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# Candidates Handbook

Federal elections  
By-elections



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The Australian Electoral Commission asserts the right of  
recognition as author of the original material. The report should be  
attributed as *Australian Electoral Commission Candidates  
Handbook*.

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# About this handbook

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Are you thinking of standing, or assisting someone to stand, for election to the Commonwealth Parliament in either a federal election or a by-election? If so, you will need a clear understanding of the legislative requirements you must meet, and of your role and responsibilities under the law.

Remember, you and your supporters can play a significant role in helping to ensure, as far as possible, that every vote cast in an election counts.

## The Candidates Handbook

This handbook is published by the Australian Electoral Commission (AEC), the Commonwealth agency which maintains the electoral roll and conducts federal elections, by-elections and referendums. The handbook covers the stages for the electoral process relevant to candidates.

Each chapter in the handbook lists the relevant parts of the *Commonwealth Electoral Act 1918* (the Act), detailing how the electoral law applies to candidates and those assisting them.

The AEC suggests that you consult the *Commonwealth of Australia Constitution Act* (the Constitution), the Act and other legislation, including the *Referendum (Machinery Provisions) Act 1984* referred to for the exact provisions.

Candidates must satisfy themselves about their own legal position and, if necessary, refer to the exact provisions of the Constitution and the Act, and consult their own lawyers.

You can access this handbook, the Constitution and the Act via the [AEC website](#). If you require information in another format, contact the AEC by phoning 13 23 26.

Offences relating to the election, whether they occur before or during the election, are listed in Appendix 1. Some electoral offences apply at all times, while others apply to specific periods.

The AEC can assist you by providing information of a general nature about the nomination process and campaign activity. However, we cannot provide you with formal or informal legal advice.

Abbreviations and acronyms have been kept to a minimum. However, seven are used throughout this handbook:

- AEC – Australian Electoral Commission
- AEO – Australian Electoral Officer
- ARO – Assistant Returning Officer
- DRO – Divisional Returning Officer
- the Act – *Commonwealth Electoral Act 1918*
- HoR – House of Representatives
- CSS – the Central Senate Scrutiny

The words ‘voter’ and ‘elector’ are used interchangeably.

At the end of this handbook you will find a glossary which explains terms that may be unfamiliar to you.

## How this handbook can help you

The handbook provides important information and explains how you can comply with the law before, during and after an election. The handbook complements the [Nomination Guide for Candidates](#), which describes the steps you will need to take to qualify as a candidate and lodge your nomination.

At the end of this introductory section, you will find a checklist that takes you through important details you will need to know and the activities you will need to undertake as a candidate, and indicates where in the handbook you can find more information.

Again, the handbook is intended to assist candidates standing for election by explaining relevant processes and procedures. It is not, however, a substitute for the law.

## Public inspection

You need to be aware that many of the documents you submit in relation to your candidacy will be made available for public inspection. These include the qualification checklist and any additional supporting documentation provided, and the financial disclosure return. Exceptions may apply in certain circumstances.

## AEC website

Because information can change during the life of a publication, the AEC website is the best source of up-to-date information.

All forms and publications referred to in this handbook are available from the AEC website.

## AEC National, State, Territory and Divisional Office contact details

Office contact details can be found on the [AEC website](#).

## What's new at this election?

### COVID-19 safety measures

The AEC is committed to protecting the welfare of voters, staff, and other participants during the COVID-19 pandemic environment. See the [AEC website](#) for further information on the measures that will be taken.

You must adhere to the COVID-19 safety measures the AEC and health authorities have in place. It is also your responsibility to check with the relevant state government for local [information](#) on what you can and cannot do.

### Campaigning and electoral communications

Following the 2019 federal election, the Federal Court held that the publication, distribution or display of electoral communications with similar branding to the AEC (e.g. purple and white signs) could be a misleading and deceptive offence under s 329 of the Act.

Changes to the Electoral Act removed the requirement for printed electoral communications to include the name and address of the printer.

Further guidance is available in the [Electoral Backgrounders: Electoral communications and authorisation requirements](#), which is available on the AEC website.

### *Electoral Legislation Amendment (Annual Disclosure Equality) Act 2021*

For the purposes of the disclosure period and restrictions on receiving foreign donations, the definition of a candidate and Senate group has been amended.

A person is taken to commence being a candidate in an election or by-election six months before the earlier of:

- the day the person announced they would be a candidate in the election or by-election; or
- the day they nominated as a candidate in the election or by-election.

A Senate group commences as a group in an election on the day that is six months before the day the members of the group make a request under the Act for their names to be grouped in the ballot papers for the election.

A person or group ceases to be a candidate or group 30 days after the polling day in the election.

Candidates who **announced their candidacy before 14 December 2021** are required to take acceptable action in relation to foreign donations received in the six months prior to their announcement **by Tuesday 25 January 2022** (6 weeks from commencement).

Refer to the [foreign donations fact sheet](#) available on the AEC website for further information.

### Legislative change

Further changes to the Electoral Act in 2021 relate to party registration, electoral offences, the scrutiny of Senate elections, the holding of elections during emergencies, and some of the AEC's operational processes at election time. Details about these changes can be found on the [AEC website](#).

### Feedback welcome

The AEC welcomes your views on the usefulness of the Candidates Handbook and any specific information provided in these pages. We invite you to send your feedback via the [AEC website](#).

**Note:** The AEC also publishes [Electoral Backgrounders](#) on specific aspects of electoral law. Copies of these AEC publications can be accessed by visiting the AEC website.

## Timing of the election

### Federal elections

The constitutional and legislative frameworks that govern Australian federal elections determine both the election timetable and electoral processes.

Both Houses of Parliament have separate provisions reflecting their different constitutional roles. A House of Representatives term expires three years from its first official meeting but can be dissolved earlier. Once the term expires or is dissolved, the Governor-General will issue the writs for an election.

The Senate is a continuing body with senators for each state elected for a six-year term. A rotation system ensures that half the Senate is retired or up for election every three years. Two senators represent the Australian Capital Territory and two senators represent the Northern Territory. These senators are elected concurrently with the members of the House of Representatives. The duration of their term of office also coincides with the members of the House of Representatives.

Usually the House of Representatives and the half Senate elections are held at the same time. However, the Governor-General may dissolve both Houses simultaneously upon certain conditions having been met under section 57 of the Constitution, resulting in a general election for the House of Representatives and all of the Senate. This is known as a double dissolution.

The key dates in the election timetable are available on the AEC website.

### By-elections

Whenever a vacancy occurs in the House of Representatives because of the death, resignation, absence without leave, expulsion, disqualification or ineligibility of a member, a writ may be issued for the election of a new member. A writ may also be issued when the Court of Disputed Returns declares an election void.

The guiding principle in fixing the date of a by-election has always been to hold the election as early as possible so that the electors are not left without representation any longer than is necessary.

## Check

	Section
I am aware of key dates in the election period following the issue of the writs	The writ
I have familiarised myself with the law relating to electoral offences	Appendix 1
I have read the Nomination Guide for Candidates	Nominations
My nomination forms and deposit have been lodged by the required deadline	Nominations
I am aware of my responsibilities with regard to electoral communications and authorisations, particularly in relation to How to Vote Cards	Voting
I have nominated a Candidate Agent or assume this responsibility myself	Election funding & financial disclosure
I have, or my agent has, lodged my financial disclosure return by the due date (within 15 weeks after election day)	Election funding & financial disclosure
I have appointed scrutineers (optional) by completing and signing the form	Scrutineers
I am aware of the circumstances and procedures that may lead to a recount of votes in an election	Recounts & disputed returns



# The writ

The Act

Part VIII, 'Enrolment'

Part XIII, 'Writs for elections'

Part XIX, 'The return of the writs'

The issue of a writ triggers the election process and provides the opportunity for you to nominate as a candidate. The writ is the legal document necessary for the official timetable and process for the election to begin.

## Issue of the writ

The Constitution, s 12 and s 32, the Act, s 151 and s 152

The issuing of the writs triggers the election process. The writs are deemed to be issued at 6pm on the day they are issued.

The writs must be issued within 10 days from the expiry of the House of Representatives or from the proclamation of a dissolution of the House of Representatives. If the Senate is dissolved, the writs must be issued within 10 days of dissolution.

## House of Representatives

The Constitution, s 32 and s 33, the Act, s 154

The Governor-General issues the writs for a general election of members of the House of Representatives. They are addressed to the Electoral Commissioner, who advises each Divisional Returning Officer (DRO) of the dates specified in the writs and directs them to make election arrangements.

Eight writs are issued for each general election of the House of Representatives: one for each state and one each for the Australian Capital Territory and Northern Territory.

## Senate

The Constitution, s 12, the Act, s 151 and s 153

The writ for the election of senators for a state is issued by the governor of the state and is addressed to the Australian Electoral Officer (AEO) for that particular state. The writ for the election of senators for a territory is issued by the Governor-General and is addressed to the AEO for that particular territory.

## Dates fixed in the writ

The Act, s 152 and s 154

The writ specifies the key dates of an election in accordance with the legislated election timetable. These dates specify the timing for the close of the rolls, the close of nominations, the election day and the return of the writ.

The AEC advertises these dates within major newspapers circulating in each state and territory and on the AEC website. An indicative election timetable is shown on page 11.

## Close of rolls

The Act, s 102 and s 155

The rolls close at 8pm on the seventh day after the date of the issue of the writ.

