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# Candidates Handbook 2016

Federal elections  
By-elections



**AEC**

Australian Electoral Commission

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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 2016*.

# Contents

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<b>About this handbook</b>	<b>5</b>	Uncontested elections	21
The Candidates Handbook	5	Death of a candidate	21
What's new at this election?	6	Return of deposit on the death of a candidate	21
Timing of the election	7	Declaration of nominations	21
Checklist	8	Provision of information on the certified lists of voters	22
<b>The writ</b>	<b>9</b>	<b>Ballot papers</b>	<b>23</b>
Issue of the writ	9	Ballot paper format	23
House of Representatives	9	Political party names and logos on ballot papers	25
Senate	9	Endorsed House of Representatives candidates	25
Dates fixed in the writ	9	Endorsed Senate candidates	25
Close of rolls	9	Independent candidates	25
Close of nominations	10	Order of names on ballot papers	25
Declaration of nominations	10	<b>Voting</b>	<b>27</b>
Election day	10	How-to-vote cards	27
Return of writ and declaration of the poll	10	Electoral advertising	28
Meeting of parliament	10	<b>Election funding and financial disclosure</b>	<b>29</b>
Indicative Election Timetable	11	Agents	29
<b>Nominations</b>	<b>12</b>	Election funding	30
Candidate briefing sessions	12	Financial disclosure returns	30
Who can nominate as a candidate?	12	Where and when to lodge returns	31
Disqualification under the Constitution	13	<b>Scrutineers</b>	<b>33</b>
When can I nominate?	14	What is the role of scrutineers?	33
Nomination forms	14	Appointment of scrutineers by candidates	33
Nomination by a party	16	Scrutineers Handbook	34
House of Representatives nominations	18	<b>Counting the votes</b>	<b>35</b>
Senate nominations	18	On election night	35
Nomination deposit	19	After election night	36
Return of deposit	19		
Where to nominate	20		
Appointment of agent forms	20		
Rejection of nomination	20		
Withdrawal of nomination	21		

<b>Recounts and disputed returns</b>	<b>38</b>
Recounts	38
House of Representatives recount	38
Senate recount	39
Court of Disputed Returns	39
Voiding an election for illegal practices	40
 <b>Appendix 1: Electoral offences</b>	 <b>42</b>
Offences during the election period	42
Bribery	43
Offences on election day	43
Election advertising offences	44
Photographers and media	44
 <b>Appendix 2: Additional information available to candidates</b>	 <b>45</b>
Candidate information sessions	45
Official material available to candidates	45
 <b>Glossary</b>	 <b>46</b>

# 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](#).

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 explains the steps you will need to take to qualify as a candidate and to comply with the law before, during and after an election.

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 your nomination form and your 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 website or by contacting the AEC on 13 23 26.

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

You will find office contact details on the [AEC website](#).

## What's new at this election?

### Changes to Senate voting that will apply at this election

The Parliament has recently passed legislative changes to the voting method for electing Senators.

The changes impact on how voters complete their Senate ballot paper and how the Senate ballot papers are counted.

These changes are explained in detail below in the section on Ballot Papers.

### Counting of Senate votes

The counting of Senate votes will also be different.

As a result of the recent changes passed by the Parliament, the scrutiny of Senate votes will be carried out by the AEO at the CSS centre in each State or Territory.

On polling night, at each polling place, the ARO is required to count the total number of Senate ballot papers and the number of first preferences above the line (ATL). It is AEC policy for the ARO to also count the number of first preferences below the line (BTL) for each group and ungrouped candidate and to also count the obviously informal ballot papers.

After polling day, the DRO repeats the count process undertaken by the ARO before forwarding the ballot papers to the CSS.

This means that while ballot papers where a first preference cannot be determined will be separated from those where it can, it is only the AEO who determines formality. The AEO will be assisted in determining formality by a computerised scrutiny process.

Scrutineers have the opportunity to object to the formality of a Senate ballot paper at the CSS.

## Political party logos

HoR and Senate ballot papers will look different at this election. Political parties that have registered a logo with the AEC before the issue of writs for the election can request to have their party logo printed on the ballot papers. The inclusion of a party logo is intended to reduce the confusion that may arise where political parties have similar names.

## Handling of declaration votes

A further change arising from the recent Senate reforms relates to the handling of declaration votes.

Declaration vote ballot boxes will no longer be opened at polling locations. Instead they will remain sealed and transported to a divisional outpost where they will be stored securely until they can then be opened, fully reconciled and the declaration vote envelopes within forwarded to the relevant DRO for processing.

## 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.

*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](#) or by phoning 13 23 26.*

## 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.

## Checklist

	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 confirmed that I am qualified to nominate	Nominations
I have obtained the endorsement of a registered political party; or I have obtained the signatures of eligible electors (for candidates who are not endorsed by a registered political party only); or I am an incumbent independent and have obtained the signature of an eligible elector	Nominations
I have appointed an agent (optional)	Nominations
I have made a request to be included in a group on the Senate ballot papers (optional)	Nominations
I have provided all my personal information required on the nomination form	Nominations
I have requested on the nomination form that the word 'Independent' be printed on the ballot paper next to my name (this is optional for ungrouped Senate candidates who are not endorsed by a registered political party)	Nominations
I have lodged my nomination form by the required deadline	Nominations
I have lodged my nomination deposit by the required deadline	Nominations
I am aware of my responsibilities with regard to electoral advertising, 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 in 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 any time after the writ is issued up to 12 noon on the day nominations close. The Act strictly prescribes where you must submit your nomination form and deposit. Nominations cannot be accepted under any circumstances if those requirements are not met.

