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Scrutineers Handbook

Federal elections
By-elections
Referendums

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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 Scrutineer's Handbook*.

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About this handbook

Thank you for assisting with Australia's electoral process by acting as a scrutineer. You are doing the extremely important job of helping to ensure that Australia's proud democratic tradition of transparent electoral events is maintained. Transparency and integrity in the conduct of elections and referendums have, after all, been the hallmarks of Australia's federal electoral system.

As a scrutineer, you need a clear understanding of your role, including what you can and cannot do under the law. This handbook is designed to help you before, during and after polling day to be as effective as possible as a scrutineer. Remember, you can play a significant part in helping to ensure, as far as possible, that every vote counts.

What does a scrutineer do?

Scrutineers observe electoral processes to ensure that the rules are followed. Candidates are not allowed to enter polling places, except to vote. They are also not permitted to observe the counting of votes (the scrutiny) for elections in which they are candidates. They have the right, however, to appoint scrutineers to represent them during the polling and throughout the various stages of counting ballot papers.

As a scrutineer, you have the right to be present when the ballot boxes are sealed, when they are opened, when votes are being issued, and when the votes are sorted and counted, so you may confirm the integrity of election processes on behalf of the person who has appointed you.

Scrutineers may observe:

- the polling
- the early sorting of ordinary pre-poll ballot papers
- the counting of ballot papers (the scrutiny)
- the preliminary scrutiny of declaration envelopes
- the further scrutiny of declaration votes
- the fresh scrutiny of House of Representatives or referendum votes
- the Divisional Returning Officer Senate count
- the Australian Electoral Officer scrutiny of Senate ballot papers.

How do I become a scrutineer?

A scrutineer appointment form must be completed, which can be obtained from any Australian Electoral Commission (AEC) office or the AEC website. The candidate or other person appointing you must sign the form and give the name and address of the scrutineer.

You must then sign the undertaking on the form stating you will not attempt to influence the vote of an elector and that you will not disclose any knowledge you may acquire concerning any elector's vote.

The form may be provided in person to the relevant DRO or officer in charge of a polling place, or by fax if such facilities are available.

For an election, scrutineers can be appointed by a candidate running in that election. For a referendum, scrutineers can be appointed by the Governor-General, the Governor of a State, the Chief Minister of the Australian Capital Territory, the Administrator of the Northern Territory (or persons authorised by those people to appoint scrutineers), and registered officers of a registered political party. Non-candidate appointers are referred to as the 'person appointing' throughout this handbook.

The Scrutineers Handbook

This handbook is published by the AEC, the Commonwealth agency that maintains the electoral roll and conducts federal elections, by-elections, and referendums. The handbook covers the stages of the electoral process relevant to a scrutineer.

Each chapter in the handbook lists the parts of the *Commonwealth Electoral Act 1918* (the Electoral Act) and the *Referendum (Machinery Provisions) Act 1984* (the Referendum Act) that set out laws applicable to scrutineers.

You may wish to consult the legislation directly for the exact provisions. Other laws including the *Commonwealth of Australia Constitution Act* (the Constitution) may also be applicable.

The AEC can help you by providing information of a general nature about the role and duties of a scrutineer. However, it cannot provide you with formal or informal legal advice.

Legislative provisions appear in this handbook in a paraphrased form only, unless otherwise indicated. Scrutineers must satisfy themselves about their own legal position and, if necessary, refer to the exact provisions of the Constitution, the Electoral Act and the Referendum Act and consult their own lawyers.

You can access this handbook on the AEC website. Legislation is published on the Federal Register of Legislation at: www.legislation.gov.au.

Abbreviations and acronyms have been kept to a minimum. Six abbreviations are used throughout the handbook:

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

The words 'voter' and 'elector' are used interchangeably.

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

How the handbook can help you

The handbook explains what you will do as a scrutineer, and how to comply with the law during the election and throughout the vote counting process.

Offences relating to elections are listed in Appendix 1. Some electoral offences apply at all times, while others apply during the specific election period.

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

AEC National, State, Territory and Divisional Office contact details

You will find office contact details on the AEC website.

Feedback welcome

The AEC welcomes your views on the usefulness of the Scrutineers Handbook and any specific information provided in these pages. We invite you to provide 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 phoning 13 23 26.

Timing of electoral events

Federal elections

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 half the Senate is retired or up for election every three years. The two senators each representing the Australian Capital Territory and Northern Territory are elected concurrently with the members of the House of Representatives and the duration of their terms of office coincide with those for 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 s 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 by the Speaker for the election of a new Member. A writ may also be issued when the Court of Disputed Returns declares an election void.

The timing of a by-election is a matter for the Speaker of the House of Representatives (Electoral Act, s152). The guiding principle in fixing the date of a by-election has always been to hold the election as early as possible to ensure electors are not left without representation any longer than is necessary.

Referendums

The Constitution may only be altered with the approval of the Australian people. Any proposed law to amend the Constitution must be submitted to the direct vote of electors in each state and territory in Australia. Any alteration to the Constitution must be approved by a 'double majority': a national majority of electors, and a majority of electors in a majority of states.

A referendum must be held no sooner than two months and no later than six months after the proposal is passed by Parliament. The date set for the close of rolls is seven days after the issue of the writ and voting day must be on a Saturday.

Dos and Don'ts

Whenever you are acting in the role of scrutineer, you must wear the Identification Badge the AEC supplied to you in all polling places and counting centres.

As a scrutineer, you may:

- observe all voting procedures – except an elector actually marking the ballot paper, unless the elector has requested assistance (see 'Assisted voting' on page 18 for more information)
- object to the right of any person to vote
- be nominated by an elector to assist with the completion of a ballot paper
- enter and leave the polling place at any time during voting
- enter and leave the polling place at any time during the counts (your place may be taken by another appointed scrutineer)
- inspect, but not touch, any ballot paper at the count.

As a scrutineer, you must not:

- stay in a polling place unless you have provided a completed appointment form
- go into a polling place without your scrutineer's badge
- help with clearing voting booths or the removal of material from the polling place
- touch ballot papers
- interfere with a voter, or attempt to influence them
- reveal anything you know about how someone has voted
- wear a badge or emblem in support or opposition of a political party, candidate, or proposed change to the Constitution within the polling place on polling day
- deliberately show or leave in the polling place any how-to-vote card or similar direction as to how an elector should vote
- use any device with the potential capability of image recording (including mobile phones, tablets, cameras, and video recorders) in the scrutiny areas of a counting centre
- use an image-recording device to record images of ballot papers or declaration envelopes in a polling place or counting centre
- unreasonably delay or interfere with the progress of counting the votes
- disclose or communicate information gained during the early sorting of ordinary pre-poll ballot papers to persons outside the counting centre before 6pm. This is an offence, and penalties may include fines and imprisonment.

Should a scrutineer fail to adhere to the above guidelines, they may be asked to leave the polling place or counting centre. A scrutineer who fails to leave when requested may be removed by the Australian Federal Police.

Becoming a scrutineer

The Electoral Act	The Referendum Act
Part II, 'Administration'	Part II, 'Preliminary'

This chapter gives you some essential background on who is responsible for conducting the election or referendum, the different roles of the people you are likely to meet on and after polling day, and more detailed information on the appointment of scrutineers.

Australian Electoral Commission

Federal elections, by-elections and referendums are conducted by the AEC.

The AEC has a National Office in Canberra, an office in each of the state capital cities and Darwin, and offices providing electoral services for House of Representatives electoral divisions.

In each state and the Northern Territory, an AEO is responsible for the management of electoral activities within their state or territory. An AEO for the Australian Capital Territory is appointed temporarily for each election period.

The AEO is the returning officer for the Senate election in the state/territory.

Each electoral division has a DRO who is responsible for the electoral administration in that division, including conducting electoral events in that division.

The DRO is the returning officer for the House of Representatives election in the division.

At the polling place

At the polling place, you are likely to come into contact with several people who have an official role.

For each electoral event, polling places are appointed for each division. Polling officials are appointed for each polling place.

Under the provisions of the Acts, the officer in charge of each polling place is called the Presiding Officer during polling – from 8am to 6pm on polling day. From 6pm, however, during the counting of the votes (the scrutiny), this officer is called the ARO.

To overcome confusion, the AEC commonly uses the term officer in charge to refer to both the Presiding Officer and ARO. Officer in charge is the term you are most likely to hear in the polling place. Most other staff employed in polling places work as issuing officers or inquiry officers. Issuing officers issue ballot papers to voters. Inquiry officers assist voters with problems that may occur during the conduct of the poll.

The Electoral Act, ss 348(1)(c), 348(3); the Referendum Act, ss 135(1)(c), 135(3)

Other than polling officials, scrutineers, and electors intending to vote, no one is permitted in the polling place during the polling, except by permission of the officer in charge.

Appointment of scrutineers

The scrutineer appointment form must be signed by the candidate (or person appointing) and include the name and address of the scrutineer. The form may be provided in person to the DRO or the officer in charge of a polling place, or by fax if such facilities are available.

Scrutineers may be appointed to act as a scrutineer during both the polling and the scrutiny, or different people may be appointed for each process.

The scrutineer appointment form is used to appoint scrutineers for early voting, polling day, and the scrutiny. Multiple forms are required if you are scrutineering at more than one venue.

Also included on the appointment form is an undertaking that each scrutineer must sign. Undertakings scrutineers are required to make include:

- not to divulge any information with respect to the vote of an elector
- not to interfere with or attempt to influence the vote of an elector
- not to communicate with any person in the polling place except so far as necessary in the discharge of their functions
- not to use any device with the potential capability of image recording (including, but not limited to, mobile phones, tablets, cameras and video recorders) in the scrutiny area of a counting centre
- not to use any image-recording device to record images of ballot papers or declaration envelopes
- not to disclose or communicate information that relates to the early sorting of pre-poll ordinary votes to persons outside the counting centre before the close of voting
- to comply with any lawful direction (which may include wearing face masks).

In an election, only one scrutineer per candidate is allowed:

- for each early voting centre
- for each mobile polling team
- for each issuing point in a polling place on election day
- for each officer counting the votes during the scrutiny
- for each officer engaged in counting (including persons performing the function of second tier data entry operators conducting exception checks) at the Central Senate Scrutiny.

At a referendum, one scrutineer for each person or party appointing is allowed:

- at each location where voting is being conducted
- for each officer engaging in the scrutiny at each counting centre.

Scrutineers attending any form of mobile polling must organise their own transportation.

Identification Badge

When you attend a polling place or a counting centre, the AEC will supply you with a badge that identifies you as a scrutineer (the Identification Badge) and a scrutineer's lanyard. Whenever you are acting in the role of a scrutineer, you must hang the Identification Badge on the scrutineer's lanyard on the front of your body and above your waist.

You must return your Identification Badge if you leave the polling place or counting centre at any time.

During the polling

The Electoral Act	The Referendum Act
Part XV, 'Postal Voting'	Part III, 'Voting at a referendum'
Part XVA, 'Pre-poll voting'	Part IV, 'Postal Voting'
Part XVI, 'The polling'	Part IVA, 'Pre-poll Voting'
Part XXI, 'Electoral offences'	

In this chapter, you will find a description of what you are entitled to do during the polling, on polling day, and a summary of what you and others cannot do under the law. A full list of offences under the law, and the penalties these incur, is at Appendix 1.

The permissible behaviour of campaign workers and others who are likely to be in the vicinity of the polling place, such as photographers or media representatives, is also described.

Note: When a building used as a polling place is situated in enclosed grounds and the officer in charge, with the authority of the DRO, displays a signed notice at each entrance stating that the grounds are part of the polling place, those grounds are considered to be part of the polling place for purposes of an offence under section 340 of the Electoral Act and section 131 of the Referendum Act.

Rights of scrutineers

As a scrutineer, you have certain rights under the Acts, whether you are within the polling place or performing your duties as a scrutineer elsewhere. These rights are outlined below, along with the sections of the Acts that specify them.

Coming and going

The Electoral Act, s 218(2); the Referendum Act, s 28(2)

You may enter and leave the polling place at any time during the polling. If you leave, you can be replaced by a relieving scrutineer who has been properly appointed.

Remember, on polling day only one scrutineer for each candidate or person appointing at each issuing point can be present in the polling place at any one time and you must return your Identification Badge if you leave the polling place at any time.

At the sealing of the ballot boxes

The Electoral Act, ss 200DP(1), 200DQ, 217(1), 220(a), 220(d) and 227(10); the Referendum Act, ss 73CP(1), 73CQ, 29(1)(a), 29(1)(d), 51(10)

You have the right to observe the officer in charge sealing the empty ballot box and recording the seal numbers before the poll commences at 8am. You may also observe the sealing of the ballot box at the conclusion of any polling that extends over more than the one location or day.

