of 14 May 2003 in which I set out the role of my department in government. A copy of this address is attached.

The second question was directed to Dr Andrew Podger, the Australian Public Service (APS) Commissioner, and concerned the APS employment classification levels of departmental liaison officers (DLOs). As my department has responsibility for DLO

policy, I am responding to the Committee on this matter. As at 8 September 2003, the total number of DLOs was 70; details of their employment classifications can be found in the attached table. I will respond separately to the outstanding questions on notice in the near future.

The departmental contact for these matters is Ms Barbara Belcher, First Assistant Secretary, Government Division. She can be contacted on 6271 5786.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Shergold', with a stylized flourish at the end.

(Dr Peter Shergold)

26.9.03

**DEPARTMENTAL LIAISON OFFICERS  
APS EMPLOYMENT CLASSIFICATION LEVELS  
AS AT 8 SEPTEMBER 2003**

<b>APS Classification Level</b>	<b>Number</b>
Executive Level 2 (and equivalents)	20
Executive Level 1 (and equivalents)	37
Legal Officer 2	2
Australian Public Service Level 6	8
Australian Public Service Level 5	1
Australian Public Service Level 4	2
Vacancies	1
<b>Total</b>	<b>70</b>