## Declaration of nominations

**The Act, s.175 and s.176**

Nominations are publicly declared 24 hours after they close. Your nomination form will be made available for public inspection at this time.

## 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.

## Return of writ and declaration of the poll

**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

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, 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 (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 anytime 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, and
- different rules for single and bulk nominations.

For your nomination to be accepted you must pay a nomination deposit in the approved format and properly complete and sign the nomination form.

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

Further information on nominations can be found on the AEC website.

## Candidate briefing sessions

Candidate briefing sessions are held by state and divisional offices before and after the close of nominations to provide candidates with information about the polling process and to outline their rights and responsibilities as a candidate in an election. Candidates may attend themselves or send a representative. At these sessions, information packs containing a variety of materials will be available.

For information on dates and time of briefing sessions:

- candidates for the House of Representatives should contact the division for which they are nominating.
- candidates for the Senate should contact the relevant AEC state office in the state where they are nominating as a candidate.

## Who can nominate as a candidate?

The Act, s.163 and s.164, the Constitution s.43

The qualifications for nominating as a candidate for the House of Representatives or the Senate are the same. To nominate for election to either the House of Representatives or the Senate, you must be:

- at least 18 years old,
- an Australian citizen, and
- either enrolled or eligible to be enrolled on the Commonwealth electoral roll.

A member of the House of Representatives or Senate cannot be chosen or sit as a member of the other House of Parliament.

You cannot nominate for the House of Representatives or Senate if you:

- are currently a member of a state parliament or a territory legislative assembly and have not resigned before the hour of nomination (i.e. 12 noon on the day nominations close). As state and territory laws govern the manner of resignation, intending candidates should make sure their resignations are effective before the hour of nomination.
- are disqualified by section 44 of the Constitution.

## Disqualification under the Constitution

Section 44 of the Constitution disqualifies certain people from being elected to the Commonwealth Parliament. Section 44 of the Constitution is reproduced below.

44. Any person who –

- i. is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or
- ii. is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or
- iii. is an undischarged bankrupt or insolvent; or
- iv. holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth; or
- v. has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons; or
- vi. shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But subsection (iv) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension, by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

### The Act, s.36

No candidate may be appointed as an electoral officer of any description, either as a permanent officer or as a polling official. If an electoral officer becomes a candidate, they must vacate the office.

*For more information see the Electoral Backgrounder on Constitutional Disqualifications and Intending Candidates, which is available on the [AEC website](#) or from AEC national and state offices.*

### 'Office of profit' disqualification

In its November 1992 decision in the case of *Sykes v. Cleary*, the High Court voided the election of Mr Phil Cleary as member of the House of Representatives for the Division of Wills. Mr Cleary was disqualified from being chosen as a member under section 44(iv) of the Constitution on the grounds that, as a Victorian state school teacher on leave without pay, he held an 'office of profit' under the Crown. This case has been approved in subsequent High Court applications.

If you are a Commonwealth, state or territory public servant and wish to nominate for election to the Commonwealth Parliament, you should resign before nomination in order to comply with the Constitution. Conditions of re-entry to the various public services by unsuccessful candidates are matters for the relevant public service authority.

Commonwealth public servants who resign to contest an election and who are unsuccessful may apply for re-appointment or re-engagement under section 32 of the Public Service Act 1999. A former officer or former temporary employee is required to be re-appointed or re-engaged subject to certain conditions.

Most states and territories have comparable statutory or administrative provisions. The position of local government employees is not clear and it might be that such persons are vulnerable to the office of profit disqualification. Section 327(3) of the Act provides some protection for local government employees who become, are, or have been candidates. If you are a local government employee you should check with the relevant authorities before resigning or nominating.

The Constitutional disqualification on the ground of 'office of profit' applies to permanent members of the Australian Defence Force

(ADF). If you are a member of the ADF you should consult the relevant Defence authority on conditions of resignation and re-entry.

### **‘Foreign allegiance’ disqualification**

In the *Sykes v. Cleary* decision the High Court also commented on the ‘foreign allegiance’ disqualification in section 44(i) of the Constitution. The majority view of the Court was that naturalised Australian citizens who also have foreign citizenship and are standing as candidates should take ‘reasonable steps to renounce foreign nationality’. The steps to take for renunciation may depend upon foreign law. If you have foreign citizenship you should check with the relevant embassy or high commission about the procedures for renouncing it.

In the case of *Sue v. Hill* in June 1999 the High Court decided that Ms Heather Hill was not duly elected as a senator for Queensland at the 1998 federal election because she was disqualified under section 44(i) of the Constitution. Ms Hill was a British subject and an Australian citizen at the time of her nomination. The United Kingdom is regarded as a ‘foreign power’ for the purposes of section 44(i).

*You are required to sign a declaration on the nomination form that you are qualified under the Constitution and the laws of the Commonwealth to be elected to the Commonwealth Parliament.*

*If you have any doubts as to your qualifications under the Constitution, the AEC recommends you seek your own legal advice. The AEC does not provide legal advice to prospective candidates.*

## **When can I nominate?**

You cannot nominate as a candidate until the writ for the election has been issued. The writ is deemed to have been issued at 6pm on the day on which it is issued. The intention to hold an election is often announced some days before the writ is issued. If you are unsure, check with an AEC office or visit the AEC website.