Note: Section 220(d) of the Electoral Act – sealing ballot boxes – does not apply at counting centres.

Questioning of electors

The Electoral Act, ss 200DI(1) and 229(1); the Referendum Act, ss 73CI(1) and 30(1)

You may observe the issuing officer asking questions to ascertain the elector's full name, place of living and whether they have voted before in the election or referendum.

If a person is claiming entitlement to apply for an early vote (prior to polling day), the issuing officer will also ask the person whether they are entitled to apply for an early vote.

Objections

The Electoral Act, s 231(2); the Referendum Act, s 33(2)

You may object to the right of any person to vote. The officer in charge must record all such objections by scrutineers.

Helping voters

The Electoral Act, ss 234 and 234A; the Referendum Act, ss 36 and 36A

You may assist any voter if they ask you. You may observe and accompany the officer in charge when they are requested to assist a voter who is blind or has low vision, has low literacy skills or is otherwise incapable of marking the ballot paper without assistance. These voters may however, appoint another person to enter the voting booth with them to mark, fold and deposit the ballot paper in the ballot box. In this case, neither the officer in charge nor the scrutineer accompanies the voter into the voting booth.

You may also be present during the issuing of votes outside the polling place to any voter who has satisfied the officer in charge that they are unable to enter the polling place itself due to physical incapacity.

What about other situations?

The Electoral Act, s 200DA(1); the Referendum Act s 73CA

You have the right to be present during the polling at an early voting centre.

The Electoral Act, s 227; the Referendum Act, s 51

Mobile polling teams conduct mobile polling at any time on any of the 12 days preceding polling day, on polling day or on a day to which polling is adjourned. For a referendum, remote voter services can be conducted on any of the 19 days preceding polling day.

You have the right to be present during the conduct of mobile polling at locations including, but not limited to hospitals, prisons and remote areas. In an election, mobile polling teams may carry how-to-vote material, but not openly display it. They provide the how-to-vote material to voters on request.

You have the right to be present during the conduct of mobile polling in prisons in accordance with arrangements made with prison authorities.

You have the right to be present during the conduct of mobile polling in remote areas. However, you must arrange your own transport.

Offences by scrutineers

The Acts and the Criminal Code are specific about what constitutes an offence by a scrutineer. See Appendix 1 for more information. Penalties can involve a fine or imprisonment or both. This section summarises the various types of offences you need to be aware of as you perform your role as scrutineer.

If you are in any doubt about what constitutes an offence, you should seek independent legal advice.

Scrutineers must not use any image-recording device (including cameras, video recorders and camera or video-enabled mobile phones) to record images of ballot papers or declaration envelopes, or any other images that might identify an elector and how they have voted, in a polling place or counting centre.

Behaviour in the polling place or counting centre

The Electoral Act, ss 348 and 218; the Referendum Act, ss 135 and 28

A scrutineer must not interfere with a voter or attempt to influence any voter within the polling place. You must limit any communication you have with a voter to what is necessary for you to discharge your function as a scrutineer.

If the officer in charge considers you have committed a breach, or that you are guilty of misconduct, they may request that you be removed from the polling place by the police or by another authorised person. You may also be removed if you fail to obey the lawful directions of the officer in charge.

You must not disclose to anyone else any knowledge you may acquire as a scrutineer about how an elector has voted.

You must not disclose or communicate information that relates to the early sorting of pre-poll ordinary votes to persons outside the counting centre before the close of voting.

You must not exhibit or leave in the polling place any printed material – card or paper – that directs, instructs or is intended to influence an elector on how to vote.

You must not wear a badge or emblem in support or opposition of a political party, candidate or proposed change to the Constitution in the polling place on polling day.

Other offences during polling

Scrutineers, campaign workers and other supporters of a candidate should also be aware of various other acts and omissions that constitute an offence during elections.

The Electoral Act, Part XXI; the Referendum Act, Part X

In summary, these offences include:

- knowingly making a false or misleading statement about an elector's enrolment to them
- marking a vote or making any other mark on any other person's ballot paper without authority
- impersonating someone with the intention of securing a ballot paper to which the impersonator is not entitled
- impersonating someone with the intention of voting in their name
- fraudulently doing anything that results in a nomination paper or ballot paper being defaced or destroyed
- fraudulently putting any ballot paper or other paper into the ballot box
- fraudulently taking any ballot paper out of any polling place or counting centre
- supplying ballot papers without authority
- interfering with or doing anything that results in the unlawful destruction, taking, or opening of the ballot boxes or ballot papers.

Other offences include:

- voting more than once in the same election, and
- defacing, mutilating, destroying, or removing any kind of material displayed by or under the authority of the DRO.

Campaign workers, other than those appointed as scrutineers, may only enter the polling place once – to record their own vote. There is only one exception: when an elector who is blind, has low vision, is physically incapacitated, or has low literacy skills, nominates a campaign worker to help them vote.

The six-metre limit

The Electoral Act, s 340; the Referendum Act, s 131

Special prohibitions apply to the area within six metres of the entrance to a polling place, early voting centre or a mobile polling location.

A person (including for example, campaign workers and supporters) must not:

- canvass for votes
- solicit votes
- induce any elector not to vote for any particular candidate
- induce any elector not to vote at the election or referendum
- exhibit any notice or sign (other than an official notice) relating to the election.

Prohibitions also apply to any of these activities that are broadcast by electronic equipment and are clearly audible within six metres of the entrance to a polling place or early voting centre.

The general prohibition on canvassing within six metres of an entrance to a polling place or early voting centre means that people (such as campaign workers and supporters) who are distributing how-to-vote cards and other non-AEC notices can only hand out or display this material outside the six-metre limit.

Voting

The Electoral Act	The Referendum Act
Part XV, 'Postal voting'	Part III, 'Voting at a referendum'
Part XVI, 'The polling'	Part IV, 'Postal Voting'
	Part IVA, 'Pre-poll Voting'

For more information on voting procedures, please visit the AEC website or phone the AEC on 13 23 26.

Voting is compulsory in Australian federal elections, by-elections, and referendums. The AEC puts a great deal of effort into ensuring every qualified elector has the opportunity to vote. As a scrutineer, you will need to know about the voting process, including the different types of votes that can be cast and the various issues involved in the management of polling during an election. This chapter discusses these matters in depth.

Scrutineers are in a trusted position, so it is particularly important you are aware of your legal obligation to observe the secrecy of the vote. You must also observe the prohibition on recording any aspect of the voting process.

Remember, you must wear an official Identification Badge identifying you as a scrutineer at all times when you are in a polling place as a scrutineer.

Certified list of voters

Before polling begins, each issuing officer at a polling place is supplied with a copy of the certified list of voters for the division/s for which the polling place is appointed. The certified list is used in issuing votes to electors enrolled for that division.

If a voter's name is not found on the certified list, they may cast a provisional or absent vote. Their entitlement to vote in the election will be verified before their ballot paper is added to the scrutiny.

Ballot papers

An elector is issued with a green ballot paper for the House of Representatives election or by-election, and a white ballot paper for the Senate election.

Generally, referendum ballot papers have a buff background and are printed on one piece of paper. However, if the circumstances in s 25(3A) of the Referendum Act apply, referendum ballot papers are printed on separate pieces of paper and each ballot paper will be a different colour.

Any elector who makes a mistake or 'spoils' a ballot paper before it is placed in the ballot box or in the declaration vote envelope may receive a new one when they return the spoilt ballot paper to the issuing officer.

Methods of voting

As a scrutineer, you will observe electors using various methods to record their votes. You should therefore be aware of the different categories and methods of voting, as the rules differ slightly in the observation of each:

- ordinary voting
- declaration voting, including:
  - absent votes
  - provisional votes
  - interstate votes
  - early votes, which can be cast in person or by post.

Ordinary voting

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 a certified list of voters.

Ordinary votes may be cast on, or in certain circumstances before, polling day. Most of these votes are counted on polling day, after the close of voting.

At the polling place, the elector will be asked questions to ascertain the elector's full name, place of living and whether they have voted before in the election or referendum. The issuing officer may ask one or more other questions to establish the identity of the elector.

If the issuing officer is satisfied with these answers, the elector is entitled to vote and receives a ballot paper for each election and/or referendum. The issuing officer initials the ballot paper and marks the name of the voter off the certified list.

The elector must then proceed alone to a voting booth and, in private, for each ballot paper:

- mark their vote on the ballot paper
- fold it so the vote is concealed
- place it in the ballot box and leave the polling place.

Declaration voting

A declaration vote is recorded by an elector whose entitlement to vote cannot be confirmed at the place of voting. The elector makes a signed declaration on an envelope and then puts their completed ballot paper(s) inside. These votes are counted after polling day if the elector's entitlement to vote is verified using the information provided on the declaration envelope.

A declaration vote can be cast as:

- an early declaration vote prior to polling day either in person or by post
- an absent vote prior to and on polling day
- a provisional vote prior to or on polling day.

Absent voting

The Electoral Act, ss 222(1) and 227(8)(b) and (d); the Referendum Act, ss 46(1)(b) and 51(8)(b) and (d)

An elector who is away from the division for which they are enrolled but still within the same state or territory may, upon making a declaration, vote via a mobile polling team or, vote on polling day at any other polling place in that state or territory.

Interstate voting

Electors who are out of their own state before polling day may make an early vote at an early voting centre, or via a mobile polling team. Some early voting centres are also open on polling day for the casting of interstate votes.

Provisional voting – eligibility

An elector may be issued with a provisional vote if:

- their name cannot be found on the certified list of voters for the division (the Electoral Act, s 235(1) (a); the Referendum Act, s 37(1)(a)), or
- their name is on the certified list of voters but their address does not appear on the list (these may be silent electors who for reasons of personal or family safety do not have their address shown) (the Electoral Act, s 235(1)(b); the Referendum Act, s 37(1)(b)), or

- the officer in charge has asked the person one or more questions under s 229(4) of the Electoral Act or s 30(4) of the Referendum Act about matters shown on the certified list of voters for a particular person to establish whether the person is that particular person and one of the following applies:
  - their answers do not accord with the relevant information shown for that particular person on the list (the Electoral Act, s 235(1)(c)(i); the Referendum Act, s 37(1)(c)(i))
  - their answers accord with the relevant information shown for that particular person on the list but the officer is not satisfied that the person is that particular person (the Electoral Act, s 235(1)(c)(ii); the Referendum Act s 37(1)(c)(ii))
  - they refused to answer fully (the Electoral Act, s 235(1)(c)(iii); the Referendum Act, s 37(1)(c)(iii)), or
- their name has been marked on the certified list of voters as having already voted at the polling place (and the voter claims not to have voted before) (the Electoral Act, s 235(1)(d); the Referendum Act, s 37(1)(d)), or
- the person is provisionally enrolled as a new citizen (the Electoral Act, s 235(1)(e); the Referendum Act, s 37(1)(e)).

Provisional voting – completion and return

The Electoral Act, s 235; the Referendum Act, s 37

The following procedures apply to provisional voting:

- the issuing officer must show the voter a written statement (either as a separate card or on the back of the declaration envelope) explaining provisional voting and the procedures followed
- the provisional voter must answer in writing the questions put to any ordinary voter (with the exception that an elector with their address suppressed from the electoral roll is not required to publicly disclose their address)
- the provisional voter must sign a declaration on an envelope provided for the purpose, in the presence of the issuing officer, who must then sign as witness to the declaration and add the date
- on receipt of a ballot paper, the provisional voter casts their vote in the ordinary manner
- the provisional voter returns the folded ballot paper to the polling officer, who then places it in the signed and witnessed declaration envelope, seals it and puts it in the ballot box for later dispatch to the DRO.

Early voting

An elector may apply in person for an early vote at an early voting centre on any of the grounds applicable to postal voting (as per appendix 2), and cast either a pre-poll declaration or pre-poll ordinary vote. Alternatively, they may apply for a postal vote or cast their vote with a mobile polling team.

Electors who are blind or have low vision and Antarctic electors will be able to cast a secret vote via special call centre arrangements. Further information for candidates and scrutineers about the locations and hours of operation of call centres will be placed on the AEC website.

Scrutineers have the right to be present during the conduct of early voting.

The Electoral Act, ss 231(2) and 200DJ(2); the Referendum Act, ss 33(2) and 73CJ(2)

At the request of a scrutineer, the officer in charge must make a note and keep a record of any objection by the scrutineer to the right of the voter to vote by pre-poll declaration or pre-poll ordinary vote.

On polling day some early voting centres become interstate voting centres for electors from interstate.

Postal voting

You may observe the preliminary scrutiny of postal vote certificates, extraction of ballot papers and subsequent counting of postal votes.