## Close of nominations

The Act, s 156

The date for the close of nominations is set out in the writ. It must be at least 10 days, but not more than 27 days, after the date of issue of the writ. You can nominate as a candidate during AEC business hours, by appointment only, any time after the writ is issued up to 12 noon on the day nominations close. Bulk nominations must be submitted by 12 noon, 48 hours prior to the day nominations close. The Electoral Commissioner prescribes where you must submit your nomination form (including the qualification checklist and any additional documents) and deposit. Nominations cannot be accepted under any other circumstances.

## Declaration of nominations

The Act, s 175 and s 176

Nominations are declared and the draws for positions on the ballot papers are held 24 hours after the close of nominations.

At the declaration of nominations your name, town or suburb of residence (unless you are a silent elector), your state or territory, your endorsing party or if you are unendorsed, group name (where relevant) and that 'independent' will be printed on the ballot paper (where relevant) will be announced publicly.

Nomination papers are not publicly produced; however, the qualification checklist and any additional documents provided with the qualification checklist will be published on the AEC website.

For a detailed list of dates and times for declaration of nominations and draw for ballot positions, contact your divisional office for the House of Representatives, state office for the Senate or visit the AEC website.

## Election day

The Act, s 157 and s 158

Election day is set out in the writ. It must be between 23 and 31 days after the close of nominations. Election day must be a Saturday.

## Declaration of the poll and return of the writ

The Act, s 152, s 159, s 283 and s 284

Each writ for an election must be returned on or before the date fixed for its return, which must be within 100 days of its issue.

In a House of Representatives election or by-election, the DRO of each division will, as soon as practicable after it has been determined that a candidate has been elected, publicly declare the name of the elected candidate.

After all votes have been counted the DRO prepares a statement setting out the result of the election. This statement is sent to the Electoral Commissioner.

After receiving a statement of results from every DRO, the Electoral Commissioner endorses the name of each candidate elected for each electoral division in the state or territory on a certificate and attaches it to the relevant writ. The Electoral Commissioner then returns the writs to the Governor-General or to the Speaker in the case of a by-election.

In a Senate election the AEO, as soon as convenient after the election result has been determined, publicly declares the result of the election and the names of the candidates elected. The AEO then returns the writ to the governor of the state or, in the case of the territories, to the Governor-General.

## Meeting of parliament

The Constitution, s 5

The new parliament meets within 30 days of the day appointed for the return of the writs. The table below provides an indication of the election period timetable from the time of the expiry or dissolution of the House of Representatives. The actual timetable will be published on the AEC website after the writs are issued for an election.

## Indicative election timetable

There are a number of essential steps involved in holding a federal election or by-election and a timing framework for when these events can legally occur. These steps begin with the expiry or dissolution of the House of Representatives. For further information, see [When elections are held](#).

Expiry or dissolution of parliament	The House of Representatives expires three years after its first meeting but can be dissolved earlier (the Constitution, s 28)
Election announcement	No fixed time
Issue of writs	Writs are issued within 10 days of the dissolution or expiry of parliament (the Constitution, s 32)
Close of rolls	Rolls close at 8pm seven days after the issue of the writ (the Act, ss 102, 155)
Close of nominations	Nominations close at 12 noon, on the date specified on the writs as the close of nominations, which can be between 10 and 27 days after the issue of writs (the Act, ss 102, 156)
Declaration of nominations	Nominations are publicly declared 24 hours after nominations close, and a draw for ballot positions is conducted (the Act, s 176)
Election day	Election day is fixed between 23 and 31 days after the date of nominations (the Act, s 157)
Declaration of the poll	As soon as practicable
Return of writs	Writs must be returned within 100 days of their issue (the Act, s 159)
Meeting of parliament	The new parliament meets within 30 days of the day appointed as the return of the writs (the Constitution, s 5)
Election expenditure	Election period financial disclosure returns must be lodged by candidates and Senate groups within 15 weeks after election day.

# Nominations

The Act

Part XIII, 'Writs for elections'

Part XIV, 'The nominations'

The Constitution

s 43 and s 44

Candidates can nominate any time from the issue of the writ until close of nominations. This section explains the nomination process, including:

- information about who is qualified to nominate
- important issues relating to the timing of nominations
- different rules for single and bulk nominations.

For your nomination to be accepted you must properly complete and submit a nomination in the approved format and within the required timeframe. This includes the deposit, candidate details including the qualification checklist, and any additional documents and supporting nomination forms.

You are encouraged to lodge your nomination as early as possible within the specified timeframe.

## How to nominate as a candidate

There are five steps to take when nominating for either the House of Representatives or the Senate:

1. Determine your eligibility.
2. Complete the appropriate nomination forms.
3. Arrange your nomination deposit.
4. Decide whether to appoint an agent.
5. Lodge your nomination, deposit and agent appointment form.

The [Nomination Guide for Candidates](#) describes these steps in detail. Please read the guide carefully if you're thinking about standing as a candidate for the Commonwealth Parliament. The guide is available on the AEC website.

**Note:** The AEC also publishes [Electoral Backgrounders](#) on specific aspects of electoral law. Copies of these AEC publications can be accessed by visiting the AEC website.

## Rejection of nomination

The Act, s 172

Electoral officers can reject a nomination if the provisions in the Act relating to any of the following have not been complied with:

- the mode of nomination
- the person to whom the nomination is made
- the requisites for nomination
- the form of consent to act.

A nomination will not be rejected simply because of a formal defect or error in the nomination if the officer to whom the nomination is addressed is satisfied there has been substantial compliance with the requirements of the Act. This exception does not apply to the requirement to answer all mandatory questions in the qualification checklist or to supply mandatory documents.

## Withdrawal of nomination

The Act, s 177

You may withdraw your consent to be nominated at any time up until the hour of nomination by lodging a withdrawal notice.

**Note:** The [Nomination Guide for Candidates](#) includes greater details.

## Uncontested elections

The Act, s 179

In a House of Representatives election, if only one candidate is nominated, the DRO will declare that candidate duly elected at the declaration of nominations.

In a Senate election, if the number of candidates nominated is not greater than the number of candidates to be elected, the AEO will declare the candidates duly elected at the declaration of nominations.

## Death of a candidate

The Act, s 156(2)

For either the House of Representatives or the Senate, if a nominated candidate dies before the close of nominations, the nomination period is extended by one day. If the candidate was part of a bulk nomination, the registered officer may substitute a new candidate before the close of nominations.

The Act, s 180 and s 181.

In a House of Representatives election, if a candidate dies between the declaration of nominations and election day, the election in that division does not proceed. A new writ is issued for another election, but this supplementary election is held using the electoral roll prepared for the original election.

In a Senate election, if a candidate dies between the close of nominations and election day and the number of remaining candidates is not greater than the number of candidates to be elected, those candidates will be declared elected. If the number of candidates remaining is greater than the number of candidates to be elected, the election will proceed.

The Act, s 273(27)

A vote recorded on a Senate ballot paper for a deceased candidate will be counted to the candidate for whom the voter has recorded the next preference and the numbers indicating subsequent preferences are regarded as being altered accordingly.

## Return of deposit on the death of a candidate

The Act, s 178

If a nominated candidate for either the House of Representatives or Senate dies before election day, the deposit lodged is returned to the person who paid it or a person authorised in writing by them. If the candidate paid the deposit it will be returned to their personal representative.

## Provision of information on the certified lists of voters

The Act, s 90B

A candidate in a House of Representatives election is entitled to receive a copy of the certified list of voters for the division for which the candidate is seeking election. This copy is available from the AEC as soon as practicable after the close of the rolls and without charge.

Contact the relevant AEC divisional office to arrange for a copy of the certified list of voters.

# Ballot papers

The Act

Part XVI, 'The polling'

The final form of the ballot paper for the election in which you are a candidate will be of particular interest to you. While the laws relating to ballot papers are set out in detail in the Act, there is scope for candidates to request certain options in relation to their status as either an endorsed candidate or, if unendorsed, whether they want the word 'Independent' to appear on the ballot paper. If a candidate is endorsed, the party can choose to have either the party name or party abbreviation appear on the ballot paper.

This section explains the law as it relates to ballot papers and the procedures that determine how candidates, or groups of candidates, are listed on the ballot paper. It also sets out the time frame in which requests can be lodged, such as a request for a preference order of candidates on a Senate ballot paper.

## Ballot paper format

Ballot papers show the name of a candidate as specified on the nomination form and, if applicable, the name or abbreviation of the registered political party that endorsed the candidate and the party's registered logo.

If two or more candidates have similar names and this is considered likely to cause confusion, the AEC may add an additional description to distinguish them.

House of Representatives ballot papers are green. They have boxes with the names of every candidate and their party name or abbreviation or the word 'Independent' where applicable printed to the right of the boxes and where applicable, the party's registered logo to the left of the box. Voters must number every box by putting the number '1' in the box next to the candidate who is their first choice, the number '2' in the box next to their second choice, and so on until every box is consecutively numbered.

The ['How to make your vote count'](#) fact sheet demonstrates how electors should complete both the House of Representatives and Senate ballot papers to ensure their vote counts. In a House of Representatives only election, voters who reside in states of Australia will receive a green ballot paper only. Voters in the Australian Capital Territory and the Northern Territory will receive both a House of Representatives ballot paper and a Senate ballot paper, which is white.

Candidates should carefully consider the information contained in this fact sheet when developing how-to-vote cards.

Senate ballot papers are white. They have two parts: an upper section (above the line) and a lower section (below the line), separated by a thick black line.