The date fixed for the close of nominations will be between 10 days and 27 days after the issue of the writ and this date is specified in the writ. The AEC advertises the dates from the writ within major newspapers circulating in the relevant state or territory. Also, after the election is announced, an election timetable as outlined in the writ is published on the AEC website.

You can nominate as a candidate during AEC business hours any time after the writ is issued up to 12 noon on the day nominations close. Single nominations for the House of Representatives must be lodged with the relevant DRO by 12 noon on the day nominations close. Bulk nominations of candidates endorsed by a political party for the House of Representatives must be lodged with the relevant AEO not less than 48 hours before the close of nominations. All Senate nominations must be lodged with the relevant AEO before the close of nominations.

*Nominations lodged with another officer or at another place cannot be accepted.*

*You are advised to lodge your nomination **before** the day nominations close. Late nominations cannot be accepted under any circumstances.*

## **Nomination forms**

There are several different options when nominating for the House of Representatives or the Senate, each option using a different nomination form. You need to complete the nomination form for the relevant option, as well as an individual candidate details form (Form 59 or Form 60) for each candidate nominated.

Note: for elections held on the same day, you can only nominate for one House of Representatives division, or for the Senate in only one state or territory. If you nominate more than once all your nominations will be invalid.

Blank nomination forms for the House of Representatives and the Senate are available from AEC offices or by phoning the AEC on 13 23 26. Once the writ for the election has been issued, the forms will also be available on the [AEC website](#).

It is against the law to include false or misleading information in a nomination form. Giving false or misleading information is a serious offence. In addition, you must not omit any information if omitting that information would be misleading. The maximum penalty for this offence is imprisonment for 12 months.

All nomination papers are publicly produced at declaration time (12 noon on the day after nominations close) and the relevant AEO or DRO declares the name and address of candidates (address details for a candidate who is a silent elector will not be released or declared). All other contact information for candidates, which they have indicated is not for public release, will be removed from a candidate's form before it is produced at the time of declaration.

Information listed for public release is also published on the AEC website during the election period. It should be remembered that the media and the public use this publicly available contact information to reach candidates for information about their candidature. All nomination forms are destroyed only after the next election.

## House of Representatives nomination forms

All House of Representatives candidates must submit two separate nomination forms to the AEC, being:

1. a Form 60 'Nomination of a Member of the House of Representatives'; and
2. as applicable, only one of the following three forms:
  - a. Form 60-a – Bulk nomination – endorsed candidate
  - b. Form 60-b – Single nomination – endorsed candidate
  - c. Form 60-c – Single nomination of unendorsed candidate or incumbent independent

A description of each nomination form is set out below.

### Form 60 Nomination of a member of the House of Representatives

Includes all candidate details for nomination of a member of House of Representatives. This form must be accompanied by Nomination of a member of the House of Representatives forms 60a–60c.

*PLUS*

#### Form 60-a Bulk nomination – endorsed candidate

Where a registered political party nominates all its House of Representatives candidates in a particular state or territory at one time.

*OR*

#### Form 60-b Single nomination – endorsed candidate

Where an individual candidate is endorsed by a registered political party and nominated by the registered officer of the political party.

*OR*

#### Form 60-c Single nomination of unendorsed candidate or incumbent independent

Where an individual candidate stands as an independent or is an incumbent independent candidate.

## Senate nomination forms

All Senate candidates must submit two separate nomination forms to the AEC, being:

1. a Form 59 'Nomination of a Senator'; and
2. as applicable, one of the following five forms:
  - a. Form 59-a – Multiple party group nomination by registered officer
  - b. Form 59-b – Group Nomination by registered officer
  - c. Form 59-c – Group of unendorsed candidates nomination
  - d. Form 59-d – Single nomination by registered officer
  - e. Form 59-e – Single nomination by 100 electors



In addition to the above, unendorsed candidates who wish to form a group must complete Form 59 and Form 59-e for each candidate nominated as well as Form 59-c for the group nomination.

A description of each nomination form is set out below.

### **Form 59** **Nomination of a senator**

Includes all candidate details for nomination of a senator.

*PLUS*

### **Form 59-a** **Multiple party group nomination by registered officer**

Where two or more candidates nominate as a group endorsed by multiple registered parties and are nominated by the parties' registered officers.

*OR*

### **Form 59-b** **Group nomination by registered officer**

Where two or more candidates nominate as a group and are nominated by the registered officer of a political party.

*OR*

### **Form 59-c** **Group of unendorsed candidates**

Where two or more candidates nominate as a group.

*OR*

### **Form 59-d** **Single nomination by registered officer**

Where an individual candidate nominates as a single candidate and is nominated by the registered officer of a political party.

*OR*

### **Form 59-e** **Single nomination by 100 electors**

Where an individual candidate nominates as a single candidate or is an incumbent independent candidate.

## **Nomination by a party**

### **The Act, s.4C, s.166 and s.169**

If you are endorsed by a registered political party, the relevant nomination form should include verification of your endorsement by the registered officer of the party. The registered officer and the deputy registered officer of a registered political party have equal powers in relation to the nomination process.

If a registered officer nominates you, they may request on the relevant nomination form that the party's registered name or abbreviation and registered logo be printed on the ballot paper next to your name. If you are part of a Senate group, the registered officer may request to have the party name or abbreviation printed next to the above the line box. Political parties with a registered logo can request to have no more than two logos to appear adjacent to their party or group name above the line on the Senate ballot paper.