Electors who may be eligible for postal voting include those who will not be in their home state or territory on polling day, are seriously ill, infirm or unable to leave work, or for religious reasons are unable to attend a polling place. The conditions for entitlement to a postal vote are given in detail in Appendix 2.

Voting at mobile polling places

Mobile polling provides the opportunity for electors who are unable to go to polling places to vote at an election or referendum. Mobile polling services may be delivered at any place where the Electoral Commissioner determines they may be needed, and may commence up to 12 days before polling day, on polling day, or on a day to which polling is adjourned. For a referendum, remote voter services can be conducted on any of the 19 days preceding polling day. Once determined, the places, days and times of mobile polling arrangements are published on the AEC website. Mobile polling can take place at locations including, but not limited to hospitals, prisons, and remote areas.

Assisted voting

Voting inside the polling place

The Electoral Act, s 234; the Referendum Act, s 36

As a scrutineer, you may assist any voter if they ask you. Assisted voting is available at all polling places including areas visited by mobile polling teams, such as hospitals, prisons, and remote areas.

The officer in charge may permit any voter who is blind or has low vision, is physically incapacitated, or has low literacy skills, to be accompanied by a person appointed by the voter so that the person (in accordance with the voter's wishes) can mark, fold and deposit the voter's ballot paper in the ballot box on behalf of the voter.

Where no such person is appointed, the officer in charge may perform this role in the presence of scrutineers or, if no scrutineers are present, in the presence of a polling official or another person appointed by the voter.

The officer in charge at a hospital will inform the elector of their right to be assisted in casting a vote when necessary.

In any situation where a voter requires assistance, the voter may indicate a voting intention to the officer in charge with a written statement, including a how-to-vote card.

Voting outside the polling place

The Electoral Act, s 234A; the Referendum Act, s 36A

If the officer in charge is satisfied that an elector is unable to enter the polling place because of physical disability, illness, advanced pregnancy, or other conditions, they may allow the elector to vote outside in close proximity to the polling place.

The officer in charge must inform any scrutineers at the polling place that an elector will vote outside the polling place and that one scrutineer per candidate or person appointing is allowed to be present when the elector votes. As a scrutineer, you are entitled to observe the process (though not the marking of the ballot papers, unless the officer in charge is called on by the voter to assist in marking the ballot papers). The voter must mark their ballot papers in the presence of a polling official and then hand them, folded, to the polling official so that their vote is concealed.

The polling official must ensure the folded ballot papers are immediately returned to the polling place and put in the ballot box in the presence of any scrutineers who were present when the elector voted.

If the voter also satisfies the officer in charge that they are unable to vote without assistance, the officer in charge may, with the voter's consent, allow a polling official to mark and fold the ballot papers as the voter indicates. The voter may indicate a voting intention to the officer in charge with a written statement, including a how-to-vote card.

The scrutiny

The Electoral Act	The Referendum Act
Part XVI, 'The polling'	Part VI, 'Scrutiny of a referendum'
Part XVIII, 'The scrutiny'	Schedule 4, 'Rules for the conduct of a preliminary scrutiny of declaration votes'
Schedule 3, 'Rules for the conduct of a preliminary scrutiny of declaration votes'	

As a scrutineer, you may be present at the checking and counting of the ballot papers after the close of polling – the scrutiny of House of Representatives and referendum ballot papers and the count of Senate ballot papers. You may be present at the early sorting of ordinary pre-poll ballot papers from 4pm on polling day. This chapter details what you can and cannot do as a scrutineer during the counting process. It also describes the AEC's procedures so you will know what to expect as you observe the counting of ballot papers on polling night and in the days following.

What scrutineers do

The Electoral Act, ss 264 and 265; the Referendum Act, ss 89 and 90

As a scrutineer, you have certain roles under the Act. These roles are outlined below.

Sealing and opening ballot boxes

You have the right to inspect the condition of, and observe the sealing (if relevant) and opening of ballot boxes. Ballot boxes containing votes taken by mobile polling teams are forwarded to the DRO for counting. These ballot boxes are opened and the scrutiny of the HoR and referendum ballot papers and the Senate count conducted on polling night or as soon as possible after polling night.

Counting ballot papers

You have the right to observe the counting of ballot papers on polling night by AROs, including the two-candidate-preferred count conducted after the counting of first preference HoR votes. You may also view the flow of preferences from other candidates, but only if this does not unreasonably delay the scrutiny.

You may observe the counting of ballot papers following polling night, including the fresh scrutiny of HoR and referendum ballot papers, the DRO Senate count, the preliminary and further scrutiny of declaration votes, and any recount of ballot papers.

Objections

The Electoral Act, s 267; the Referendum Act, s 92

You may object to the admission or rejection of any ballot paper at a scrutiny. The officer conducting the scrutiny will then decide whether the vote is formal or informal and mark the ballot paper as 'admitted' or 'rejected'. The officer may reject a ballot paper as informal even if no scrutineer has objected to it.

Note: The count of Senate ballot papers carried out at polling places is not considered a scrutiny. This means that the ARO has no legislative authority to make decisions on the formality of Senate ballot papers and scrutineers cannot challenge the formality of Senate ballot papers at this point. The ARO will, however, separate out the obviously informal ballot papers which cannot be allocated to any group because they are blank, indicate more than one first preference or do not indicate a first preference for any candidate. The scrutiny of Senate ballot papers is undertaken at the CSS centre in the weeks following polling day. Scrutineers have the opportunity to challenge the formality of ballot papers at the CSS.

Countersigning endorsements

Electoral officers package ballot papers and other materials relating to the election or referendum for dispatch to the divisional offices. You may countersign endorsements of the contents on any containers of ballot papers, and countersign statements setting out the number of first preference votes for each candidate and the number of informal ballot papers.

Coming and going

You may come and go during the scrutiny, provided there is never more than one scrutineer per candidate or person appointing per polling official engaged in the scrutiny at any one time.

Remember, you must return your Identification Badge if you leave the counting centre at any time.

What scrutineers must not do

During the scrutiny, you must not:

- handle ballot papers in any way
- unreasonably delay or interfere with the counting of votes.

While you have the right to observe all stages of the scrutiny and challenge the formality decisions made by scrutiny staff on HoR and referendum ballot papers, it is the duty of the ARO to ensure the results from the polling place are delivered in an orderly and timely way.

If the ARO, DRO or AEO, as the case may be, is of the opinion that allowing you to inspect votes would unreasonably delay the scrutiny, you may be told that you are no longer allowed to inspect the votes (the Electoral Act, s 265(2)).

On polling day

Early sorting of ordinary pre-poll ballot papers

From 4pm on polling day some ballot boxes containing ordinary pre-poll HoR or referendum ballot papers will be opened for early sorting. This process involves unfolding the ballot papers and sorting them to first preferences, 'yes', 'no' or informal, but they are not counted.

As a scrutineer you may observe the early sorting process, but you are not entitled to object to a ballot paper before the closing of the poll. Challenges may occur when the official scrutiny begins at 6pm.

It is an offence to disclose or communicate information that relates to the early sorting of ballot papers to persons outside the counting centre before the closing of the poll. Penalties include fines and imprisonment.

Polling night scrutiny

The counting of ordinary votes begins in each polling place immediately after the poll closes at 6pm on polling day.

When the HoR election and Senate election are held at the same time, the HoR ballot papers are counted before Senate ballot papers.

On polling night, polling officials are required to complete the following tasks after the close of polls:

- count the first preferences on the HoR ballot papers
- conduct a two-candidate-preferred count of the HoR ballot papers (note: this is an indicative count only)
- count the first preferences on the Senate ballot papers
- count the referendum ballot papers (if applicable)
- sort and reconcile declaration envelopes and counterfoils.

The counting of ordinary HoR and referendum votes taken at pre-poll voting centres also commences as soon as possible after 6pm on polling day.

All proceedings at the count must be open to you. The scrutiny may be adjourned from time to time as might be necessary until the counting of the votes is complete.

Informal votes

A ballot paper is generally considered informal if it is not filled out correctly in accordance with the relevant act and the instructions on the ballot paper. It therefore cannot be included in the scrutiny.
The formality of ballot papers is covered in more detail under the heading "Formality of votes" on page 25 of this publication.

House of Representatives count on polling night

The HoR 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 into the national computerised Election Management System, which in turn updates the Tally Room (TR) on the AEC website.

Indicative two-candidate-preferred

On the completion of the count of first preferences for the HoR at each polling place, the officer in charge must, as directed by the relevant AEO (in accordance with s 274(2A) of the Electoral Act), conduct an indicative distribution of preferences on a two candidate-preferred basis. This provides an indication of the likely outcome of the election in each division.

The procedure for the indicative two-candidate-preferred count is outlined below.

- After nominations close, the AEC selects two candidates in each division to whom preferences of all other candidates will be distributed indicatively on election night. These candidates are chosen in most cases on the basis of previous election results.
- The names of the two candidates are not made public before the close of polling. At each polling place, the ARO announces the names of the two candidates at the commencement of the count.
- Polling officials sort the ballot papers into first-preference piles for each of the candidates. The ballot papers for the two nominated candidates are removed to a secure area and the ballot papers for the remaining candidates are notionally allocated 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 that has '1' Democrats, '2' Independent, '3' Labor and then '4' Liberal will be allocated to the Labor candidate. A ballot paper that showed '1' Independent '2' Liberal (etc) would be allocated to 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, which in turn updates the TR on the AEC website.

The full distribution of preferences for HoR votes is conducted by the DRO in the weeks after polling day.

Senate count on polling night

On polling night, the total number of Senate ballot papers, the first preference votes – above the line and below the line and the total obviously informal – are counted. A first preference 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 polling night.

The Senate count on polling night may begin at the same time as the two candidate-preferred count for the HoR depending on the number of staff in the polling place. 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 HoR votes.

On polling night, the only figures released for the Senate are the first preference votes for groups and ungrouped candidates.

Referendum count on polling night

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

As soon as the scrutiny of ordinary votes ends, all the ballot papers from the polling place are placed in sealed containers and delivered to the DRO.

After polling night – fresh scrutiny or re-check

House of Representatives and referendum after polling night

The initial scrutiny of HoR and referendum ballot papers conducted at the polling place on polling night is routinely followed by a 'fresh scrutiny' conducted at a divisional out-posted centre in the days following polling day. The fresh scrutiny is a re-check of all ordinary votes received from every polling place, pre-poll voting centre and mobile polling team within a division.

The fresh scrutiny of HoR ballot papers also includes a two-candidate-preferred count, to confirm the TCP result from election night. This count is conducted in essentially the same manner as the indicative two-candidate-preferred count conducted in polling places on election night.

Following the fresh scrutiny, a full distribution of preferences is also carried out for each polling place.

Although not required under the *Referendum (Machinery Provisions) Act 1984*, it is AEC policy to conduct a fresh scrutiny of all declaration vote referendum ballot papers.

DRO Senate count after polling night

In the weeks following polling day, the DRO checks that the total number of Senate ballot papers matches the number counted in the polling places and does an initial count of ballot papers from mobile polling teams, pre-poll voting centres and declaration votes. The initial count is a total first preference figure for each group and ungrouped candidate and a total of obviously informal ballot papers. The result is entered into the Election Management System and the ballot papers are then dispatched in secure containers by approved means of transport to the AEO at the CSS centre. The exact time of the DRO Senate count will be advised by the DRO.

Any person approved by the officer conducting the count may be present, as well as duly appointed scrutineers.

Central Senate Scrutiny (CSS)

After the DRO Senate count, the AEO conducts the Senate scrutiny and assesses the formality of ballot papers at the CSS centre in each state and territory.

All ballot papers are scanned for entry into the semi-automated scrutiny process which captures preferences using a combination of optical character recognition software and manual verification by a human operator. Scrutineers may view the verification process and, if they wish, raise challenges for adjudication by the AEO.

Large monitors and space around workstations in the exception queues (that deal with those ballot papers that require further intervention) are provided for scrutineers to observe ballot papers.

Once all ballot paper data is received at the AEC it is transferred to the count system where the distribution of preferences is run and the result of the Senate election is determined.

This system provides full accountability and an audit trail, including reports for inspection by scrutineers. The relevant AEO notifies all Senate candidates in writing of the location and hours of operation of the CSS centre in that state or territory.

Scrutiny of declaration votes

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

The DRO and staff in the counting centre conduct the scrutiny of declaration votes in two stages:

- the preliminary scrutiny of postal vote certificates and declaration envelopes containing early, absent or provisional votes to determine whether each person is entitled to a vote
- the further scrutiny where the ballot papers admitted to the scrutiny are taken out of their envelopes and then treated in the same way as ordinary ballot papers.