A row of boxes above the line is the group voting square for parties and other Senate groups with more than one candidate. The party names or abbreviations of the name of registered parties appear above the line on the ballot paper and any registered party logos will be printed above the group voting square. Unendorsed groups do not have a name printed below their group voting square. The party names or abbreviations of the name of registered parties will also appear below each candidate's name below the line.

If an elector chooses to vote above the line, they are instructed to consecutively number at least 6 squares/boxes above the black line, in the order of their preference, commencing with the number '1'. By voting in this way, voters are preferencing the individual candidates within a group in the order in which they appear on the ballot paper.

# How to make your vote count

On election day you will receive two ballot papers: a **green** one for the House of Representatives and a **white** one for the Senate.

## How to make your vote count

On election day you will receive two ballot papers: a **green** one for the House of Representatives and a **white** one for the Senate.

### House of Representatives

On the **green ballot paper**, you need to put a '1' in the box beside the candidate who is your first choice, '2' in the box beside your second choice and so on, until you have numbered every box.

You must number **every box** for your vote to count.

House of Representatives  
Electoral Division of Dandenong  
Number the boxes from 1 to 8 in the order of your choice

2	SURNAME, Given Names
3	SURNAME, Given Names
7	SURNAME, Given Names
4	SURNAME, Given Names
1	SURNAME, Given Names
5	SURNAME, Given Names
6	SURNAME, Given Names
8	SURNAME, Given Names

SECRET

Sample ballot paper

### Senate

On the **white ballot paper** you can choose to vote either above or below the line.

Senate  
Electoral Division of Dandenong  
Place a '1' in the box for the party or group that is your first choice, a '2' in the box for the party or group that is your second choice and so on until you number at least six boxes. You may continue to place numbers in as many boxes above the line as you like.

1	SURNAME, Given Names
2	SURNAME, Given Names
3	SURNAME, Given Names
4	SURNAME, Given Names
5	SURNAME, Given Names
6	SURNAME, Given Names

SECRET

Sample ballot paper

### EITHER Above the line

If you vote above the line, you must number **at least 6 boxes** from 1 to 6. Place a '1' in the box for the party or group that is your first choice, a '2' in the box for the party or group that is your second choice and so on until you number at least six boxes. You may continue to place numbers in as many boxes above the line as you like.

### OR Below the line

If you vote below the line, you must number **at least 12 boxes** from 1 to 12. Place a '1' in the box beside the candidate that is your first choice, a '2' in the box beside your second choice and so on until you number at least 12 boxes. You may continue to place numbers in as many boxes below the line as you like.

**Don't worry if you make a mistake. You can ask for another ballot paper and start again.**

Authorised by the Electoral Commission, 10 Mort Street, Canberra

The lower section contains boxes with the names of every candidate and their parties (if applicable) or the word 'Independent' (for some ungrouped candidates) printed to the right of the boxes. If an elector chooses to vote below the line, that is, in the lower section, they are instructed to consecutively number at least 12 boxes/squares alongside individual candidates in order of their preference commencing with the number '1'. They may continue to express further preferences if they wish.

## Political party names and logos on ballot papers

Only a political party registered with the AEC can have its registered party name or registered party abbreviation and registered logo printed on the ballot papers next to the names of its candidates. Parties, however constituted, that are not registered with the AEC are not entitled to have a party name, abbreviation or logo printed next to their candidates' names on the ballot paper.

The request to have a registered party name or abbreviation and logo printed on a ballot paper is made on the nomination form. No more than two logos will appear adjacent to their party or group name above the line on the Senate ballot paper. Alternatively, the registered officer of that party may make the request in writing to the relevant AEO or DRO before the close of nominations.

## Endorsed House of Representatives candidates

An endorsed candidate of a registered political party may have either the registered name or the registered abbreviation and registered logo of that political party printed next to their name on the ballot paper.

**Note:** Only one candidate can be endorsed by a registered political party for any House of Representatives division. If a party attempts to endorse more than one candidate, all nominations for that party in that division will fail.

## Endorsed Senate candidates

A group of endorsed Senate candidates of a registered political party may have either the registered name or the registered abbreviation and the registered logo of that party printed next to their group voting square above the line on the ballot paper. They may also have the registered name or the registered abbreviation next to each of the candidates' names below the line on the ballot paper.

A composite group of candidates endorsed by more than one registered political party may have a composite name printed next to their group voting square on the Senate ballot paper. Each single endorsed candidate will, however, have their own registered party name or registered abbreviation printed next to their name below the line on the ballot paper.

## Independent candidates

If you are not endorsed by a registered political party, you may request on the nomination form that the word 'Independent' be printed on the ballot paper next to your name.

If you do not make this request you will have nothing printed next to your name.

**Note:** Grouped Senate candidates may not use the word 'Independent' next to their name or next to the group voting square.



## Order of names on ballot papers

A system called 'double randomisation' – two random draws – is used for determining the order of groups and ungrouped candidates on Senate ballot papers and the order of candidates on House of Representatives ballot papers. All candidates and members of the public are welcome to attend these draws.

### House of Representatives ballot papers

The DRO declares the House of Representatives nominations received for their division at 12 noon, 24 hours after the close of nominations. Following the declaration, the DRO conducts two draws for ballot paper positions.

The first draw assigns a number to each candidate and the second draw determines the order in which candidates appear on the ballot paper.

### Senate ballot papers

The AEO declares the nominations received for the Senate in their state or territory at 12 noon, 24 hours after the nominations close. After the declaration, the AEO conducts the draws for positions on the ballot paper.

In Senate elections, the names of candidates included in groups are placed on the ballot paper to the left and ahead of the names of candidates not included in groups.

The AEO determines the order of groups and ungrouped candidates on the ballot paper by conducting a public draw for positions. This draw is conducted in two parts, with each part consisting of two draws:

- in the first part, the first draw allocates a number to each group and the second draw determines the order in which the groups appear on the ballot paper.
- in the second part, the first draw allocates a number to each ungrouped candidate and the second draw determines the order in which ungrouped candidates appear on the ballot paper.

Ungrouped candidates do not have a box above the line on the Senate ballot paper.

# Political campaigning and electoral communications

The Act

Part XXA, 'Authorisation of electoral matter'

Part XXI, 'Electoral offences'

*Commonwealth Electoral (Authorisation of Voter Communication) Determination 2021*

## How-to-vote cards

People, such as party workers, may assist electors by handing them how-to-vote (HTV) cards and, if necessary, explain the cards to them. Party workers are reminded it is an offence to print, publish or distribute misleading or deceptive statements relating to the actual marking of a ballot paper. When producing HTV material, parties and candidates need to be mindful of the colour and size of their material so as to avoid any confusion between the HTV material and ballot papers issued to electors by the AEC. Because a HTV card is a form of written communication specified in the Act it requires the inclusion of authorisation particulars. Depending on who the authorising person or entity is, the exact particulars for an authorisation on a HTV card will vary. For example, HTV cards may need to carry:

- the name and full street address of the authorising person or entity
- the name of the natural person responsible for giving effect to the authorisation (if required).

A person must not publish a HTV card during an election period without the proper authorisations. From 7 July 2021, authorisations particulars for HTV cards must be displayed in the same manner as for other forms of printed communication. This means that the authorisations particulars, as set out in s 11(3) of the 2021 Determination, must:

- be reasonably prominent
- be legible at a distance at which the communication is intended to be read
- not be placed over complex pictorial or multi coloured backgrounds
- be in a text that contrasts with the background on which the text appears
- be printed in a way that the particulars will not fade, run or rub off.

To ensure compliance with these formatting requirements, the colour of the authorisation particulars should not bleed or blend in with the background colour. If a person or entity seeking to print an electoral communication is uncertain about appropriate colours, then seek advice from printers on what text colour will contrast best with the background colours.

It is possible for a sticker to be used to affix the authorisation particulars to the printed communication. However, care must be taken to ensure that the sticker does not fade or fall off of its own accord and can therefore cause the printed communication to be in breach of the authorisation requirements.

The authorisation particulars on any HTV card must also comply with the language requirements for printed communications, as follows:

- if the communication is only in English, then the particulars must only be notified in English
- if the communication is only in a language other than English, then the particulars must be notified in both English and the language used for the rest of the communication
- if the communication is in two or more languages, the particulars must be notified in both English and at least one of the languages (other than English) used in the communication.

A HTV card is defined in subsection 4(1) of the Act. In short, it is any printed medium that lists the name of two or more candidates and directs or encourages electors to mark their preference for the candidates in a particular order. It does not include a card that only relates to first preference votes or only relates to last preference votes.

Any HTV card or other electoral communication that does not reflect the requirements of s 239 (for the Senate) or s 240 (for the House of Representatives) runs the risk of being found by a court to be misleading or deceptive in breach of s 329 of the Act.

*There is a general prohibition on canvassing within six metres of an entrance to a polling place or early voting centre, which means that HTV cards or other non-AEC notices cannot be distributed or displayed within that distance. HTV cards must not be exhibited or left in a polling place.*

**Note:** People wanting to hand out HTV cards at polling places will need to check health restrictions in the state or territory in which the election or by-election is occurring. Health restrictions may limit or prevent people, other than polling place staff and voters, from gathering at polling places.

Appendix 1 lists the offences under the Act.

HTV cards produced for electors by political parties and candidates need to have clear instructions and be well designed so they assist electors to cast a formal vote. Otherwise, HTV information may confuse some voters and cause them to cast an informal vote without meaning to do so.