Alternatively, the registered officer may provide these details in writing to the appropriate AEO or DRO before the close of nominations.

A registered party may not nominate more than one candidate for the same House of Representatives division.

### **Nomination by eligible electors**

If you are not endorsed by a party you must be nominated by eligible electors; that is, people who are entitled to vote at the election for which you are standing.

### **House of Representatives nominations**

The electors who nominate a House of Representatives candidate must be enrolled for the division for which the candidate is standing. The names, addresses and signatures of the electors are recorded on Form 60-c: Single nomination of unendorsed candidate by eligible electors.

*Note: It is advised to obtain the names of more than the required number of electors in case after the checking process, some are found not to be enrolled in that division.*



## Senate nominations

The electors who nominate a Senate candidate must be enrolled for the state or territory for which the candidate is standing. The names, addresses and signatures of the electors are recorded on Form 59-e: Single nomination by eligible electors.

*Note: It is advised to obtain the names of more than the required number of electors in case after the checking process, some are found not to be enrolled in that state or territory.*

The Public Access Terminal at any AEC divisional office can be used to check names for enrolment details prior to submitting your nomination.

You should not leave lodging your nomination to the last minute as any defects in your nomination cannot be corrected after the nominations deadline.

## Personal information

When nominating for either the House of Representatives or the Senate, you must set out the following personal information on the relevant nomination form:

- Form 60: Nomination of a Member of the House of Representatives, or
- Form 59: Nomination of a Senator.

## Your name

Your name must be specified on the form and must include either:

- your surname or family name and one or more of the given names under which you are enrolled, or
- if you are not enrolled, a surname or family name and one or more of the given names under which you are entitled to be enrolled.

A given name may be specified by either:

- an initial standing for that name, or
- a commonly accepted variation of that name (including an abbreviation or truncation of that name or an alternative form of that name).

The nomination must also include a statement of the form in which your given name is to be printed on the ballot paper.

*For example a person enrolled as Catherine Citizen must complete the nomination form in that name. However, she may request that 'Cate' Citizen be used on the ballot paper as that is a commonly accepted variation of her name.*

## Your place of residence

If you are a 'silent elector', you are not required to set out your residential address on the nomination form, but you must supply the DRO or AEO (as appropriate) with an address. This address may be a postal address and it is not made public.

## Your occupation details

The Act requires these details to be provided.

## Your contact details

You must provide contact details on the nomination form, but you can ask that some or all of these details not be publicly released.

*Note: Nomination forms will be publicly produced at the declaration of nominations, however the address details for a candidate who is a silent elector will not be released or declared. For all other candidates the address details will be made available, however contact details which candidates have indicated are not for public release will be removed from all nomination forms. Information indicated as being for public release is also published on the AEC website. It should be remembered that the media and the public use this publicly available contact information to reach candidates for information about their candidature.*

## Declaration

You must sign a declaration on the nomination form that you:

- are an Australian citizen,
- are at least 18 years of age,
- are an elector or qualified to be an elector,
- are qualified under the Constitution and other laws of the Commonwealth,
- are not and do not intend to be a candidate in any other election on the same day, and
- consent to act if elected.

Electoral officers are not generally empowered to question, challenge or provide advice on the declaration made by an intending candidate on the nomination form.

## House of Representatives nominations

A person can nominate for election to the House of Representatives as a candidate endorsed by a registered political party or as an unendorsed candidate.

The registered officer of a registered political party may make a bulk nomination of all the party's endorsed House of Representatives candidates for a particular state or territory at one time. Political parties with a registered logo can request to have their party logo appear adjacent to their candidate names on the House of Representatives ballot paper.

A candidate may have the word 'Independent' printed beside their name when nominating as an independent candidate.

*If you are an incumbent member of the House of Representatives and you were elected as an unendorsed candidate at your previous election, and you are not endorsed by a registered political party, then Form 60-c: Single nomination of unendorsed candidate need only be signed by one person (other than the candidate) entitled to vote at the election.*

## Bulk nominations

Each of the candidates included in a bulk nomination must complete a separate copy of **Form 60: Nomination of a Member of the House of Representatives**.

*Bulk nominations must be received by the AEO for the relevant state or territory not less than 48 hours before the close of nominations.*

If a party chooses to lodge a bulk nomination, it must include all the House of Representatives candidates that the party is endorsing for the particular state or territory.

If a party lodges a bulk nomination and a single nomination for a candidate endorsed by the same party is also lodged, **the bulk nomination of all that party's candidates will be invalidated**. This applies whether the candidate was included in the bulk nomination or not.

If a candidate who was included in a bulk nomination withdraws or dies after the cut-off date for bulk nominations and before the close of nominations, the nomination of the other candidates in the bulk nomination is not affected. The registered officer may substitute a new candidate at any time before the close of nominations.

## Senate nominations

A candidate nominating for election to the Senate may be endorsed by a registered political party or may nominate as an unendorsed candidate.

Unendorsed candidates may nominate individually or as part of a group with other unendorsed candidates.

### Nominating as a Senate candidate

When nominating **endorsed candidates** the registered officer:

- must nominate endorsed party candidates, or verify a candidate's party endorsement,
- must specify the ballot paper order of the candidates' names in the group,

- may request that the party name or abbreviation appear beside a candidate's name on the ballot paper,
- may request that the party logo be printed on the ballot paper if it has one entered in the Register of Political Parties, and
- may request that the name of the party be printed on the ballot paper beside the group voting square. Alternatively if the candidates are endorsed by more than one party, the registered officer may request that a composite name of the party names or abbreviations be printed beside the group voting square.