Declaration exchange

In the days following polling day, a 'declaration vote exchange' is carried out between the divisions, where declaration votes are physically passed on to the relevant division. Declaration votes received on behalf of other divisions are sent to the division for which the voter is claiming enrolment (the 'home' division). Once the declaration votes are received in the home division, the counting of these votes can begin.

Preliminary scrutiny

The preliminary scrutiny of declaration vote envelopes determines which declaration votes are admissible and can proceed to further scrutiny for HoR and referendum or a DRO Senate count. The preliminary scrutiny of early and postal declaration vote envelopes can begin from the receipt of the declaration envelopes. This assists the DRO to begin the further scrutiny of these types of declaration votes promptly after polling day.

Electronic Certified List (ECL) devices will be used to assist staff in conducting preliminary scrutiny.

Following preliminary scrutiny, envelopes may be opened to extract ballot papers however no ballot paper is scrutinised before the close of the poll.

The DRO will contact candidates before the preliminary scrutiny to advise times, dates, and locations of preliminary scrutinies. A notice must be displayed in the DRO's office no later than 4pm on the day before the preliminary scrutiny is to begin.

Postal vote certificates

Section 228(5A) of the Electoral Act and s 46A(5A) of the Referendum Act require the AEC to wait for up to 13 days after polling day for any outstanding postal (or other declaration) votes. These votes are included in the count if they were cast before 6pm on polling day and are received by a designated AEC staff member within 13 days after the close of the poll. These envelopes may need to be forwarded by the receiving officer to the owning DRO. For this reason, the counting of postal votes is an ongoing process for up to three weeks after polling day.

A postal ballot paper will be accepted for further scrutiny if the DRO is satisfied:

- that the elector is enrolled for the division
- that the vote contained in the envelope was recorded prior to the close of the poll (which is done by checking the date the witness has signed)
- that the signature on the postal vote certificate is valid
- that the signature is correctly witnessed.

Following the removal of signature checking requirements from the Electoral Act, the AEC implemented an authentication checking system to confirm that the person who submits a Postal Voting Application (PVA) is the same person who completes the Postal Voting Certificate (PVC). This is to be done via a security question and answer process, with signature checking as a back-up. PVCs must not be rejected if the security answer is incorrect or not provided, as it is not a mandatory field and does not invalidate the PVC.

If there is doubt that the signature on a PVC is that of the elector, the DRO must check the signature against the most recent enrolment record (if any) of the elector's signature available.

Early, absent and provisional vote declaration envelopes

The requirements for the preliminary scrutiny of early (pre-poll), absent and provisional votes are essentially the same as those for the preliminary scrutiny of postal votes.

A declaration vote will be accepted for further scrutiny if the DRO is satisfied:

- that the elector is enrolled for the division
- that the certificate or declaration has been properly signed and witnessed.

Votes will not be admitted where:

- the elector was provisionally enrolled at 17 years of age but had not turned 18 on or before polling day
- the elector's claim to be enrolled was received by the AEC after the close of rolls for the election or referendum.

A vote will generally be admitted if clerical, computer error or omission was responsible for the elector's name or address being excluded from the electoral roll.

Further scrutiny of declaration votes

Declaration votes generally do not get counted on polling night. From the Monday before election day, the DRO opens the declaration vote envelopes that have passed the preliminary scrutiny. The ballot papers are extracted, without being inspected, and placed in a ballot box. At the further scrutiny, they are counted in a counting centre in the period following polling night, following the same procedures as after 6pm on polling day.

The DRO will advise candidates of the times, dates and locations of the further scrutiny. Scrutineers have the same rights and responsibilities at a further scrutiny in a counting centre as they have at the scrutiny of ballot papers in a polling place after 6pm on polling day.

Formality of votes

The Electoral Act	The Referendum Act
Part XVI, 'The polling'	Part VI, 'Scrutiny of a referendum'
Part XVIII, 'The scrutiny'	

As a scrutineer, you have the right to challenge the admission or rejection of any ballot paper at the scrutiny. The grounds for a challenge may be the formality or informality of the ballot paper. You therefore need to know the difference between an informal vote and a formal vote.

Please refer to the Ballot paper formality guidelines for further guidance and examples.

Stages of the scrutiny

The scrutiny of ballot papers has two stages:

- an initial formality check, where votes that do not satisfy certain criteria are excluded
- a subsequent examination of those votes that pass the formality check to determine which candidate has been elected, or whether the prosed law to alter the Constitution has been approved.

Checking formality

To help decision makers correctly identify ballot papers as formal or informal, there are:

- two **formality** tests that must be applied to all ballot papers
- five **principles** that must be applied to every ballot paper that passes the initial two tests
- a set of **guidelines** that underpin these principles.

The ARO at the polling place, DRO at the fresh scrutiny and the AEO for the Senate are the appropriate decision makers. To assist with the consistent application of the formality principles, decision makers should attempt to look at as many disputed ballot papers as possible at the one time.

If the polling place officials conducting the scrutiny of HoR or referendum ballot papers are in doubt about the formality of a ballot paper they will put it in a separate pile for the ARO to review.

If an ARO is unsure of the formality of any ballot paper, they should always include them with the other informal ballot papers.

All informal HoR and referendum ballot papers are checked at the fresh scrutiny, and by following the above process, the ARO ensures consistent decision-making on the formality of possibly contentious ballot papers.

Ballot paper formality tests

All ballot papers will be required to undergo two tests before progressing through formality checking. Failure of either of these tests will result in an informal ballot paper and no further formality checking will be required.

- Is the ballot paper authentic?
- Does the ballot paper identify the voter?

Authentic ballot papers

Generally, a ballot paper will carry an official mark (watermark or printed security detail) and the initials of the issuing officer.

However, ballot papers that do not carry these markings are not necessarily informal. They should be presented to the DRO in the case of HoR or referendum ballot papers or to the AEO in the case of Senate ballot papers to decide on their formality.

Ballot paper alteration by polling officials

A fully printed ballot paper for a division may be altered to become a ballot paper for another division (i.e. the names of the candidates are crossed out by the issuing officer and the names of candidates for the other division are written in their place).

In a referendum, the name of the state or territory printed on the ballot paper may be changed to the name of the state or territory in which the ballot paper is issued.

Where ballot papers have been altered by polling officials the vote is still formal if:

- the political party names are not all correctly listed, for example the wrong party names are listed against the candidates or the party names are not listed
- a ballot paper has the names of any candidate spelt incorrectly, provided the identity of the candidate is still clear
- the ballot paper has the names of the candidates in the wrong order
- the candidate's surname is only listed on the altered ballot paper, as long as no two candidates share a surname.

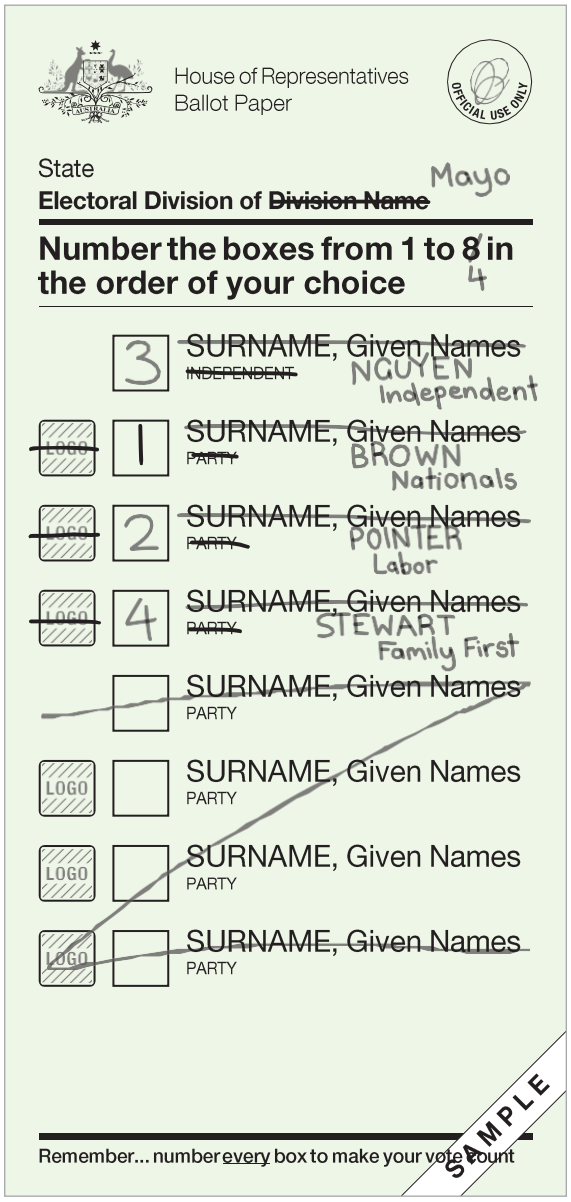
NOTE: There is no legal requirement for a ballot paper prepared by an official under s 209(6) or s 209(7) of the Electoral Act to contain a party logo and therefore the absence of a logo does not make the ballot paper informal.

However, irrespective of the way the voter has voted, the ballot paper is informal if:

- an altered ballot paper does not contain the names of every candidate for the division.
- the candidate's given names only are listed on the altered ballot paper.

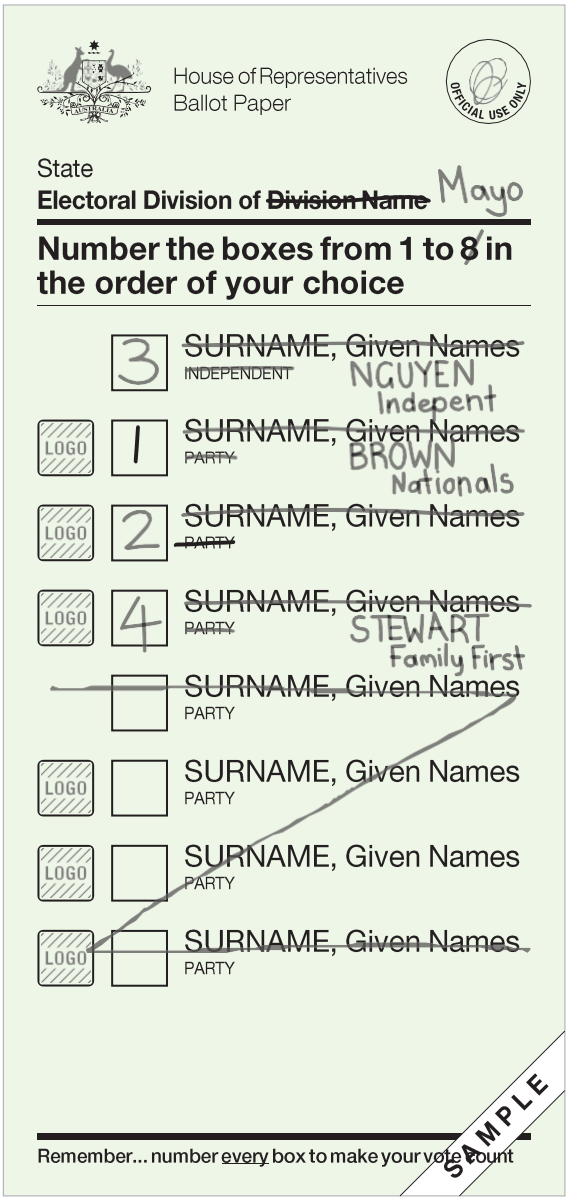
Alteration by polling officials

Example – ballot paper alteration by polling official



This ballot paper is formal

All surnames are different. That is, the ballot paper has been altered with the candidates' surnames only and no two candidates share a surname.



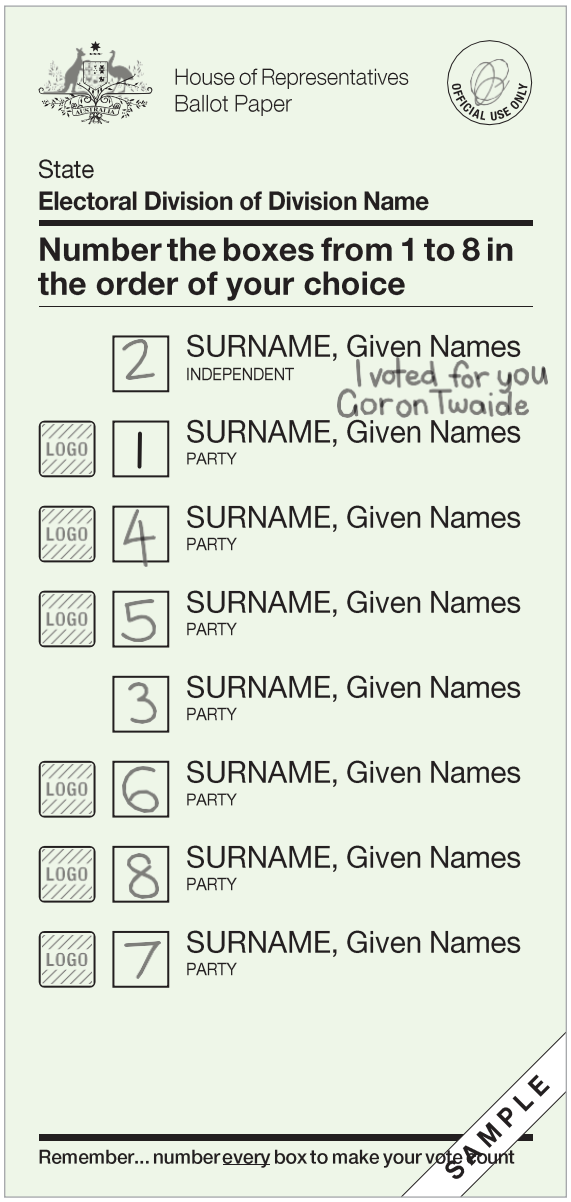
This ballot paper is informal.