## Electoral communications and authorisations

The Act, s 321D and s 329

The Commonwealth Parliament has determined that the Act should not regulate the content of political messages contained in electoral communications.

The intent of the Act is to promote free and informed voting at elections by enhancing:

- the transparency of the electoral system
- the accountability of those persons participating in public debate relating to electoral matter
- the traceability of communications of electoral matter

and by ensuring that electoral communications do not mislead or deceive electors about the way in which a vote must be cast.

The AEC therefore has no role or responsibility in deciding whether political messages published or broadcast in relation to a federal election are true or untrue. The AEC does have a role, however, in doing its best to ensure that electoral communications are properly authorised, so that electors can know who is responsible for the statements contained in them.

The [Electoral Backgrounder: Electoral communications and authorisation requirements](#), available on the AEC website, provides guidance on the authorisation requirements in Part XXA of the Act.

**Note:** Candidates are encouraged to pay particular attention to the authorisation of electoral communications.

Ultimately it is for the person or organisation making an electoral communication to determine how to authorise the communication. The particulars of the authorisation on an electoral communication will depend on who is responsible for the communication and the format of the communication.

The Backgrounder provides guidance on the form of authorisations for different types of electoral communications. If you are in doubt about the requirements in the Act, you should seek your own independent legal advice.

## Complaints about electoral communications

Complaints must be made in writing addressed to either the Deputy Electoral Commissioner or the Chief Legal Officer of the AEC in Canberra and the complainant should also provide as much information as possible to enable assessment of the alleged breach. If possible, complaints should be accompanied by an original copy of the communication from which the AEC can make a formal assessment of its compliance with the law.

If an original copy cannot be obtained, a copy of the entire document may be forwarded to the AEC. Similarly, in relation to a complaint about electoral communications on the internet, the complaint should, if possible, be accompanied by a printed copy of the web page, showing the communication, from which the AEC can make a formal assessment of its compliance with the law. If complaints with attachments are being sent to the AEC by email, some care needs to be taken to ensure that the attachments are less than 10 megabytes in size and that a read receipt is requested to ensure that they actually are received through the AEC's systems' firewall.

In the absence of a copy of the electoral communication as it appeared on the internet being provided with the complaint, the AEC will require enough information about the internet site in order to locate the communication and make an assessment regarding compliance with the Act.

Information relevant to a complaint, allegation or investigation that is, or could become, subject to Part XXA or Part XXI proceedings (dealing with offences), will not be provided to any person not directly involved with the matter. In all cases after a complaint has been laid, the AEC will not provide any further information to the complainant until the investigation has been completed and any subsequent legal proceedings have been completed. When appropriate the AEC will write to the complainant advising of its decision and actions.

# Election funding and financial disclosure

The Act

Part XX, 'Election funding and financial disclosure'

Some candidates will be eligible to receive payment of election funding following a federal election but all candidates are required to lodge a financial disclosure return.

Candidates can appoint an agent to receive their election funding (if eligible) and complete the financial disclosure return on their behalf. This section gives a brief overview of candidate agents and Senate group agents, financial disclosure obligations, and payment of election funding.

Further detailed information on election funding and candidate financial disclosure can be obtained from the [AEC website](#).

## Agents

### Candidate agents

Each candidate may appoint an agent whether or not they are endorsed by a party. Candidates who do not appoint an agent will be taken to be their own agent and will be responsible for lodging their own disclosure return.

### Senate group agent

Members of a Senate group which have been endorsed by the same registered political party, are not required to appoint an agent for the group or lodge a disclosure return. All receipts and expenditure of a Senate group endorsed by the same party should be included in the annual return of that party, however, individual members of such a group may appoint an agent.

An agent is not the agent of the individual members of the group unless separately appointed as such.

Members of a Senate group which have been endorsed by more than one registered political party (jointly endorsed Senate group) and unendorsed Senate groups may appoint an agent for the group. If no appointment is made the person whose name appears first on the ballot paper is taken to be the agent.

### Eligibility of an agent

To be eligible for appointment as an agent, the nominated person must:

- be at least 18 years of age
- not have been convicted of an offence under the funding and disclosure provisions of the Electoral Act
- have signed a consent to the appointment
- have signed a declaration of eligibility for appointment.

A person may be appointed as the agent for multiple candidates, including a Senate group, but a separate form must be completed for each appointment.

### Appointing an agent

Agent appointment forms are available on the [appointment of agents](#) or [party registration forms and guidance material](#) web pages or by contacting the AEC on (02) 6271 4452 or at [fad@aec.gov.au](mailto:fad@aec.gov.au).

A party agent is not automatically appointed as a candidate agent unless individually appointed by each endorsed candidate of that party.

Completed agent appointment forms should be sent to the AEC's National Office by email to [fad@aec.gov.au](mailto:fad@aec.gov.au), faxed to 02 6293 7655, or posted to the address details provided on the forms.

The appointment is valid for a single election only.

## Financial disclosure returns

Following an election, candidates and Senate groups must lodge financial disclosure returns with the AEC. Further information, including comprehensive funding and disclosure guides, is available on the [AEC website](#).

If a candidate does not appoint an agent, the candidate is taken to be their own agent. If a Senate group does not appoint an agent, the first person listed in the Senate group is taken to be the group agent.

Failure to lodge a disclosure return is an offence under the Electoral Act which may incur civil penalties.

**Note:** See 'What's new at this election?' for further information about the impact of the Annual Disclosure Equality Act on candidates and Senate groups.

## Election donations

Election donations may be in cash (money, direct deposit or cheque), or in-kind (such as professional services or office equipment provided free of charge or at less than normal commercial value). Donations may be received directly by the candidate or by someone acting on behalf, or with the authority, of the candidate or Senate group.

In-kind donations must be disclosed at the normal commercial or sale value of the item or service.

People or organisations making donations to a candidate in excess of the applicable disclosure threshold are also required to lodge a financial disclosure return with the AEC. Further information for donors is available on the [AEC website](#).

If a person or organisation makes a donation to the campaign committee of an endorsed candidate, this is treated as though the donation is made to the registered political party and is therefore required to be reported in the party's annual disclosure returns rather than the candidate's election return.

## Electoral expenditure

The agent of a candidate (not being a member of a Senate group) must report electoral expenditure incurred by or with the authority of the candidate.

Electoral expenditure is expenditure incurred for the dominant purpose of creating or communicating electoral matter. Where expenditure is incurred to create or communicate electoral matter in addition to other purposes, the dominant purpose of the expenditure must be considered in order to determine whether it is electoral expenditure. Further information on electoral expenditure can be found on the [AEC website](#).

## Candidates

All candidates, including the individual members of a Senate group, have a financial disclosure obligation after the election.

For the purposes of the disclosure period and restrictions on receiving foreign donations, a person is taken to commence being a candidate in an election or by-election six months before the earlier of:

- the day the person announced they would be a candidate in the election or by-election; or
- the day they nominated as a candidate in the election or by-election.

A person ceases to be a candidate 30 days after the polling day in the election.

A candidate who receives no gifts or incurs no electoral expenditure in relation to the election is required under Part XX of the Electoral Act to lodge a nil return.

The financial disclosure returns of candidates must include the following:

- the total number of donors and total amount of all donations received
- the names and details of people and organisations who made donations in excess of the disclosure threshold (information about the disclosure threshold is available on the [AEC website](#))
- amounts spent on electoral expenditure
- details of discretionary benefits received from the Commonwealth, State or Territory during the period of 12 months before polling day.

The only exception is for electoral expenditure incurred by candidates who stand as part of a Senate group. These candidates do not separately disclose electoral expenditure because the expenditure of all members of the group is consolidated and reported as part of the group financial disclosure, or by the party, if all members of the group are endorsed by the same party.

## Senate groups

For the purposes of the disclosure period and restrictions on receiving foreign donations, a Senate group commences as a group in an election on the day that is six months before the day the members of the group make a request under the Electoral Act for their names to be grouped in the ballot papers for the election.

A group ceases to be a group 30 days after the polling day in the election.

All jointly endorsed and unendorsed Senate groups must lodge a disclosure return.

Senate groups whose members are all endorsed by the same registered political party are not required to lodge a return and their transactions are reported by the political party.

Senate groups (other than groups endorsed by the same registered political party) who receive no gifts or incur no electoral expenditure in relation to the election are required under Part XX of the Electoral Act to lodge a nil return.

The financial disclosure returns of Senate groups must include:

- the total number of donors and total amount of all donations received
- names and details of people and organisations who made donations in excess of the disclosure threshold
- amounts spent on electoral expenditure
- details of discretionary benefits received from the Commonwealth, State or Territory during the period of 12 months before polling day.

## Where and when to lodge returns

Returns can be prepared and lodged online via the eReturns portal. The eReturns portal can be accessed from <https://ereturns.aec.gov.au> or via the [AEC website](#). The easiest way to lodge a return accurately is to use the eReturns portal. To assist with completing a return online, a step-by-step guide is available on the [AEC website](#).

Financial disclosure returns, including nil returns, must be lodged with the AEC's National Office in Canberra within 15 weeks after election day. The AEC has no discretion to extend this deadline.

## Administration

### Candidate record keeping

Candidates and Senate groups must give consideration to financial recording systems and procedures that are appropriate to their needs and circumstances and will enable the Candidate or Senate Group Return to be completed accurately.

All transactions should be individually recorded, supported by source documents and, where possible, reconciled to bank statements.