When nominating as an **unendorsed group** using **Form 59-c**, the candidates specify the ballot paper order of the candidates' names in the group.

Each candidate in a group nomination must make a request on their nomination form for their name to be included in a group on the Senate ballot paper. They must complete an individual copy of **Form 59: Nomination of a Senator** and if the candidate is not endorsed also complete **Form 59-c: Group of unendorsed candidates** and **Form 59-e: Nomination by 100 electors**.

Grouped candidates not endorsed by a political party cannot have the word '**Independent**' printed next to their names or against their box above the line.

A candidate may have the word '**Independent**' printed beside their name on the ballot paper when nominating as an ungrouped (single) and unendorsed candidate.

### The Act, s.166(1C)

If you are an incumbent senator and you were elected as an unendorsed candidate at your previous election, and you are not endorsed by a registered political party, then **Form 59-e: Single nomination** need only be signed by one person (other than the candidate) entitled to vote at the election.

## Nomination deposit

Each nomination for the House of Representatives and the Senate must be accompanied by a deposit paid by legal tender (cash) or a cheque drawn by a bank or other financial institution on itself. Cheques for nomination deposits should be made out to the Australian Electoral Commission. Money orders, electronic funds transfers, credit cards, personal cheques and other business cheques cannot be accepted.

A deposit is required for each House of Representatives candidate and for each Senate candidate.

For bulk nominations both the nomination form and the deposit must be received not less than 48 hours before the close of nominations.

For other nominations both the nomination form and deposit must be received before 12 noon on the day nominations close.

## Return of deposit

The deposit for a House of Representatives candidate will be returned to the person who paid it or someone authorised by that person in writing if:

- the candidate is elected, or
- the unsuccessful candidate's total number of first preference votes is at least four per cent of the total number of formal first preference votes cast for all candidates in that division.

The deposit for a Senate candidate will be returned to the person who paid it or someone authorised by that person in writing if:

- the candidate is elected, or
- in the case of an ungrouped candidate, the unsuccessful candidate's total number of first preference votes is at least four per cent of the total number of formal first preference votes cast for all candidates in that state or territory, or
- where the unsuccessful candidate's name is included in a group, the sum of the first preference votes received by all the

candidates in the group is at least four per cent of the total number of formal first preference votes in that state or territory.

All unsuccessful candidates not meeting these criteria forfeit their deposit.

## Where to nominate

Single nominations for a division for the **House of Representatives** must be made at the **office of the DRO** for that division.

**Bulk nominations** of all the candidates endorsed by a registered party for the **House of Representatives** in a particular state or territory must be **lodged with the AEO** for that state or territory.

Nominations for the **Senate** for a state or territory must be made at the **office of the AEO** for that state or territory.

It is your responsibility as a candidate to ensure that your nomination is completed and received by the AEO or DRO (as appropriate), together with the full nomination deposit, by the close of nominations.

Lodgement with Australia Post is **not the equivalent** of receipt by the AEO or DRO. In addition, for the nomination to be valid it must include both the completed nomination form and the nomination deposit.

*It is in your interest to lodge your nomination form as early as possible. Nominating on the last day may cause problems, particularly if there are deficiencies in your nomination that require time to resolve.*

### Faxed nominations

You can lodge your nomination form by fax, but it is your responsibility to ensure this fax is received by the relevant AEO or DRO (as appropriate) before the close of nominations. For the nomination to be valid both the completed nomination form and the nomination deposit must be received by the deadline.

The possibility of transmission or print delays on receiving fax machines must be considered under such circumstances.

By faxing the form, you acknowledge the time of receipt is when the form enters the AEC's fax machine memory. The AEC is not responsible for any deadlines missed or losses incurred.

**Note: emailed nomination forms will not be accepted.**

*For a nomination to be valid both the nomination form and the nomination deposit must be in the hands of the AEO or DRO, as appropriate, by 12 noon on the day of the close of nominations.*

## Appointment of agent forms

If you intend to appoint an agent to act on your behalf with regards to election financial disclosure matters, you must lodge an Appointment of Candidate Agent form at the AEC's National Office in Canberra before the close of nominations. The form and further information on appointing an agent, is available from either the AEC website or any AEC office.

Appointment forms and further information on appointing an agent are available in the Funding and Disclosure Guides for Candidates and Senate Groups on 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.

## 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. A withdrawal notice can be obtained from any AEC office or by phoning the AEC on 13 23 26.

House of Representatives candidates must lodge their withdrawal notice with the DRO for the division for which they had nominated, even if their nomination was part of a bulk nomination. The registered officer may substitute a new candidate in a bulk nomination at any time before the close of nominations.

Senate candidates must lodge their withdrawal notice with the AEO for the state or territory for which they had nominated.

Once the withdrawal notice is in the hands of the relevant AEC officer the nomination is cancelled and arrangements are initiated to refund the deposit.

## Uncontested elections

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.

## Declaration of nominations

### The Act, s.176

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

Candidates' nomination forms will be produced at the conduct of the draw for positions. The media may inspect nominations but personal details of candidates (with the exception of

address details) indicated has being not for public release will be removed. Address details for a candidate who is a silent elector will not be released or declared.

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.

## 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 House of Representatives divisional office to arrange for the collection of 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. 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.