There is no candidate's name beside the third box.

Identification of voter

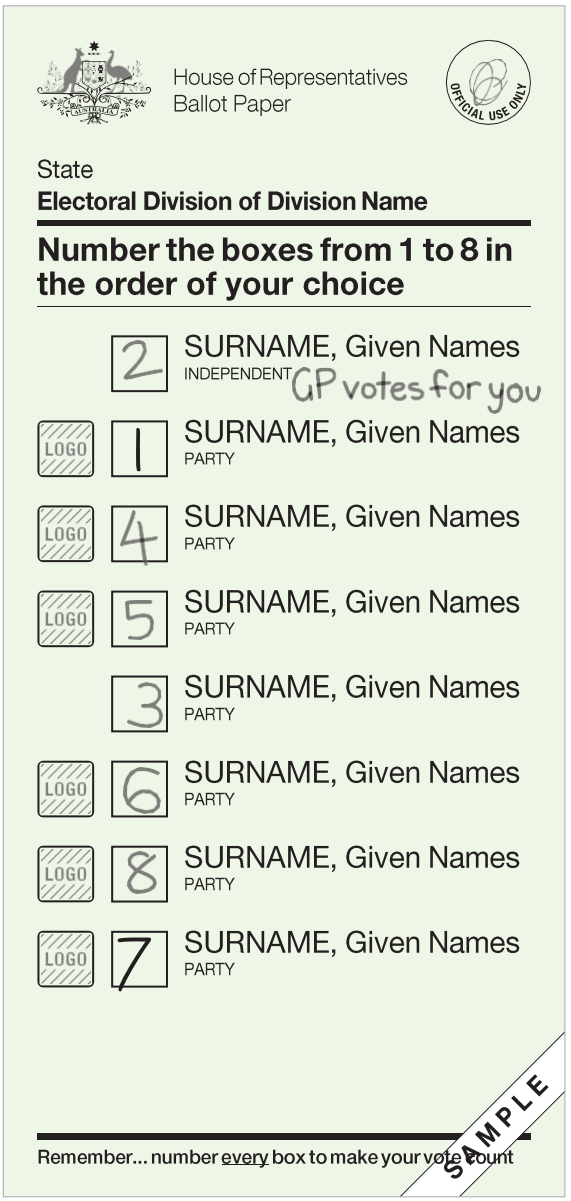
A ballot paper that has been marked in a way that could identify the voter should be presented to the DRO in the case of HoR and referendum ballot papers and to the AEO in the case of Senate ballot papers to decide on formality.

Example – ballot paper that may identify a voter



This ballot paper may be informal

If, in the opinion of the DRO, there is sufficient writing on the ballot paper to uniquely identify the voter, the ballot paper is informal.



This ballot paper may be formal

If, in the opinion of the DRO there is not enough information to identify the voter the ballot paper is formal.

Ballot paper formality principles

There are five overarching principles that must be considered when interpreting the marks on any ballot paper that has passed the initial two tests. They are:

Start from the assumption that the voter has intended to vote formally

The assumption needs to be made that an elector who has marked a ballot paper has done so with the intention to cast a formal vote.

Establish the intention of the voter and give effect to this intention

When interpreting markings on the ballot paper, these must be considered in line with the intention of the voter.

Err in favour of the franchise

In the situation where the voter has tried to submit a formal vote, i.e. the ballot paper is not blank or defaced, doubtful questions of form should wherever possible be resolved in the voter's favour.

Only have regard to what is written on the ballot paper

The intention of the voter must be unmistakable, i.e. do not assume what the voter was trying to do if it's not clear – only consider what was written on the ballot paper.

The ballot paper should be construed as a whole

By considering the number in each square as one in a series, not as an isolated number, a poorly formed number MAY be recognisable as the one missing from the series.

Lawful numbering sequence

HoR and Senate ballot papers have different numbering sequence requirements. Whether a numbering sequence is lawful will depend on the type of ballot paper. However, there are some general principles that apply to the assessment of all ballot papers:

- consecutive sequence of numbers
- overwriting
- acceptable forms of numbering
- empty boxes
- placement of votes
- variations in handwriting, and
- candidate name substitution.

Consecutive sequence of numbers

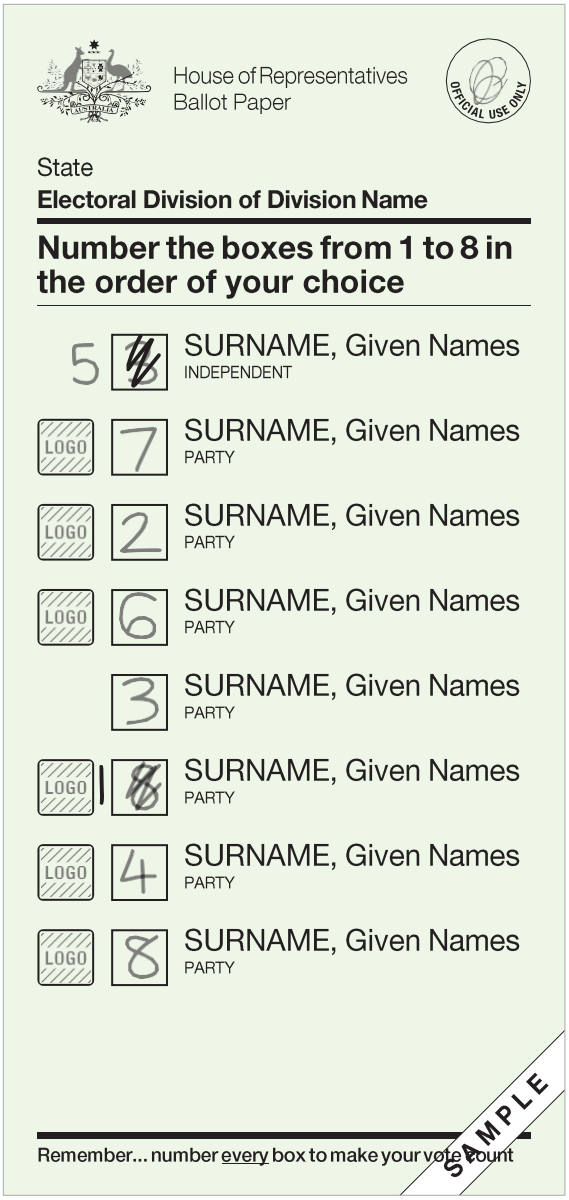
A House of Representatives ballot paper is only formal if the voter has indicated a first preference and consecutively numbered all boxes. A number in the series may not be repeated or skipped.

If one box is left blank and all other boxes have been numbered in a consecutive sequence starting with the number '1', the paper is formal providing:

- the blank box is the last in the consecutive sequence
- there is no marking at all in the box.

Alterations to numbers will not make a ballot paper informal, provided the voter's intention is clear, for example a number can be crossed out and another number written beside it.

Example – consecutive numbering



This ballot paper is formal

There are eight consecutive numbers reasonably discernible.

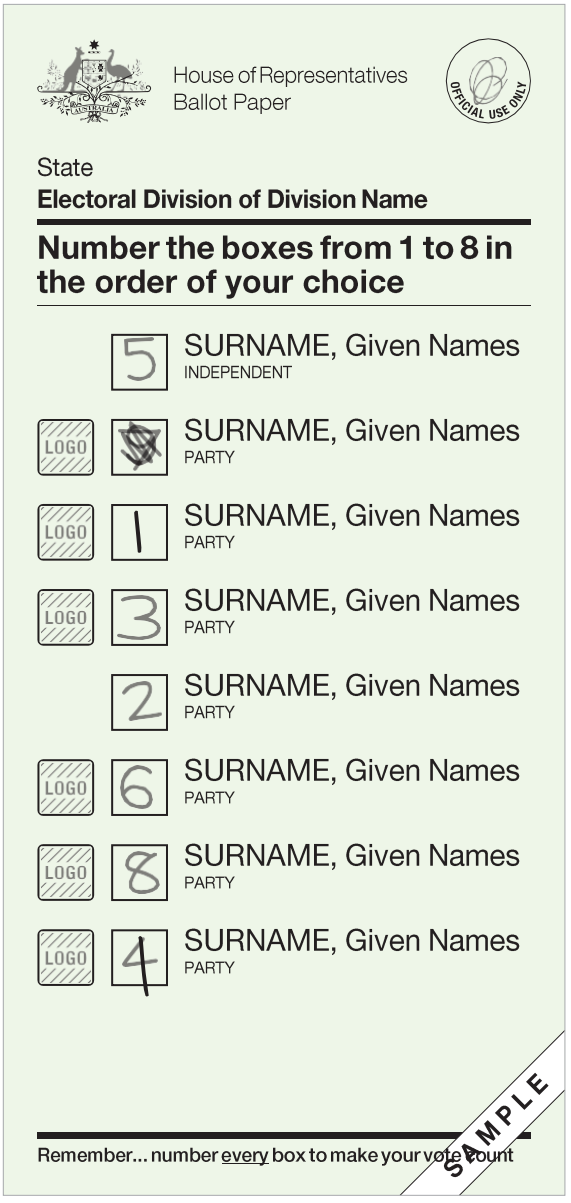
Overwriting

If a number is overwritten in a way that makes it impossible to read, then the ballot paper is informal.

Example – overwritten ballot paper

This ballot paper is formal

The third box is an overwritten ‘3’, the fourth box is an overwritten ‘4’.



This ballot paper is informal

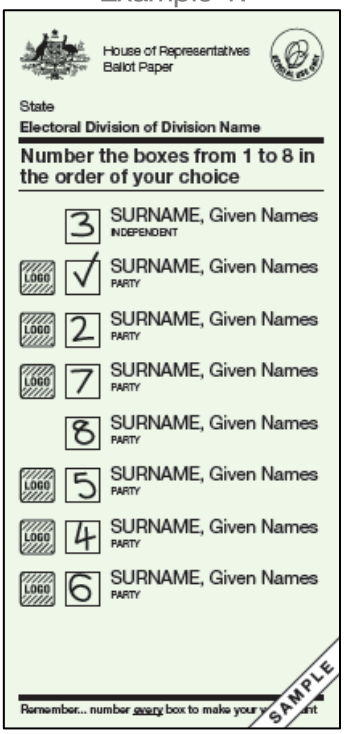
The overwriting in the second square is indecipherable

Acceptable forms of numbering

For voting in the House of Representatives, voters may use a consecutive sequence in various styles – such as: numerals (1 2 3), words (one two three), roman numerals (I II III IV), or ordinal numerals (1st 2nd 3rd). In certain cases, a mixture of numbering sequences can be used, provided that the voter's intention is clear. Voters can use letters in a consecutive series (A B C) provided A is the first preference and no letters are repeated or skipped. A mixture of letters and numbers will result in an informal ballot paper.

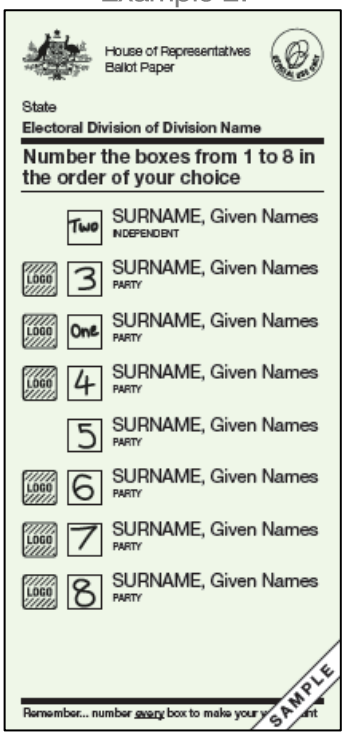
Example – numbering

Example 1.