Examples of source documents are:

- receipts
- tax invoices
- loan documents
- wages records
- bank deposit books and cheque butts
- bank account statements
- credit card statements.

Source documents should contain sufficient information required to complete the return, such as the:

- date of the transaction
- name of person and/or organisation from whom a gift/donation was received
- name of person and/or organisation to whom a payment was made and what the payment was for
- name and address of an organisation that has provided a loan to the candidate
- total payment made or amount received
- amount of goods and services tax (GST)
- merchant fees.

### Retention of records

All relevant records that support disclosures made in returns must be kept for a minimum of five years. Receipt books, bank records, receipt registers, source documents and working papers must be kept for this period.

### Offences

The Electoral Act contains penalty provisions for offences against the funding and disclosure provisions, ranging from \$1,000 to \$20,000. These include:

- failure to lodge a disclosure return
- late lodgement
- failure to retain supporting records for five years.

### Public inspection

Election financial disclosure returns are available for public inspection 24 weeks after election day on the AEC website.

Funding and Disclosure Guides for Candidates and Senate groups, and other electoral information are also available on the [AEC website](#).



## Election funding

Candidates who receive four per cent or more of the formal first preference votes in an election are entitled to receive election funding. For Senate groups, the group as a whole must receive at least four per cent of the formal first preference votes in their state or territory in order to be eligible for election funding.

The entitlement amount is calculated by multiplying the number of formal first preference votes received by the funding rate. The funding rate applicable to this election is available on the [AEC website](#).

Election funding of \$10,080 is paid in the fourth week after election day on the basis of votes counted as at the 20th day after election day. For endorsed candidates, payment is made to the agent of the endorsing party. In the case of Senate groups and independent candidates, payment is made to the agent of the Senate group or candidate.

A claim must be made to receive election funding of more than \$10,080. The claim is made by the agent of the party, candidate or Senate group. The claim must set out the amount of electoral expenditure incurred by the party, candidate or Senate group.

The amount payable is capped at the lesser of the amount of electoral expenditure incurred or the calculated entitlement based on cents per vote. Payment arrangements are to be specified in the claim.

It is important that parties, candidates and Senate groups retain information and documents to support any claim for election funding. This information may be required to be produced as part of the claim process.

Further information about election funding can be obtained from the [AEC website](#).

# Scrutineers

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The Act

Part XVI, 'The polling'

Part XVIII, 'The scrutiny'

As a candidate you have a range of clearly defined rights and responsibilities, but you are not permitted to participate in the administrative conduct of an election.

Because of this exclusion you have the right to appoint scrutineers to represent you at polling places and during the various stages of counting of ballot papers (the scrutiny).

For information on voting procedures, please see the [AEC website](#).

The [Scrutineers Handbook](#) sets out how the law provides for the appointment of scrutineers, as well as the rights and responsibilities of scrutineers.

## What is the role of scrutineers?

On behalf of candidates, scrutineers have the right to be present in order to check any possible irregularities when the ballot boxes are sealed, when they are opened, and when the votes are sorted and counted.

Scrutineers may observe:

- the polling in a polling place
- the early sorting of ordinary pre-poll ballot papers
- the scrutiny in a polling place or counting centre
- the preliminary scrutiny of declaration envelopes
- the further scrutiny of declaration votes
- the fresh scrutiny of all votes.

## Appointment of scrutineers by candidates

### At early voting and during polling

The Act s 200DA and s 217

You may appoint scrutineers to represent you at every polling place.

You appoint scrutineers by completing a scrutineer appointment form for each scrutineer. However, no more than one scrutineer per candidate is allowed for mobile polling or in an early voting centre at the one time and no more than one scrutineer per candidate is allowed for each issuing point at a polling place on election day. Scrutineer appointment forms can be obtained from the [AEC website](#) or any AEC divisional office.

You must give the name and residential address of the scrutineer and sign the form. A facsimile of your signature is acceptable.

You may fax the form to the DRO or the Officer in Charge of a polling place, if such facilities are available.

### At the preliminary scrutiny of declaration votes

The preliminary scrutiny of declaration vote envelopes determines which declaration votes are admissible and can proceed to further scrutiny. The number of scrutineers permitted per candidate for the preliminary scrutiny is limited to the number of officers engaged in the scrutiny.

The preliminary scrutiny of declaration vote envelopes can begin before election day from receipt of the envelope. This enables the further scrutiny of these types of declaration votes to begin promptly after election day. Declaration vote envelopes are checked to ensure they meet entitlement and enrolment requirements.

Any envelopes requiring further investigation will be put aside until a time determined to be appropriate by the DRO.

The DRO will contact you before the preliminary scrutiny to advise you of its times, dates and locations.

**Note:** No ballot papers can be scrutinised before the close of the poll.

## At the scrutiny

The Act, s 264

You may also appoint scrutineers to represent you at the early sorting of ordinary pre-poll ballot papers from 4pm on election day, and the checking and counting of the ballot papers after the close of polling. The number of scrutineers who may represent you at each counting centre is limited to the number of officers engaged in the counting of ballot papers.

The appointment of a scrutineer must be made in writing and given or sent to the officer conducting the scrutiny at the counting centre. You must sign the appointment form (a facsimile of your signature is acceptable), which must give the name and address of the scrutineer. Once again, a fax is acceptable if these facilities are available.

You may use the same form to appoint scrutineers for both the polling and the scrutiny.

You may scrutineer on behalf of another candidate at a scrutiny as long as the ballot papers being scrutinised are not related to the election in which you are a candidate. For example, a House of Representatives candidate in Division A may be a scrutineer in Division B. You should check with the DRO or AEO (as appropriate) before making or accepting such an appointment to scrutineer.

## At the further scrutiny of declaration votes

The DRO conducts the further scrutiny of HoR and referendum ballot papers and a DRO Senate count of all Senate ballot papers. Declaration vote envelopes which have passed the preliminary scrutiny are opened, and the ballot papers extracted from the Monday prior to election day. Then at the further scrutiny/DRO Senate counts after the close of polling, the ballot papers are sorted and counted.

The DRO will contact you before the further scrutiny/DRO Senate count to advise you of its times, dates and locations.

Scrutineers have the same rights and responsibilities at a further scrutiny as they have at the scrutiny of ballot papers in a counting centre.

The actual scrutiny of Senate ballot papers is done by the AEO at the Central Senate Scrutiny (CSS) centre in the weeks following election night. Scrutineers have the same rights and responsibilities at the CSS scrutiny as they have at a HoR scrutiny undertaken by a DRO. Scrutineers at CSS sites will also receive site-specific inductions from the site operator.

## At the fresh scrutiny

All HoR and referendum ballot papers are checked and counted again at the fresh scrutiny. Scrutineers have the same rights and responsibilities at the fresh scrutiny as they have at other scrutines.

## Scrutineers Handbook

More detailed information concerning the rights, duties, powers and functions of scrutineers during polling and scrutiny is contained in the Scrutineers Handbook.

The Scrutineers Handbook also explains the different methods of voting, matters relating to the formality and informality of House of Representatives and Senate ballot papers, and the conduct of House of Representatives and Senate scrutinies.

The [Scrutineers Handbook](#) is available on the AEC website or from all AEC offices.

# Counting the votes

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The Act

Part XVIII, 'The scrutiny'

An understanding of the AEC's counting procedures will help you, as a candidate, know what to expect as the results of the election unfold. This chapter details how the scrutiny or count is approached for the House of Representatives and Senate.

## On election night

Legislative change in 2021 now allows some ballot boxes containing ordinary pre-poll HoR ballot papers to be opened for early sorting from 4pm on election day. This process involves unfolding the ballot papers and sorting them to first preferences or informal, but they are not counted.

The counting of ordinary votes begins in each polling place, and in the out-posted centres, immediately after the poll closes at 6pm on election day. Ordinary votes at a polling place are votes cast by electors within their division on election day.

In relation to pre-poll votes cast as ordinary votes in the lead up to polling day:

- HoR votes will be counted on election night
- Senate votes will be counted commencing on the Monday after election day.

## Tally Room

The AEC hosts a website election results system known as the Tally Room (TR), which provides election information and results, including party affiliation, in a user-friendly format.

The TR allows people visiting the website on election night and the weeks following to access progressive House of Representatives results and figures from the Senate count for all states and territories, together with a comprehensive range of summary and analysis screens. The TR produces approximately 1,200 individual pages of results on election night and more than 20,000 pages in the post-election period. These results are updated regularly on election night and in the post-election period.

## House of Representatives count on election night

Ballot papers are initially sorted by the polling officials into first preference votes for each candidate and informal ballot papers. The results are then tabulated and the first preference vote figures for each candidate are telephoned to the relevant DRO.

Divisional staff then enter these figures for each polling place in their division into the national computerised Election Management System which, in turn, updates the Tally Room (TR). The TR can be accessed on the AEC website.

## Indicative two-candidate-preferred (TCP)

On the completion of the count of first preferences for the House of Representatives at each polling place, the ARO (or Officer in Charge) must, as directed by the relevant AEO (in accordance with s 274(2A) of the Act), conduct an indicative distribution of preferences on a two-candidate-preferred (TCP) basis.

The TCP count shows where preferences have been distributed to the probable final two candidates in an election. It must be remembered that this count is only an indicative result of the election in a division. It is possible that early, absent and mobile votes, counted after election day, could alter the outcome.

The ballot papers for the two nominated candidates are set aside and the ballot papers for the remaining candidates are distributed to one of the two nominated candidates according to who is more preferred or gets the 'best preference'.