## 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 Division Name  
Number the boxes from 1 to 8 in the order of your choice

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

Remember... number 88888 to make your vote count

Sample ballot paper

## Senate

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

### 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.

Senate Ballot Paper  
State - Electoral Division of Division Name  
You may vote in one of two ways:  
1. Above the line  
2. Below the line  
3. Both above and below the line

1	2	3	4	5	6	7	8	9	10	11	12
1	2	3	4	5	6	7	8	9	10	11	12

### 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.

Senate Ballot Paper  
State - Electoral Division of Division Name  
You may vote in one of two ways:  
1. Above the line  
2. Below the line  
3. Both above and below the line

1	2	3	4	5	6	7	8	9	10	11	12
1	2	3	4	5	6	7	8	9	10	11	12

Sample ballot papers

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



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.

*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.

*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.

# Voting

## The Act

Part XV, 'Postal voting'

Part XVI, 'The polling'

Part XVA, 'Pre-poll voting'

Part XXI, 'Electoral offences'

Schedule 2, 'Grounds of application for postal or pre-poll vote'

*For more information, see voting procedures*

## How-to-vote cards

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. HTV cards must carry:

- the name and full street address of the authorising representative.
- the political party of the candidate. If the candidate is not endorsed by a registered political party, the name of the candidate and the word 'candidate' needs to be included.

A person must not publish a HTV card during an election period unless the name of the registered political party or candidate on whose behalf the card has been published is clearly printed at either the bottom or top of each printed face of the card.

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.

Following recent legislative amendments referred to at the beginning of this handbook, there has been some discussion in the media about whether parties, Senate Groups and candidates can advise voters to 'simply vote one above the line' on the Senate ballot paper. The legislation is clear – s.239 of the Act should be read as instructions to voters on how to cast a formal vote.

Any HTV card or other electoral advertising 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 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, 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.*

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.

HTV cards for electors serviced by mobile polling teams may be supplied by party workers to the team leader of a mobile polling team. It is not the responsibility of the team leader to arrange for this or to remind party workers to do so. Mobile polling teams will provide the electoral material to electors on request.

## Electoral advertising

The [Electoral Backgrounder](#) on Electoral Advertising provides a basic introduction to electoral advertising. Its contents are a guide only. Individual matters are assessed on a case-by-case basis and ultimately it is for the courts to decide upon the interpretation of the law in any particular case. Accordingly, if you are in doubt about the interpretation of the law in particular circumstances, you should seek your own independent legal advice.

The Electoral Backgrounder on Electoral Advertising discusses:

- intent of the law
- authorisation of electoral advertising
- headings to electoral advertisements
- electoral advertising on the Internet
- misleading and deceptive electoral advertisements
- second preference how-to-vote cards
- truth in political advertising
- defamation of candidates
- electronic media blackout
- political advertising bans
- non-compliance, such as electoral advertising offences
- complaints.

*Candidates are encouraged to pay particular attention to the authorisation of electoral advertising.*

# 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 compulsory 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

### Appointing an agent

Agent appointment forms are available on the appointment of agents page or by contacting the AEC.

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

It is your responsibility to ensure that your agent appointment form is received by the AEC's National Office in Canberra before the close of nominations. Completed forms can be faxed to 02 6293 7655, scanned and emailed to [fad@aec.gov.au](mailto:fad@aec.gov.au), or sent by post. Postal address details are available on the forms.

*Agent appointment forms should only be sent to the AEC's National Office, not sent to any other office.*

An agent cannot be appointed if their appointment form is received by the AEC's National Office after the close of nominations.

In this case, individual candidates will be responsible for completing their own financial disclosure return.

The appointment is valid for a single election only.

### Candidate agents

Each candidate may appoint an agent whether or not they are endorsed by a party. Candidates who do not appoint an agent are deemed to be their own agent.

### Senate group agent

**Senate groups, the members of which have been endorsed by a single party**, are not required to appoint an agent for the group or lodge a disclosure return. All receipts and expenditure of a Senate group 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.

If no agent is appointed for a Senate group, or the agent appointment form is received by the AEC's National Office in Canberra after the close of nominations, the first candidate listed in the Senate group is deemed to be the agent.

**Senate groups endorsed by more than one party** may appoint an agent for the group. If no appointment is made the person whose name appears first on the ballot paper is deemed to be the agent.

Unendorsed Senate groups can appoint an agent for the group. If no appointment is made the person whose name appears first on the ballot paper is deemed to be the agent for the group.

## 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 Act,
- have signed a consent to the appointment, and
- 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.

## 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 amount to be paid 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](#).

At least 95 per cent of election funding is paid in the fourth week after election day on the basis of votes counted as at the 20th day after election day. The balance is paid when the count is finalised and verified, and when the full entitlement is known.

In the case of independent candidates or Senate groups, payment is made to the agent of the candidate or group. If no agent is appointed, payment is made to the candidate or the member of the Senate group placed first in the group.

In the case of endorsed candidates and Senate groups, funding is paid to the party agent of the endorsing party or parties.

Detailed information about the payment arrangements for parties endorsing candidates or Senate groups can be obtained from the AEC website.

## Financial disclosure returns

Following an election, candidate and Senate group agents 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 or Senate group does not appoint an agent or the appointment form is received by the AEC's National Office in Canberra after the close of nominations:

- the candidate is deemed to be their own agent.
- the first person listed in the Senate group is deemed to be the group agent.