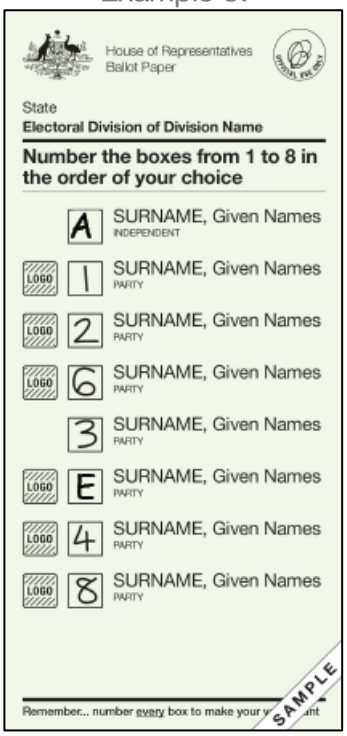
The ballot paper above is informal.
A tick is not a valid first preference mark.

Example 2.



The ballot paper above is formal.
Numbers can be written as words or figures.

Example 3.



The ballot paper above is informal.
A mixture of numbers and letters has made the voter's intention unclear.

Two candidates only

In the case of only two candidates on a HoR ballot paper, if the voter has placed a '1' in the box beside a candidate and

- left the second box blank, or
- inserted any other number

the ballot paper will be deemed formal (s 268(1)(c) of the Electoral Act).

Empty boxes

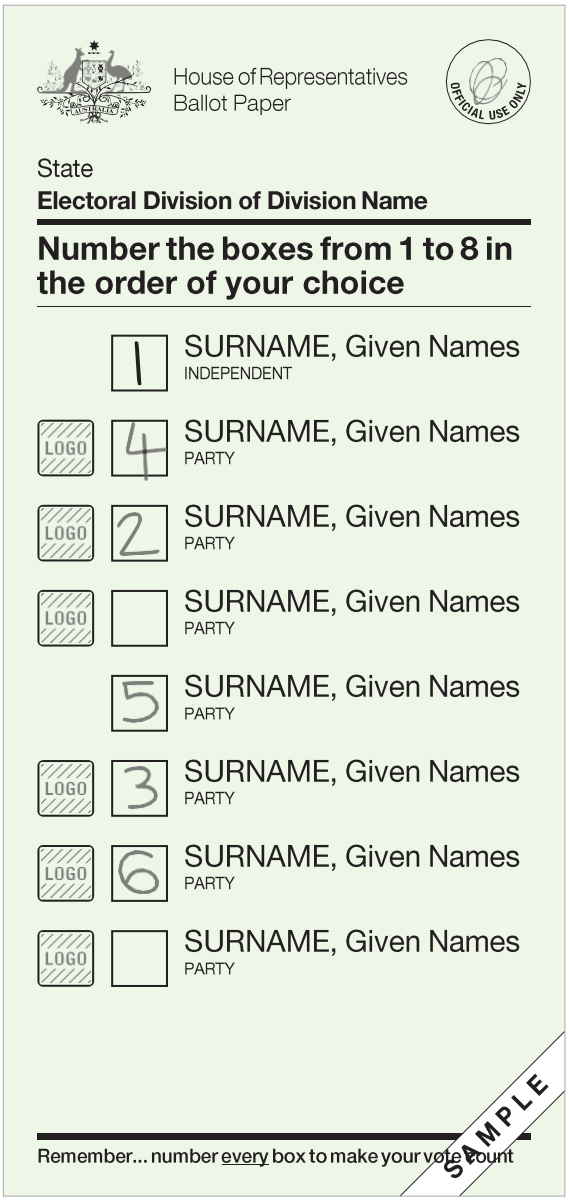
For House of Representatives ballot papers a single box may be left empty provided it is the last in the series and on the condition there is no marking in the box at all. A scribble or dot etc in the final box will result in informality if it is not recognisable as the next number in the series.

Two or more empty boxes on a House of Representatives ballot paper results in an informal vote.

Example – empty boxes on ballot paper

This ballot paper is informal

No discernible figure in the eighth square.



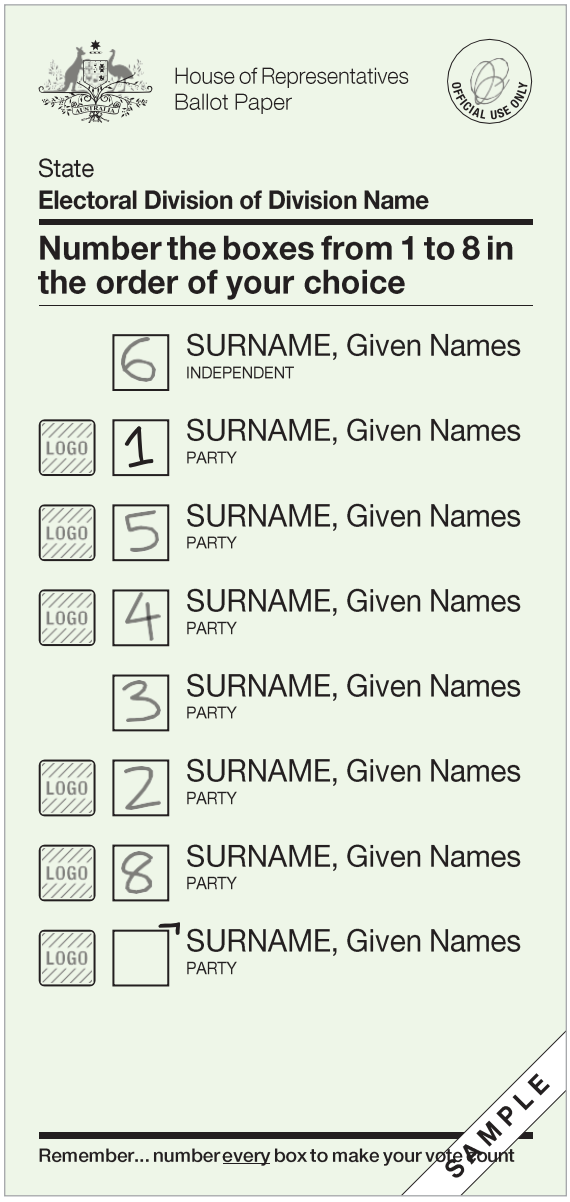
This ballot paper is informal

There are two empty boxes.

Placement of votes

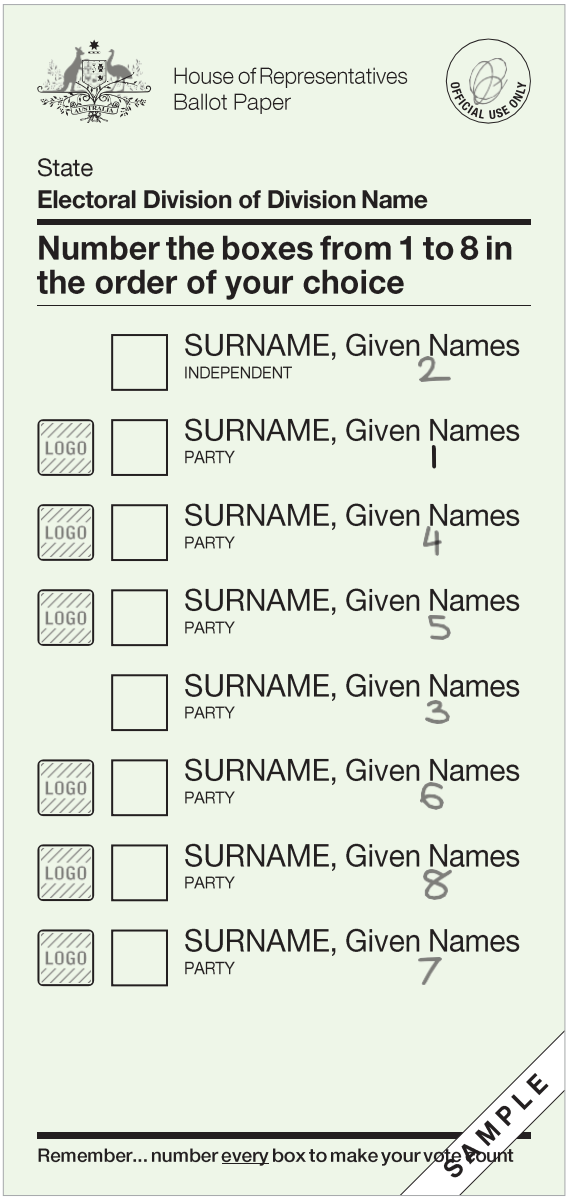
The vote can be made inside the box or beside the box/candidate name, provided the intention of the voter is clear.

Example – placement of votes



This ballot paper is formal

The figure in the eighth square reasonably resembles a '7'.



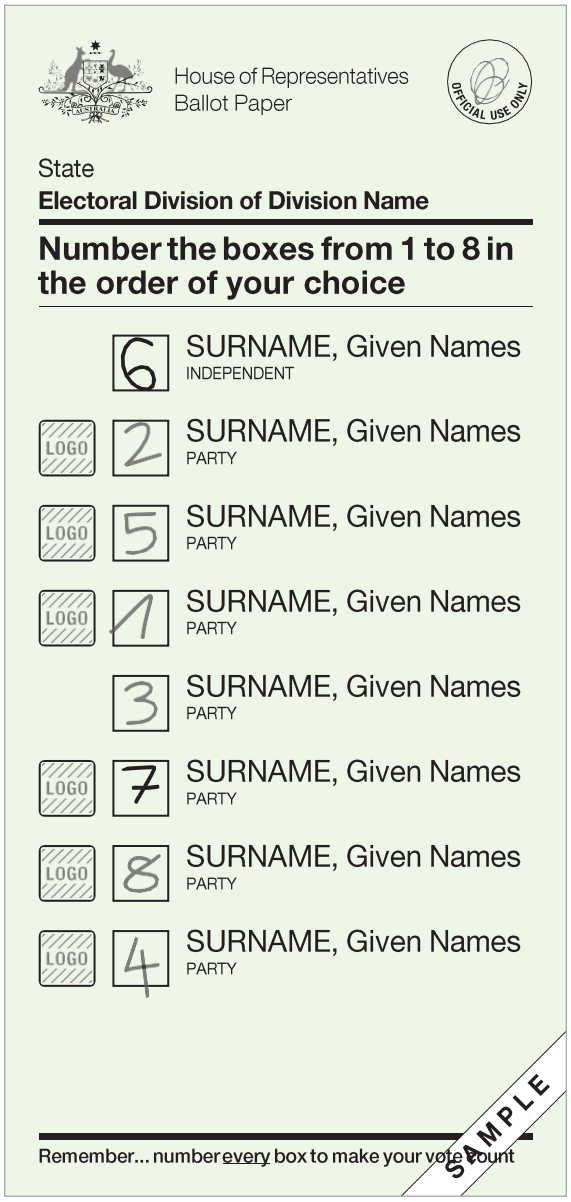
This ballot paper is formal

There is a consecutive series of discernible numbers beginning with '1' and the voter's intention is clear.

Variations in handwriting

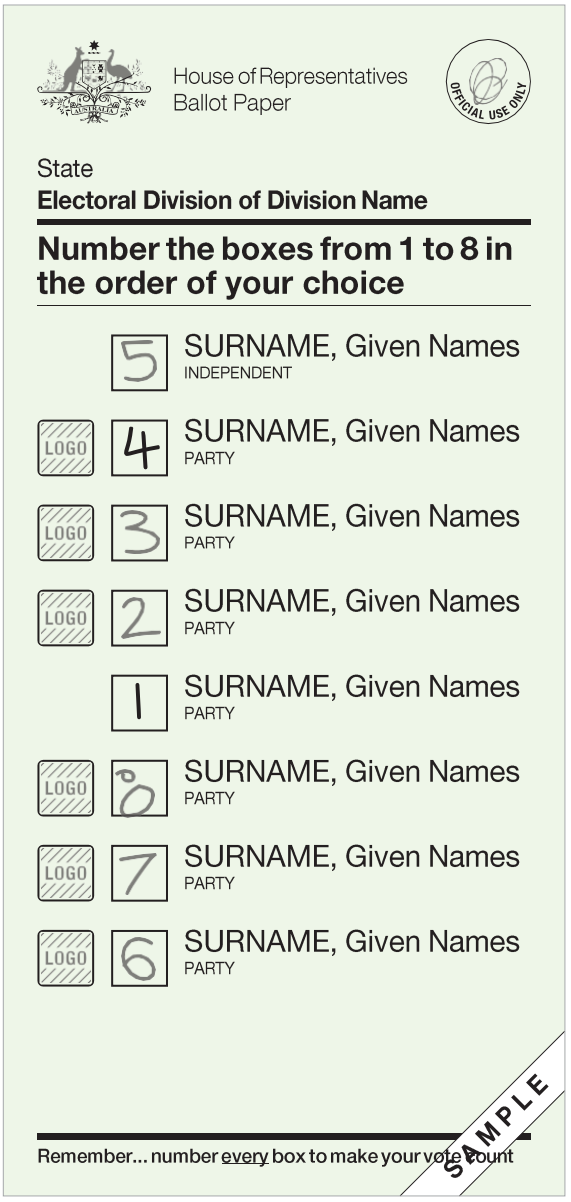
Unconventional but recognisable variations in handwriting, such as placing a stroke through the vertical stem of the number ‘7’ or an upward angular stroke before the familiar vertical stroke on the number ‘1’, should not result in a ballot paper being informal, provided any variations result in a series of numbers and the voter’s intention is clear.