For example, if the two nominated candidates are Labor and Liberal then a ballot paper which has '1' Greens, '2' Independent, '3' Labor and then '4' Liberal will be added to the first preference figures for the Labor candidate.

Conversely, a ballot paper that showed '1' Independent '2' Liberal (etc.) would be added to the first preference figures for the Liberal candidate.

Like the count of first preference votes, this result is telephoned through to the DRO, who enters it into the Election Management System. This will update the TR, which is available on the AEC website.

### Senate count on election night

On election night, the ARO counts first preference votes on the Senate ballot papers – above the line, below the line and the total number which are obviously informal. A single figure for each group and each ungrouped candidate is reported.

Senate results cannot be calculated until the state or territory-wide total of all votes is known and is used to determine the quota – the proportion of votes required by a candidate to be elected. It is only possible, therefore, to get a general impression of the Senate results on election night.

The Senate count on election night begins at the same time as the TCP count for the House of Representatives. Results from the Senate count are telephoned through to the DRO, and group totals and ungrouped results are entered into the Election Management System in the same way as House of Representatives votes.

### Referendum count on election night

The counting of referendum ballot papers also begins on election night. The 'Yes' and 'No' votes are counted, telephoned through to the DRO and entered into the Election Management System.

## After election night

### Fresh scrutiny or recheck

The initial scrutiny conducted at the polling place on election night is routinely followed by a 'fresh scrutiny' (HoR and referendum) and DRO Senate count conducted at a divisional out-posted centre in the days following election day. The exact time will be advised by the DRO.

At this stage, some HoR ballot papers earlier treated as informal may be admitted to the scrutiny by the DRO, and some ballot papers originally treated as formal may be reclassified as informal.

A full distribution of preferences is conducted in every House of Representatives division, even where a candidate already has an absolute majority of first preference votes. The result of this full distribution of preferences is used to calculate the two-candidate-preferred statistics.

Scrutineers who have been appointed by a candidate for the division may be present during the fresh scrutiny or count. The number of scrutineers present is limited to one per candidate for each AEC staff member involved in the count.

### Senate scrutiny

After the DRO Senate count, the AEO conducts the scrutiny and assesses the formality of Senate ballot papers at the CSS for the state/territory. The Senate scrutiny and the distribution of preferences are conducted using a computer application. The computerised system calculates the quota, distributes preferences and determines the result of the Senate election.

This system provides full accountability and an audit trail, including reports for inspection by scrutineers. In addition, legislative change in 2022 provides further assurance of the Senate scrutiny, including independent assurances of the computer systems and processes used to capture and count votes.

The relevant AEO notifies all Senate candidates in writing of the location and hours of operation of the CSS centre in that state or territory.

### Declaration votes

Declaration votes do not get counted on election night; instead, they are counted in the weeks following election night. The counting of these votes takes longer than the counting of ordinary votes.

In the days following election day, a 'declaration vote exchange' is carried out between the divisions within each state and territory, where declaration votes are physically passed on to the relevant division. Declaration votes received on behalf of divisions in another state or territory or overseas are sent to the relevant divisions. Once the declaration votes are received and processed in the home division, the counting of these votes can begin.

### Finalising the count

For federal elections and by-elections, the legislation requires that declaration envelopes need to be received by the AEC on or before 13 days after election day. These votes are included in the count if:

- the vote has been cast before 6pm on election day
- the vote is received by the AEC within sufficient time to be taken into account in the scrutiny.

Where the envelopes are not received directly by the owning division, they must be forwarded there for counting. For this reason, the counting of declaration votes is an ongoing process for 13 or more days after election day.

# Recounts and disputed returns

The Act

Part XVIII, 'The scrutiny'

Part XXII, 'Court of Disputed Returns'

You, as a candidate, can benefit from a good understanding of the circumstances and procedures leading to a recount of votes in an election, as well as the circumstances under which the High Court would sit as a Court of Disputed Returns.

As a candidate you can request a recount of ballot papers in an election; however, the electoral official is not automatically obliged to accept your request. The official also has the power to direct a recount at their discretion without waiting for a request.

## Recounts

The Act, ss 278 and 279

A recount may be undertaken, approved or directed at any time before the result of an election is declared. It should not be confused with the routine re-check (fresh scrutiny) of the House of Representatives votes counted on election night.

In the absence of specifically alleged errors, it is unlikely that a recount would be required at either a House of Representatives election or Senate election. However, in the case of a House of Representatives division, if the margin of votes at the completion of the full distribution of preferences is less than 100, a recount is conducted as a matter of course. Senate recounts will not be automatically triggered when an exclusion sees a margin of less than 100 votes.

Given the checks and balances in scrutiny systems, significant sorting errors are highly unlikely to go undetected.

**Note:** During a **House of Representatives** recount, the DRO conducting a recount has the same powers as if the recount was the original scrutiny. A DRO may reverse any decision in the scrutiny to admit or reject a ballot paper. The DRO may, and at the request of a scrutineer must, reserve any ballot paper for the decision of the AEO. The AEO must decide whether any ballot paper reserved for their decision is to be admitted or rejected. If a ballot paper is considered as being admitted by the AEO, the DRO will complete the recount on the basis of the AEO's decision.

If requesting a recount, candidates must write to the relevant DRO (for the House of Representatives) or AEO (for the Senate) giving their reasons for the request. If a request for a recount is refused by the DRO or AEO, the candidate may appeal in writing to the Electoral Commissioner. The Electoral Commissioner is empowered to either direct or refuse a recount.

DROs or AEOs may initiate a recount or be directed by the Electoral Commissioner at any time before the declaration of a result of an election to recount all or some of the ballot papers.

Candidates will be notified of the time and place of any recount.

If an election result is challenged, the High Court of Australia, sitting as the Court of Disputed Returns, may consider any ballot paper reserved for the decision of the AEO, but may only order a further recount if it is satisfied that a recount is justified.



## Evaluating a request for a recount

The general guidelines observed in evaluating requests for a recount are as follows:

- A recount may take place where there are valid and specific grounds for supposing that it could change the result of the election in the division or where there are specific grounds for determining the need for a recount of specific ballot papers (such as in response to specific allegations or incidents).
- A request for a recount which does not plead any valid and specific grounds must be refused. A request for a recount needs to identify specific ballot papers and associated significant counting process errors or irregularities that could change the result of an election within a division.
- Wherever possible, the grounds pleaded by the candidate requesting the recount will be used to narrow down to as small a category as possible the ballot papers that need to be re-examined.
- Where the margin of votes at the completion of the full distribution of preferences for a House of Representative division is less than 100, a recount will be undertaken as a matter of course.
- In addition to the grounds for an automatic recount, the AEC may initiate a recount considering the following:
  - the margin of votes between candidates
  - the time available to complete the recount and declare the result prior to the return of writ deadline
  - the likelihood that the recount could change the result of the election
  - allegations or incidents regarding the conduct of the scrutiny have been raised and indicate valid and specific grounds for supposing that it could change the result of the election in the division.
- Only one recount of any set of ballot papers will occur.
- Requests for recounts will only be considered, and actioned, in the period after the completion of all scrutinies and before the declaration of the poll in the division.
- Requests for recounts will be refused where the purpose is to boost the first preference votes of a candidate to at least four per cent for public funding purposes, to avoid forfeiture of a nomination deposit, or because the candidate did not have scrutineers in attendance at a particular scrutiny.
- Frivolous requests for recounts, or requests due to dissatisfaction of the result, will be refused.

**Note:** For more information on formality, see [Ballot paper formality guidelines](#) on the AEC website.

## Court of Disputed Returns

The Act, Part XXII

Anyone contemplating a challenge to an election result should consult their own legal advisers. The validity of the election of any member of parliament may only be disputed by a petition to the Court of Disputed Returns within 40 days of the return of the writ. The *Common Informers (Parliamentary Disqualifications) Act 1975* provides penalties for ineligible members of parliament who sit as members or senators. Such an action has to be argued in the High Court under section 5 of that Act.

The Act, s 360(1)

The Court of Disputed Returns sits as an open court. Its powers include the following:

- i. to adjourn
- ii. to compel the attendance of witnesses and the production of documents

- iii. to grant to any party to a petition leave to inspect in the presence of a prescribed officer the rolls and other documents (except ballot papers) used at or in connection with any election and to take, in the presence of the prescribed officer, extracts from those rolls and documents
- iv. to examine witnesses on oath
- v. to declare that any person who was returned as elected was not duly elected
- vi. to declare any candidate duly elected who was not returned as elected
- vii. to declare any election absolutely void
- viii. to dismiss or uphold the petition in whole or part
- ix. to award costs
- x. to punish any contempt of its authority by fine or imprisonment.

A petitioner cannot challenge, in the Court of Disputed Returns, the validity of a general election as a whole. The petitioner may only challenge the election in the division of the House of Representatives or, for the Senate, the state or territory, for which he or she was enrolled on the date on which the election was held.

### What must a petition contain?

Petitions must set out the facts relied on to invalidate the election and, if they allege illegal practices, must show how these could have affected the election result.