Failure to lodge a disclosure return is an offence which may be referred to the Commonwealth Director of Public Prosecutions.

## 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.

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 relevant 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

All electoral or campaign expenditure incurred in each of the following categories must be reported:

- broadcasting advertisements (including production costs)
- publishing advertisements (including production costs)
- displaying advertisements at a theatre or other place of entertainment (including production costs)
- costs of campaign material that was used or distributed where the name and address of the author, or the authorising person, is required (such as how-to-vote cards, pamphlets or posters)
- direct mailing
- opinion polling and other research relating to the election.

Certain other campaign expenditure (for example, hire of premises or equipment, freight, telephone and travel costs) does not have to be reported.

## Candidates

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

All candidates must lodge a financial disclosure return even when no donations were received or expenditure incurred. In this case 'nil' returns must be lodged.

The financial disclosure returns of candidates must include the following:

- the 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 (this information is available on the AEC website)
- all amounts spent on certain types of electoral expenditure.

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 as

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

All Senate groups must lodge a disclosure return with the exception of Senate groups whose members are all endorsed by the same party. These groups report through their political party. Disclosure returns must be lodged even when no donations were received or expenditure incurred. In this case 'nil' returns must be lodged.

The financial disclosure returns of Senate groups must include:

- the number of donors and total amount of all donations received
- names and details of people and organisations who made donations in excess of the applicable disclosure threshold
- all amounts spent on certain types of electoral expenditure.

## 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 and on time is to use the eReturns portal. It is quick, secure, environmentally friendly and allows importing of files which eliminates transcription errors. To assist with completing a return online, a step-by-step guide is available on the AEC website.

If a candidate or agent is unable to lodge a return online via the eReturns portal the relevant forms may be downloaded from the [AEC website](#). Alternatively, contact the Funding and Disclosure team by email at [fad@aec.gov.au](mailto:fad@aec.gov.au) or phone on 02 6271 4552 and forms can be emailed, faxed or posted to the agent or candidate.



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.

## Disclosure period

The period covered by a return varies for election donations and electoral expenditure, for new and previous candidates, and for candidates and Senate groups. Details are on the financial disclosure return form.

## 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, whether formal or informal, that support disclosures made in returns must be kept for a minimum of three years. Receipt books, bank records, receipt registers, source documents and working papers must be kept for this period.

## Offences

Section 315 of the Act contains penalty provisions for offences against the funding and disclosure provisions. These include

- failure to lodge a disclosure return
- late lodgement
- incomplete and inaccurate returns
- failure to retain supporting records for three years.

## Public inspection

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

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



# Scrutineers

## 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).

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 scrutiny in a 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.

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.

You appoint scrutineers by completing a scrutineer appointment form for each scrutineer. This 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 DRO conducts the preliminary scrutiny of declaration vote envelopes. This process 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 early declaration vote envelopes can begin on the Monday before election day. This helps the DRO begin the further scrutiny of these types of declaration votes promptly after election day.

Early declaration vote envelopes are checked to ensure they have been signed by the voter and that the voter is correctly enrolled.

Any envelopes requiring further investigation will be put aside until after the close of polling.

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

The [Scrutineers Handbook](#) is available on the AEC website, from all AEC offices or by phoning 13 23 26.

*No declaration vote envelope can be opened or ballot papers scrutinised before the close of the poll.*

## At the scrutiny

The Act, s.264

You may also appoint scrutineers to represent you at 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. At the further scrutiny/DRO Senate count, declaration vote envelopes which have passed the preliminary scrutiny are opened, and the ballot papers extracted 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 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 scrutines.

# Counting the votes

## 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

The counting of ordinary votes begins in each polling place 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 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' Democrats, '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.

The relevant AEO notifies all Senate candidates by letter 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 via state or territory offices for distribution to the relevant divisions. Once the declaration votes are received and processed in the home division, the counting of these votes can begin.

## Postal Votes

For federal elections and by-elections, the legislation requires that postal vote envelopes containing the ballot papers need to be received by the appropriate DRO 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 DRO within 13 days of election day.

For this reason, the counting of postal 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 distribution of preferences is less than 100, a recount is conducted as a matter of course.

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

## House of Representatives recount

If requesting a recount, House of Representatives candidates must write to the relevant DRO giving their reasons for the request.

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

The DRO must notify each candidate of the time and place of any 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.*

During a recount 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 determine to whom the first preference has been allocated.

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 House of Representatives 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 distribution of preferences for a House of Representative division is less than 100, a recount will be undertaken as a matter of course.
- 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 scrutines and before the declaration of the poll in the division.

## Senate recount

If requesting a recount, Senate candidates must write to the AEO for the state or territory giving their reasons for the request.

If the AEO for the state or territory refuses a request from a candidate to direct a recount of any Senate ballot papers, the candidate may appeal in writing to the Electoral Commissioner. The Electoral Commissioner is empowered to either direct or refuse a recount.

## Evaluating a request for a Senate Recount

The guidelines for evaluating a request for a Senate Recount are detailed in the AEC's [Recount Policy for Senate Elections](#).

*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 XXI, 'Electoral offences'

Part XXII, XXIII, 'Miscellaneous'

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 breaches or anticipated breaches of any Commonwealth law relating to elections.