Example – variations in handwriting



This ballot paper is formal

The figure in the fourth box reasonably resembles a ‘1’.



This ballot paper is formal

There is a consecutive series of discernible numbers beginning with ‘1’, and the voter’s intention is clear.

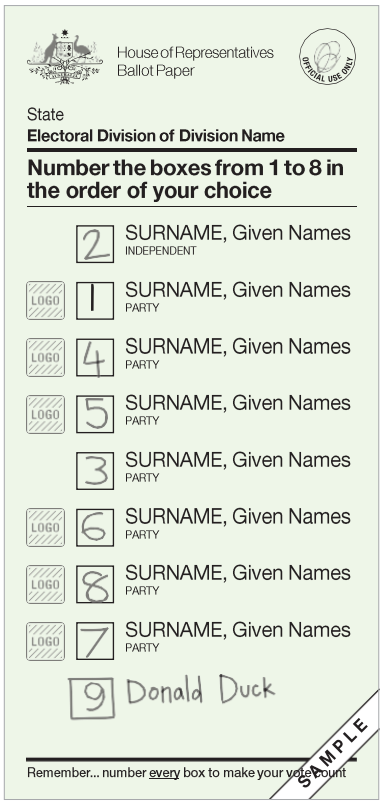
Candidate name substitution

If the voter crosses out or replaces a candidate's name on a ballot paper, that ballot paper is informal unless the square adjacent to the substitute candidate name is left blank or given the last preference in which case section 268(1)(c) of the Electoral Act would likely permit the HoR ballot paper being considered formal.

Note that this does not include cases where a fully printed ballot paper is altered to become a ballot paper for another division by a polling official.

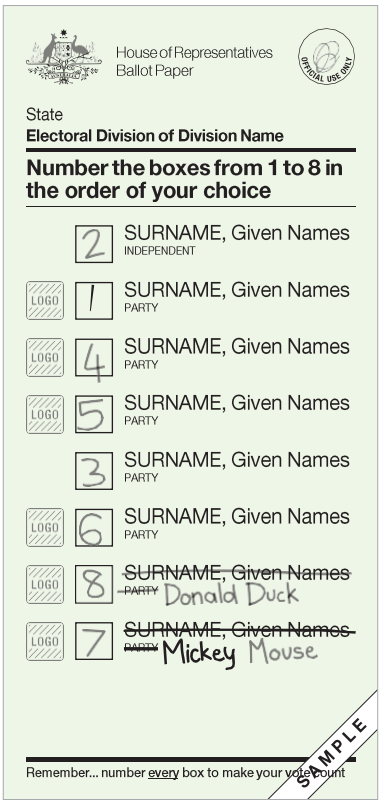
If a candidate name has been added to the ballot paper by the voter and been allocated any number except the last number, the vote is informal.

Example – candidate name substitution



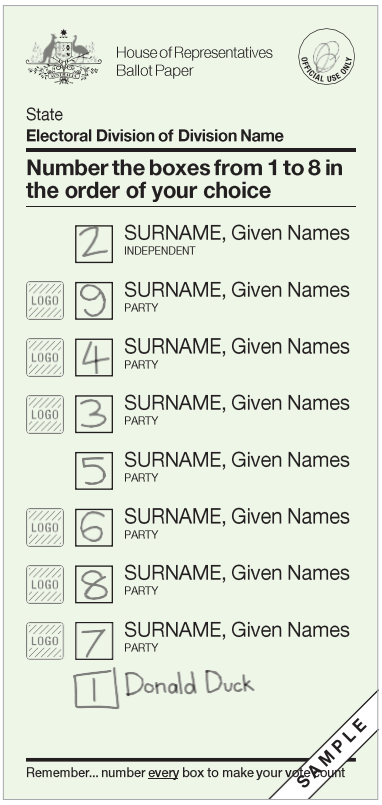
This ballot paper is formal

The voter has indicated consecutive preferences for all nominated candidates commencing with the number '1'.



This ballot paper is informal

The voter has not indicated a preference for all the candidates in the election.



This ballot paper is informal

The voter has not indicated a valid first preference.

Senate guidelines

Consecutive sequence of numbers

Above the line

For an above the line vote (ATL), voters are instructed to consecutively number at least 6 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. However, where a voter consecutively numbers fewer than 6 boxes, (including only one box with a first preference) the ballot paper will still be formal, but will exhaust after the last consecutive number.

Below the line

For a below the line vote (BTL), voters are instructed to consecutively number at least 12 boxes alongside individual candidates in order of their preference commencing with the number '1'. They may continue to express further preferences if they wish.

Where there are more than 6 candidates, the ballot paper will still be formal if the voter has consecutively numbered the boxes 1 to 6. In effect the minimum formality threshold for a BTL vote is the expression of the numbers (preferences) 1, 2, 3, 4, 5, 6 with no duplications or missing numbers.

Note: s 268A(2)(a) of the Act would permit the number '1' being expressed as either a singular tick or cross e.g. X, 2, 3, 4, 5, 6,

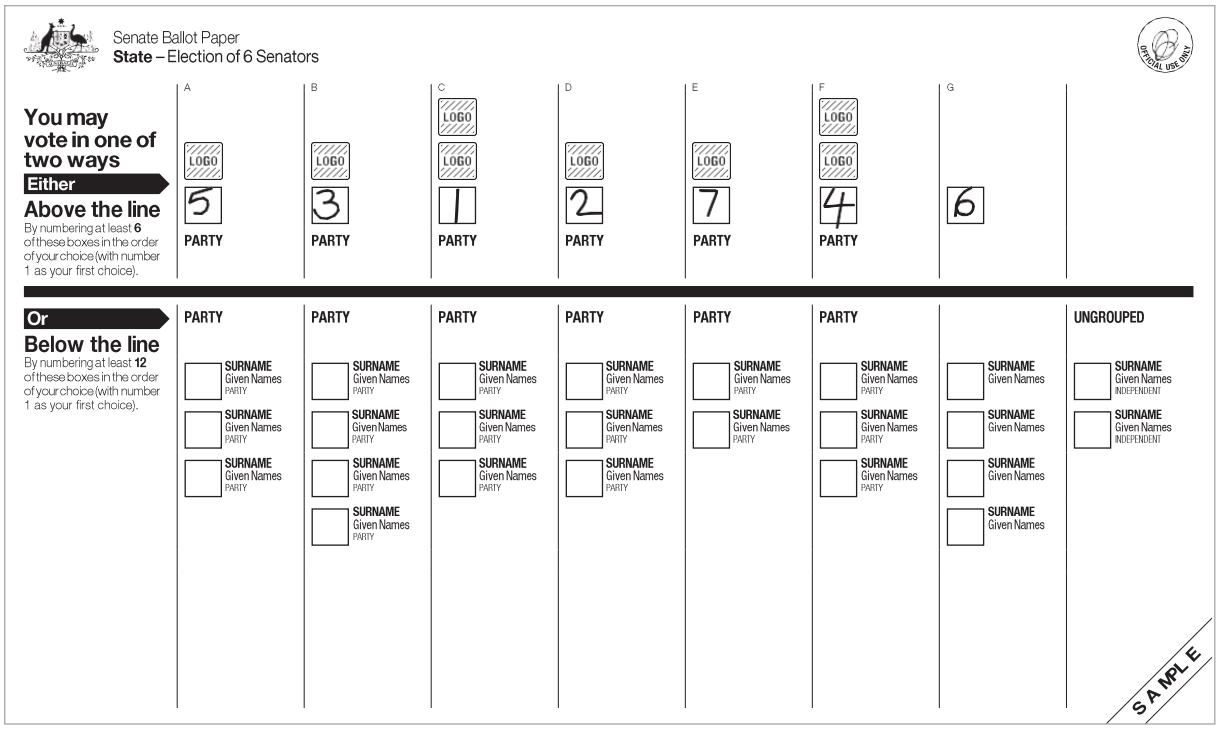
Marked both above and below the line

For a ballot paper that is marked both above and below the line, the BTL figures take precedence and will count as the vote.

If however the BTL figures are informal, the ATL vote will be accepted, providing it is formal.

Disclaimer: All the Senate ballot paper examples in this publication are for the 'Election of 6 Senators' in a state. In the event of a double dissolution election the Senate ballot paper for each state will be for the 'Election of 12 Senators'. Ballot papers for the territories are always for the 'Election of 2 Senators'.

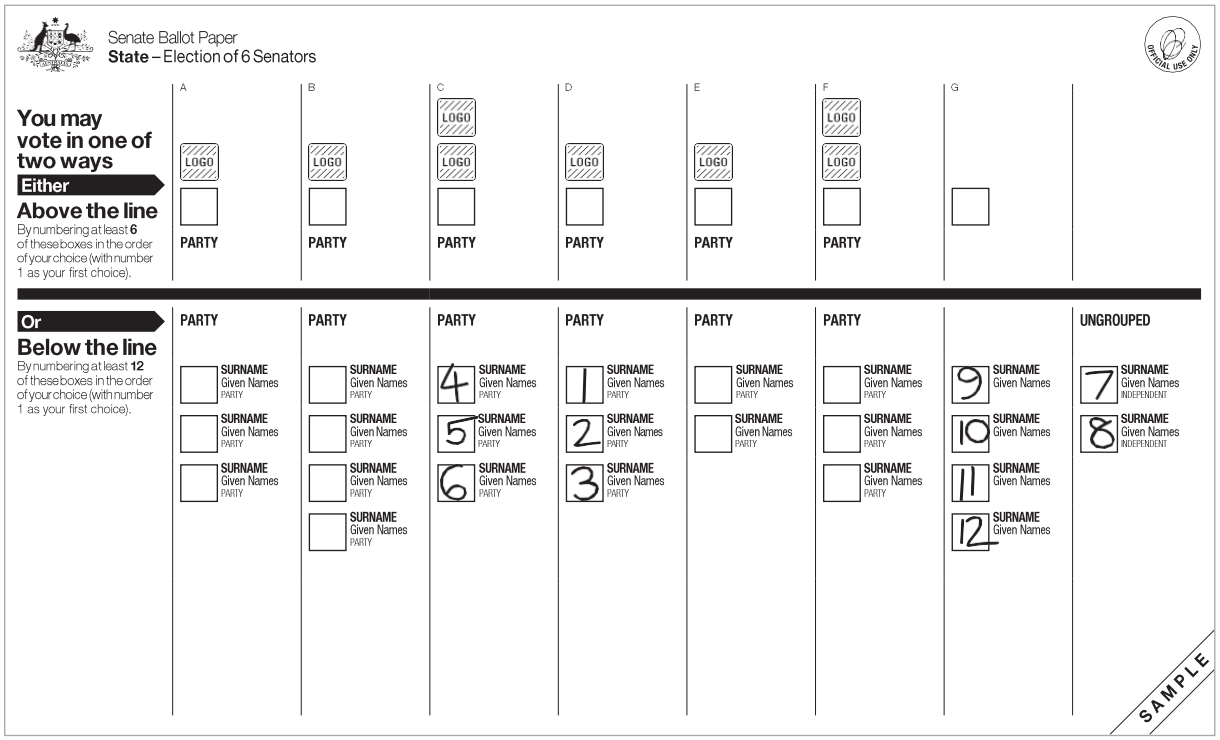
Example – ATL Senate vote



This ballot paper is formal

The voter's intention is clear. There is a consecutive sequence in a least 6 boxes (from 1 to 7).