The Act, s 355

A petition must:

- 1. set out the facts relied on to invalidate the election,
- 2. set out those facts with sufficient particularity to identify the specific matter or matters on which the petitioner relies as justifying the grant of relief the Court may at any time after the filing of the petition relieve the petitioner from complying with this,
- 3. contain a prayer asking for the relief the petitioner claims to be entitled to,
- 4. be signed by a candidate at the election in dispute or by a person who was qualified to vote at the election,
- 5. be attested by two witnesses whose occupations and addresses are stated,
- 6. be filed in the Registry of the High Court within 40 days after:
  - a. the return of the writ,
  - b. if the election day for the election in dispute is also the election day
  - c. for another election or other elections— the return of the writs for the election in dispute and that other election or those other elections is returned last, or
  - d. if the choice of a person to hold the place of a Senator under section 15 of the Constitution is in dispute – the notification of that choice.

The Act, s 356

When filing a petition, the petitioner must deposit security for costs.

**Note:** There may be other filing fees and charges under High Court rules.

The AEC is not able to assist petitioners in preparing petitions. This is because there would be a conflict of interest, as the AEC is often a respondent to any petition before the Court of Disputed Returns.

## Voiding an election for illegal practices

The Act, s 362

An election may be declared void if the court finds illegal practices, within the meaning of that term under the Act, took place.

Section 362 of the Act, which details when an election is declared void due to illegal practices, is reproduced below.

1. If the Court of Disputed Returns finds that a successful candidate has committed or has attempted to commit bribery or undue influence, the election of the candidate shall be declared void.
2. No finding by the Court of Disputed Returns shall bar or prejudice any prosecution for any illegal practice.
3. The Court of Disputed Returns shall not declare that any person returned as elected was not duly elected, or declare any election void:
  - a. on the ground of any illegal practice committed by any person other than the candidate and without the knowledge or authority of the candidate, or
  - b. on the ground of any illegal practice other than bribery or corruption or attempted bribery or corruption,
  - c. unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.
4. The Court of Disputed Returns must not declare that any person returned as elected was not duly elected, or declare any election void, on the ground that someone has contravened the *Broadcasting Services Act 1992* or the *Radio Communications Act 1992*.

The Act, s 386

Any candidate found guilty of bribery or undue influence or interference with political liberty may not be elected to or sit as a member of either House of Parliament for two years from the date of conviction or finding by the Court.

# Appendix 1: Electoral offences

The Act	Part XXII, XXIII, 'Miscellaneous'
Part XXA, 'Authorisation of electoral matter'	
Part XXI, 'Electoral offences'	

Australia's democratic institutions and procedures have strong protection under the law, not only under the Act but also other legislation. This appendix lists the most important of these offences and the penalties they incur. As a candidate, you are urged to make yourself familiar with the details of the various electoral offences.

The Act, s 383

Candidates and the AEC are able to seek injunctions from the Federal Court to restrain conduct that would constitute a breach or an anticipated breach of any Commonwealth law relating to elections, or constitute an offence against those laws, or to require an activity to be performed in order to avoid such a breach or offence. This includes conduct in relation to electoral communications.

## Offences during the election period

	Offence	Penalty	Comment
<i>Criminal Code Act 1995</i>			
Part 7.4	Knowingly making a false or misleading statement in any claim for enrolment, or in any declaration, nomination, application or return	12 months imprisonment, \$12,600, or both	False or misleading statements made in relation to Part XX of the Act (election funding and financial disclosure) will continue to be prosecuted under the specific offences contained in that Part of the Act
Part 7.7	Forging and uttering a nomination paper or a ballot paper	10 years imprisonment (maximum)	Certain offence provisions (such as s 29 of the <i>Crimes Act 1914</i> relating to the destruction of Commonwealth property) are also relevant to the electoral process
<i>Commonwealth Electoral Act 1918</i>			
s 325A	Influencing the vote of a patient in, or resident at, a hospital or nursing home	Imprisonment for 6 months or 10 penalty units, or both	Applies to the proprietor (or an employee of the proprietor or member of the body corporate) of a hospital or nursing home
s 326(1) and (2)	Bribery (see page 43)	Imprisonment for 2 years or 50 penalty units, or both	Election campaign declarations of public policy or promises of public action are not regarded as bribery
s 327(1)	Hindering or interfering with the free exercise or performance by any other person of any political right or duty relevant to an election	Imprisonment for 3 years or 100 penalty units, or both.	Violence, obscene or discriminatory abuse, property damage and harassment or stalking are examples of conduct that may be an offence under this subsection.

	Offence	Penalty	Comment
s.327(2)	<p>Discriminating against another person for making a donation to a political party, a candidate or a group in an election or by-election by:</p> <ul style="list-style-type: none"> <li>▪ denying them access to membership of any trade union, club or other body</li> <li>▪ not allowing them to work or continue to work</li> <li>▪ subjecting them to any form of intimidation or coercion</li> <li>▪ subjecting them to any other detriment</li> </ul>	<p>If the offender is a natural person imprisonment for 2 years or 50 penalty units, or both; or if the offender is a body corporate – 200 penalty units.</p>	
s 321D(5)	<p>Failure to authorise electoral matter in accordance with s 321D.</p>	<p>Civil penalty for an individual – up to 120 penalty</p>	
s 329(1)	<p>A person shall not, during the relevant period in relation to an election under this Act, print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of a vote.</p>	<p>If the offender is a natural person – by imprisonment for a period not exceeding three years or a fine not exceeding 100 penalty units, or both; or if the offender is a body corporate – by a fine not exceeding 500 penalty units.</p>	<p>Offence during the election period. The scope of what amounts to "publish" includes not just the print media, but also by radio, television, internet or telephone. Publications that could be mistaken to be AEC publications (e.g. purple and white signs) may be misleading and deceptive.</p>

## Bribery

Subsections 326(1) and (2) of the Act are reproduced below:

1. A person shall not ask for, receive or obtain, or offer or agree to ask for, or receive or obtain, any property or benefit of any kind, whether for the same or any other person, on an understanding that:
  - a. any vote of the first-mentioned person;
  - b. any candidature of the first-mentioned person;
  - c. any support of, or opposition to, a candidate, group of candidates or a political party by the first-mentioned person;
  - d. the doing of any act or thing by the first- mentioned person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of an elector; or
  - e. the order in which the names of candidates nominated for election to the Senate whose names are included in a group in accordance with section 168 appear on a ballot paper;

will, in any manner, be influenced or affected.

**PENALTY:** Imprisonment for 2 years or 50 penalty units, or both.

2. A person shall not, with the intention of influencing or affecting:
  - a. any vote of another person;
  - b. any candidature of another person; or
  - c. any support of, or opposition to, a candidate, group of candidates or apolitical party by another person;
  - d. the doing of any act or thing by another person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of an elector; or
  - e. the order in which the names of candidates nominated for election to the Senate whose names are included in a group in accordance with section 168 appear on a ballot paper;
  - f. give, or confer, or promise or offer to give or confer, any property or benefit of any kind to that other person or to a third person.

PENALTY: Imprisonment for 2 years or 50 penalty units, or both.

## Other offences during polling

You and your supporters should also be aware that what a person does, or fails to do, during polling may be against the law.

	Offence	Penalty	Comment
<i>Commonwealth Electoral Act 1918</i>			
s 245	Failure to vote without valid and sufficient reason	1 penalty unit	
s 335	Exhibiting or leaving a how-to-vote card in any polling booth	5 penalty units	
s 338	Marking a vote or making any other mark on a ballot paper issued to another elector	Imprisonment for 6 months or 10 penalty units, or both	The Act expressly authorises certain exceptions, such as assistance to voters who are incapacitated or have low literacy skills
s 339(1)(a)	Impersonating any person with the intention of securing a ballot paper to which the impersonator is not entitled	Six months imprisonment	
s 339(1)(b)	Impersonating any person with the intention of voting in that other person's name	Six months imprisonment	
s 339(1)(d)	Fraudulently putting any ballot paper or other paper into the ballot box	Six months imprisonment	
s 339(1)(e)	Fraudulently taking any ballot paper out of any polling booth or counting centre	Six months imprisonment	
s 339(1)(g)	Supplying ballot papers without authority	Six months imprisonment	

	Offence	Penalty	Comment
s 339(1)(h)	Doing an act that results in the unlawful destruction of, taking of, opening of, or interference with, ballot boxes or ballot	Six months imprisonment	
s 339(1A)	Voting more than once in the same election	10 penalty units.	
s 339(1C)	Intentionally voting more than once in the same election	60 penalty units or 12 months imprisonment, or both.	
s 339(2)	Engaging in any act that results in the defacement, mutilation, destruction or removal of any notice, list or other document affixed by, or by the authority of, any DRO	5 penalty units	
	Canvassing for, or soliciting votes, inducing an elector not to vote for a particular candidate in an election or in an election at all, or displaying or exhibiting any non-official sign within six metres of the entrance of a polling place, early voting centre or mobile polling team. These acts are also prohibited if they involve broadcasting by electronic equipment and are audible within six metres of the entrance to a polling place, early voting centre or mobile polling location	5 penalty units	Applies to party workers, scrutineers and candidates' representatives. When a building used as a polling place is situated in enclosed grounds and the DRO has authorised the officer-in-charge to display at each entrance a notice signed by the DRO stating that the grounds are part of the polling place, those grounds are considered to be part of the polling place for the purposes of these offences
s 341	Wearing or displaying in a polling place any badge or emblem of a candidate or political party	10 penalty units	Applies to electoral officials and scrutineers
s 348	Engaging in misconduct; disobeying a lawful direction of the person in charge; or entering or remaining in specified places without the permission of the person in charge	5 penalty units	Applies to any early voting office, any polling place on election day or any counting centre. An offender may be removed by the police or anyone else authorised by the person in charge

Please note that the penalties imposed under the *Commonwealth Electoral Act 1918* are subject to sections 4AA and 4AB of the *Crimes Act 1914* and as such the value of the penalty unit listed may increase from time to time. The value of 1 penalty unit as at 1 July 2020 is \$222. Unless otherwise specified, all penalties are the maximum able to be imposed upon conviction of the offence.