## 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, application or return	12 months imprisonment	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
<i>Criminal Code Act 1995</i>			
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 Crimes Act 1914 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	\$1 000 or six months imprisonment, 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)	\$5 000 or two years imprisonment, 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	\$1 000 or six months imprisonment, or both	Offences during the election period

	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>	\$5 000 or imprisonment for two years, or both, for an individual; \$20 000 for a body corporate	

## 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: \$5 000 or imprisonment for two years, 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;

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: \$5 000 or imprisonment for two years, or both.

## Offences on election day

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

	Offence	Penalty	Comment
<i>Commonwealth Electoral Act 1918</i>			
s.245	Failure to vote without valid and sufficient reason	\$50	
s.335	Exhibiting or leaving a how-to-vote card in any polling booth	\$500	
s.338	Marking a vote or making any other mark on a ballot paper issued to another elector	\$1 000 or six months imprisonment, 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	
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 papers	Six months imprisonment	
s.339(1A)	Voting more than once in the same election	10 penalty units. Section 4AA of the Crimes Act 1914 determines the dollar (\$) value of a penalty unit.	

	Offence	Penalty	Comment
s.339(1C)	Intentionally voting more than once in the same election	60 penalty units or 12 months imprisonment, or both. Section 4AA of the Crimes Act 1914 determines the dollar (\$) value of a penalty unit.	
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	\$500	
s.226(5), 340(1) and (2)	Canvassing for, or soliciting votes, or displaying or exhibiting any non-official sign within six metres of the entrance of a polling place or mobile polling team	\$500	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	\$1 000	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	\$500	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 may be subject to section 4AB of the Crimes Act 1914 and as such the pecuniary penalty listed below may increase from time to time as the penalty unit under section 4AA of the Crimes Act 1914 is also increased.

Where penalties are expressed as not exceeding the specified limit, section 4D of the Crimes Act 1914 will apply.

## Election advertising offences

The Act, s.328, s.328A, s.329 and s.331

The Commonwealth Parliament has determined that the Act should not regulate the content of political messages contained in electoral advertising. The intent of the Act is:

- to ensure electors are informed about the source of political advertising, and
- to ensure that political advertising does 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 advertisements are properly authorised, so that electors can know who is responsible for the statements contained in them.

Complaints must be made in writing, addressed to the Deputy Electoral Commissioner, and be accompanied by evidence of the material in question. This could be an original copy of a how-to-vote card, an electoral advertisement or other documents relevant to the allegation. Depending on the nature of the document in question, a scanned copy or an emailed photograph may be acceptable.

This provides the context for preliminary assessment of the matter and also enables relevant evidence to be tendered in court if proceedings are undertaken at a later date. The complainant should also provide as much additional information as possible to enable assessment of the alleged breach. The AEC will immediately acknowledge receipt of the complaint.

If an original copy cannot be obtained, a copy of the entire document may be forwarded to the AEC. Similarly, for a complaint about electoral advertisements on the Internet, the complaint should, if possible, be accompanied by a print copy of the webpage, showing the advertisement, from which the AEC can make a formal assessment of its compliance with the law.

In the absence of a printed copy of the advertisement 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 advertisement and make an assessment regarding compliance with the Act.

*For more detailed information on the regulation of electoral advertisements, you should refer to the [Electoral Backgrounder on Electoral Advertising](#), which is available on the AEC website or from AEC national and state offices.*

## 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.

*For 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:

- Scrutineers Handbook: information for scrutineers in the election
- Electoral Pocketbook: a quick reference guide to the last federal election
- Nomination Guide for Candidates: a quick reference guide for prospective candidates
- 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. A copy of the Scrutineers Handbook is given to each candidate when they nominate at a divisional office.

General information on a range of topics is available by visiting the AEC website, from all AEC offices or by phoning 13 23 26.

### Candidate information sessions

To assist political parties and individuals who are interested in nominating as candidates for the federal election, information sessions are conducted in each state and territory. These sessions provide an overview of the electoral process, including information on the nomination process and the rights and responsibilities of candidates.

To find out more about the candidate information sessions, see the AEC website or contact the AEC on 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.

*The Candidates Handbook, Scrutineers Handbook and other electoral information are also available on the [AEC website](#).*



# 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.
Candidate Return and Senate Group 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 period	The roll closes on the seventh day after the issue of the writ.
Commonwealth Electoral Act 1918	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.

Term	Description
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: <ul style="list-style-type: none"> <li>re-count of the ballot paper counted in polling places on election night, or</li> <li>a first (initial) count of any Senate ballot papers received by the DRO in a ballot box.</li> </ul>
Early vote	A postal vote or a vote cast at an early voting centre, an AEC divisional office 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.
Electoral Act	The <i>Commonwealth Electoral Act 1918</i> .
Election Management System	The AEC system which centrally calculates election results, displays those results and is the interface to the Tally Room.
Electoral and Referendum Regulation 2016	Regulations that support the operation of the Act.
Electoral Commissioner	The officer who performs the functions of the chief executive officer of the AEC.
Electronic roll	An electronic 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, 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.

Term	Description
Nomination form	The approved form which must be used by a candidate nominating for election. There are also five forms for the Senate, and three forms for the House of Representatives, one of which is the bulk nomination form.
Officer in charge (OIC)	The officer who is in charge at a polling place. They are 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.
Polling place hospital	A hospital at which a polling place is established to take the votes of electors. Polling officials may provide stationary and mobile polling services.
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	Are votes cast at a polling place where the elector's name cannot be found on the roll, 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.
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.
Regulations	Electoral and Referendum Regulations 2016.
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.

Term	Description
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.
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.