## Photographers and media

Photographers and members of the media or their equipment must not hinder, inconvenience or delay any polling staff or voters. No photographs may be taken of a person recording a vote that would in any way identify how the person has voted.

Anyone arranging for photographers or media to visit polling places should contact the DRO in sufficient time to enable arrangements to be made with the Officer in charge at the relevant polling place.

Members of the media or photographers must have the permission of the DRO before visiting a polling place, and they must have the permission of the relevant DRO and the institution concerned before visiting any place where mobile polling is being conducted.

**Note:** Information, including the guidelines on media coverage in polling places, is available on the [AEC website](#) or from AEC national and state offices.



## Appendix 2: Additional information available to candidates

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The AEC produces a range of publications for candidates in addition to the Candidates Handbook. These include:

- [Nomination Guide for Candidates](#): a five-step guide on how to nominate as a candidate
- [Scrutineers Handbook](#): information for scrutineers in the election
- [Electoral Pocketbook](#): a quick reference guide to the last federal election
- [Ballot paper formality guidelines](#): information on the formality and informality of ballot papers
- [Electoral Backgrounders](#): backgrounders discuss particular issues in the electoral process
- [Funding and Disclosure Guides](#): separate guides for candidates, political parties and donors.

Other information materials will be available during the election campaign

General information on a range of topics is available by visiting the [AEC website](#). If you require information in another format, contact the AEC by phoning 13 23 26.

### Official material available to candidates

House of Representatives candidates are entitled to receive a copy of the certified list of voters for the division for which they are seeking election, as soon as they are produced after the close of the rolls for the election.

Senate candidates are not entitled to copies of the certified list.

**Note:** The certified list of voters is an official AEC publication and must be handled and disposed of in accordance with the Act. You must dispose of the document as per the undertaking you made on its receipt.

# Glossary

Term	Description
Assistant Returning Officer (ARO)	The Officer in charge of each polling place is officially called the 'presiding officer' during polling but is called the ARO during the scrutiny (see also 'Officer in charge').
Australian Electoral Commission (AEC)	The independent statutory authority established in 1984 to maintain and update the Commonwealth electoral roll, raise public awareness, and conduct federal elections and referendums.
Australian Electoral Officer (AEO)	The AEC's chief manager in each state and the Northern Territory. An AEO for the Australian Capital Territory is only appointed for each election period. The AEO is the returning officer for the Senate in their state or territory.
By-election	A by-election is held whenever a vacancy occurs in the House of Representatives. A supplementary election must be held if a candidate for a House of Representatives election dies in the period between close of nominations and election day.
Candidate	A person standing for election to the Senate or House of Representatives.
Financial disclosure return	Documents detailing information on the receipts and expenditure of participants in the political process. There are specific return forms for candidates, their donors and political parties. Financial disclosure returns are made public 24 weeks after election day.
Certified list of voters	The official electoral roll used to mark off electors' names. Polling officials place a mark against an elector's name when the elector is issued with a ballot paper at a polling place, or where appropriate during early voting, to indicate that the elector has voted.
Close of rolls	The roll closes on the seventh day after the issue of the writ.
<i>Commonwealth Electoral Act 1918</i>	The legislation governing the Commonwealth electoral process. Referred to as 'the Act' in this handbook.
Constitution	The Australian Constitution.
Counting centre	Any site at which a scrutiny or counting of votes is to be, or is being, conducted.
Court of Disputed Returns	A candidate, an elector or the AEC may dispute the validity of an election by a petition to the High Court sitting as the Court of Disputed Returns. The court has wide powers to resolve the matter.
Declaration vote	A declaration vote is recorded by a voter whose entitlement to vote cannot be confirmed at the place of voting. The voter makes a signed declaration on an envelope and then puts their completed ballot paper inside. These votes are counted after election day if the voter's entitlement to vote is verified using the information provided on the declaration envelope.
Divisions (electorates)	For representation in the House of Representatives, Australia is divided into electoral divisions. The number of these divisions is determined by population. To ensure equal representation, the boundaries of these divisions have to be redrawn or redistributed periodically. (For representation in the Senate, each state and territory is one electorate. All states are multi-member electorates and have the same number of Senators. Territory representation is determined by the federal parliament).
Divisional Returning Officer (DRO)	The AEC officer responsible for conducting the election in each division. The DROs are the returning officers for the House of Representatives in their divisions and are also responsible for electoral administration within that division, in particular, the maintenance of the electoral roll, providing information sessions to schools and community groups and preparations for the next election
DRO Senate Count	The DRO Senate count is a check of the ballot papers counted in polling places on election night, or a first (initial) count of any Senate ballot papers received by the DRO in a ballot box or securely fastened container.

Term	Description
Early vote	A postal vote or a vote cast at an early voting centre, or via a mobile polling team in the lead-up to election day. They are cast by electors who will not be able to get to a polling place on election day.
Election Management System	The AEC system which centrally calculates election results, displays those results and is the interface to the Tally Room.
Electoral Commissioner	The officer who performs the functions of the chief executive officer of the AEC.
Electronic certified list	An electronic copy of the certified list of eligible people who are registered to vote in Australian elections.
Formal	A ballot paper is generally considered formal if it is filled out correctly in accordance with the Act and the instructions on the ballot paper. It is therefore included in the scrutiny.
Fresh scrutiny	A re-check of votes cast in a House of Representatives election or referendum, conducted by the DRO in the days following election day.
How-to-vote (HTV) cards	Cards provided to voters by candidates showing how a party or candidate would like voters to fill in their ballot papers.
Informal	A ballot paper is generally considered informal if it is not filled out correctly in accordance with the Act and the instructions on the ballot paper. It cannot therefore be included in the scrutiny.
Issuing point	The part of the polling place where ballot papers are issued to electors.
Mobile polling team	A team of polling officials who bring the polling to the elector. They visit electors in locations including nursing homes, prisons and remote locations to enable them to vote.
Nomination form	The form which must be used by a candidate nominating for election. Nomination forms are explained in detail in the <a href="#">Nomination Guide for Candidates</a> .
Officer in charge (OIC)	The officer who is in charge at a polling place. They are officially called 'presiding officers' during polling (8am to 6pm). From 6pm, during the scrutiny, they are called the Assistant Returning Officer (ARO).
Ordinary vote	An ordinary vote is recorded by an elector whose entitlement to vote is verified at the place of polling and whose name is marked off on a certified list of voters. Ordinary votes may be cast on, or in certain circumstances, before election day. These votes are counted on election day after the close of polling.
Preferential voting (full or optional)	<p>A system of voting in which the voter completes the ballot paper by putting the number '1' in the box next to the candidate who is their first choice, the number '2' in the box next to their second choice, and so on until every box is numbered. This is called full preferential voting and is the method used in the House of Representatives.</p> <p>Preferential voting systems can also operate with further rules/minimum thresholds. This is the method of voting in a Senate election, where the voter completes the ballot paper above the line by putting the number '1' in the box next to the group of candidates who is their first choice, the number '2' in the box next to their second choice, and so on up to at least 6. Below the line voting is for individual candidates and the voter must preference at least 12 candidates. The voter can indicate further preferences both above the line and below the line if they so wish.</p>
Provisional votes	Votes cast at a polling place where the elector's name cannot be found on the certified list, or where the elector's name has been marked off the roll as having voted, or where the elector has silent enrolment, or where, after questioning, the elector has failed to satisfy the officer in charge that they are a particular person on the certified list.
Qualification checklist	A compulsory component of the candidate nomination process. The checklist must be completed by nominating candidates to demonstrate their eligibility to be elected to Parliament under Section 44 of the Constitution. The qualification checklist is explained in detail in the <a href="#">Nomination Guide for Candidates</a> .

Term	Description
Quota	To be elected to the Senate, a candidate needs to gain a quota or proportion of votes. The quota is determined by dividing the total number of formal ballot papers in the state or territory by one more than the number of Senators to be elected and adding 'one' to the result.
Registered officer	A person nominated by a registered political party to be the registered officer for the purposes of the Act. For nomination purposes, the deputy registered officer of a registered political party has the same powers as the registered officer.
Registered political party	A party registered with the AEC under Part XI of the Act.
Scrutineers	People appointed by candidates to be their representatives at polling places, or at any place at which the scrutiny of votes is being conducted. Scrutineers have the right to be present when the ballot boxes are sealed and opened and when the votes are sorted and counted so that they may check any possible irregularities, but they may not touch any ballot paper.
Scrutiny	The counting of votes, which leads to the election result.
Silent elector	An elector who has applied to have their address not appear on the roll for reasons of personal safety or safety of their family members. For more information see <a href="#">silent elector</a> on the AEC website.
Two candidate preferred	These figures show where preferences have been distributed to the likely final two candidates in a House of Representatives election.
Tally Room (TR)	A website election results system, which provides election information and results in a user-friendly format.
Writ	In an election context, a writ is a document which commands an electoral officer to hold an election and contains dates for the close of rolls, the close of nominations, the day of the election and the return of the writ. The issue of the writ triggers the election process.

[www.aec.gov.au](http://www.aec.gov.au) 13 23 26



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