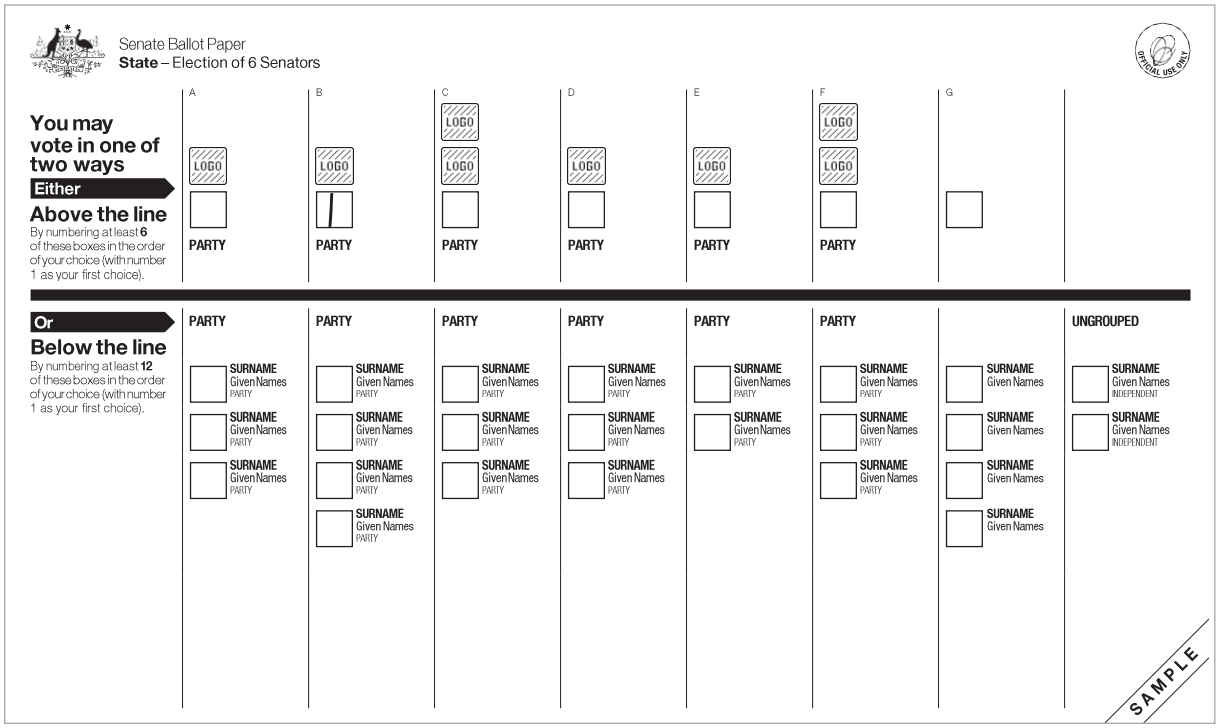
Example – BTL Senate vote



This ballot paper is formal

The voter has indicated their preferences by the consecutive numbers 1 to 12.

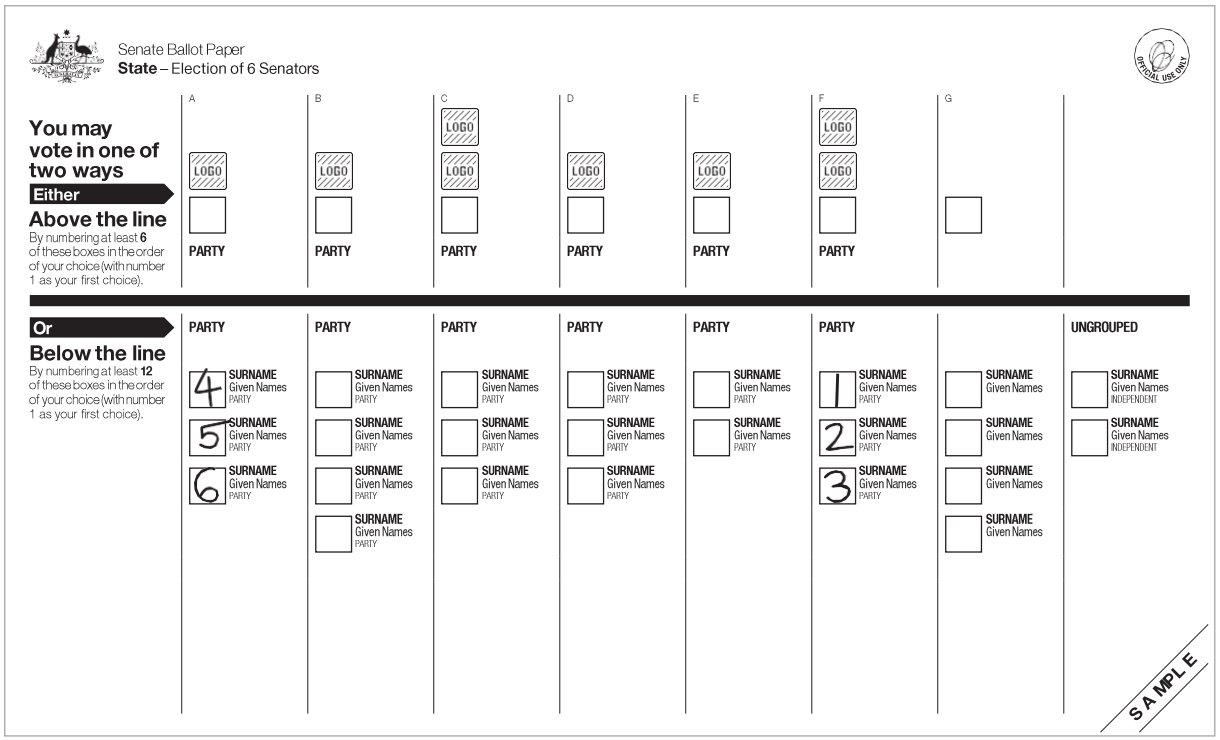
Example – ATL Senate vote



This ballot paper is formal

While the voter has not complied with the requirements of s.239 of the Electoral Act to number at least six boxes, provided there are no other mistakes, 'vote saving' provisions mean ballot papers marked above the line with a number one only (or a sequence of numbers less than six) will be included in the count.

Example – BTL Senate vote



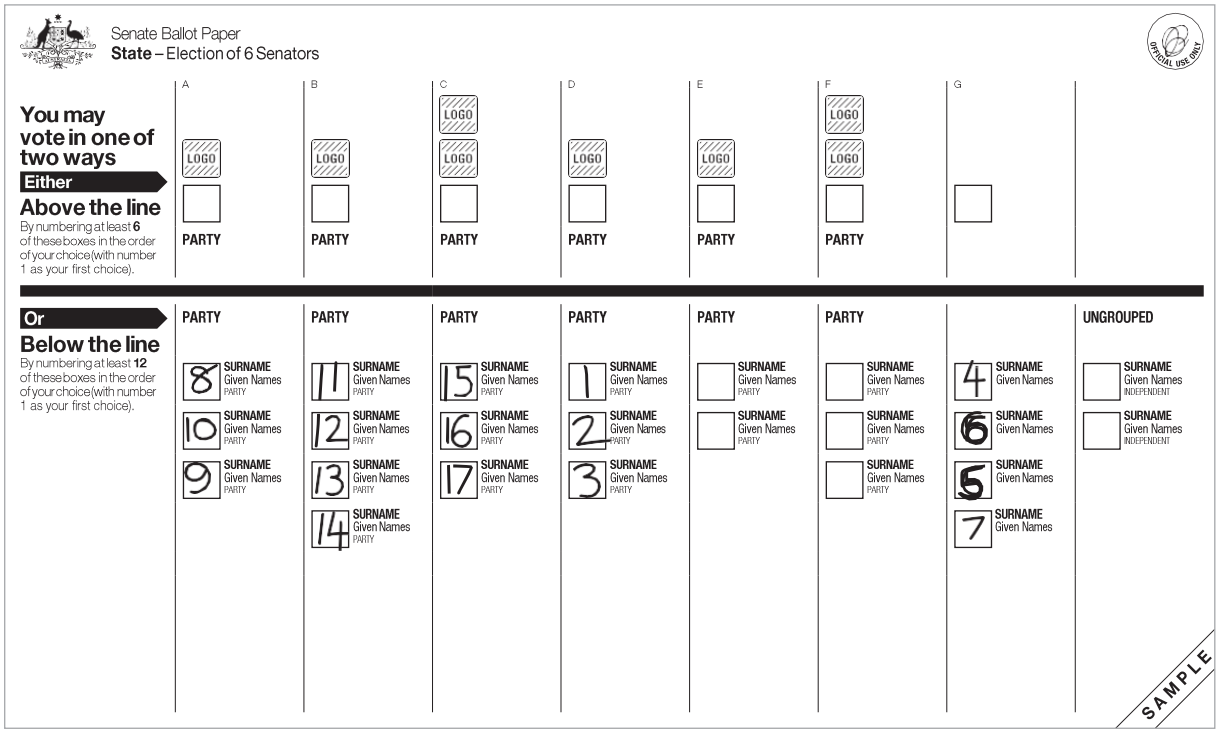
This ballot paper is formal

While the voter has not complied with the requirements of s.239 of the Electoral Act to number at least twelve boxes, provided there are no other mistakes, 'vote saving' provisions mean ballot papers marked below the line with at least six consecutive preferences commencing with the number one will be included in the count.

Overwriting

If a number is overwritten in a way that makes it impossible to read, then the ballot paper is informal.

Example – overwritten ballot paper – BTL Senate



This ballot paper is formal

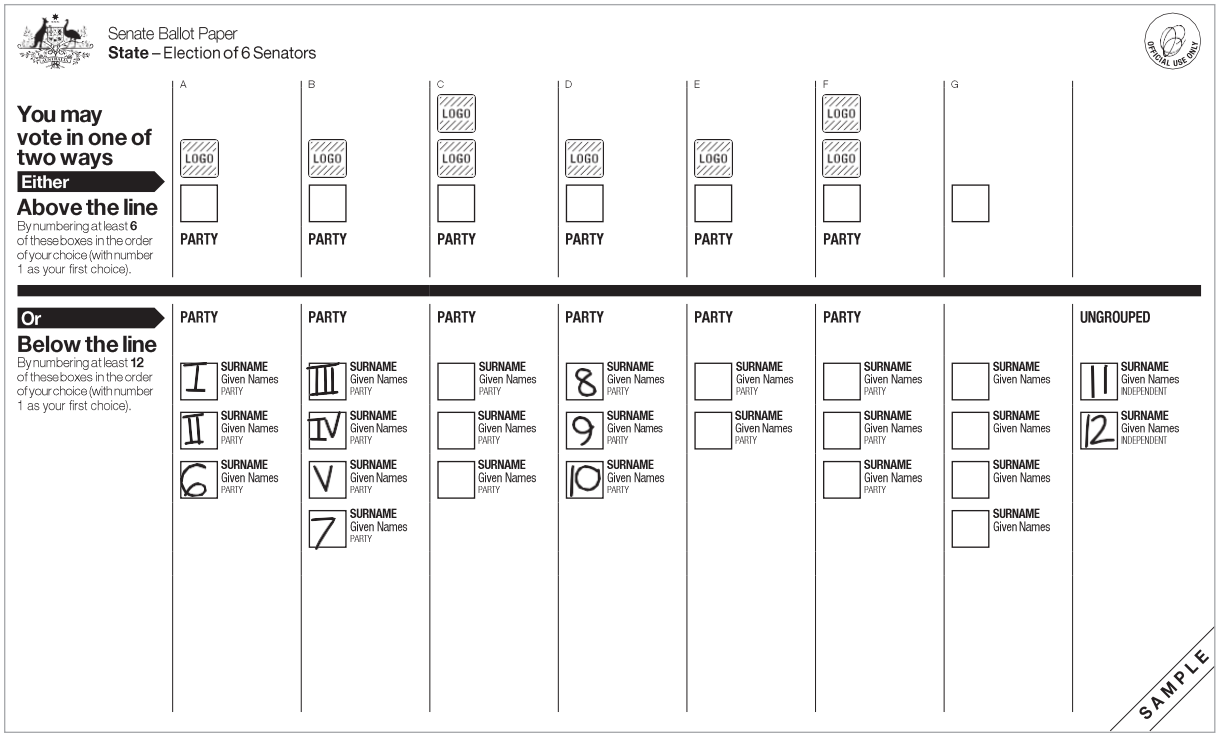
Even though the voter has overwritten two numbers, their intention to number the second and third candidates in Group G with their sixth and fifth preference is clear.

If the overwriting was not clear enough to determine the voter's intention, the ballot paper would be informal because the voter has not expressed consecutive preferences for at least 6 candidates. If the same situation occurred for preference numbers higher than 6, the ballot paper would be formal, but exhaust where there is clear contention over the number sequence.

Acceptable forms of numbering

For voting ATL and BTL in the Senate, voters may use a consecutive series in various styles – such as: numerals (1 2 3), words (one two three), roman numerals (I II III IV), or ordinal numerals (1st 2nd 3rd). In certain cases, a mixture of numbering sequences can be used, provided that the voter's intention is clear. Letters are not acceptable forms of numbering for the Senate.

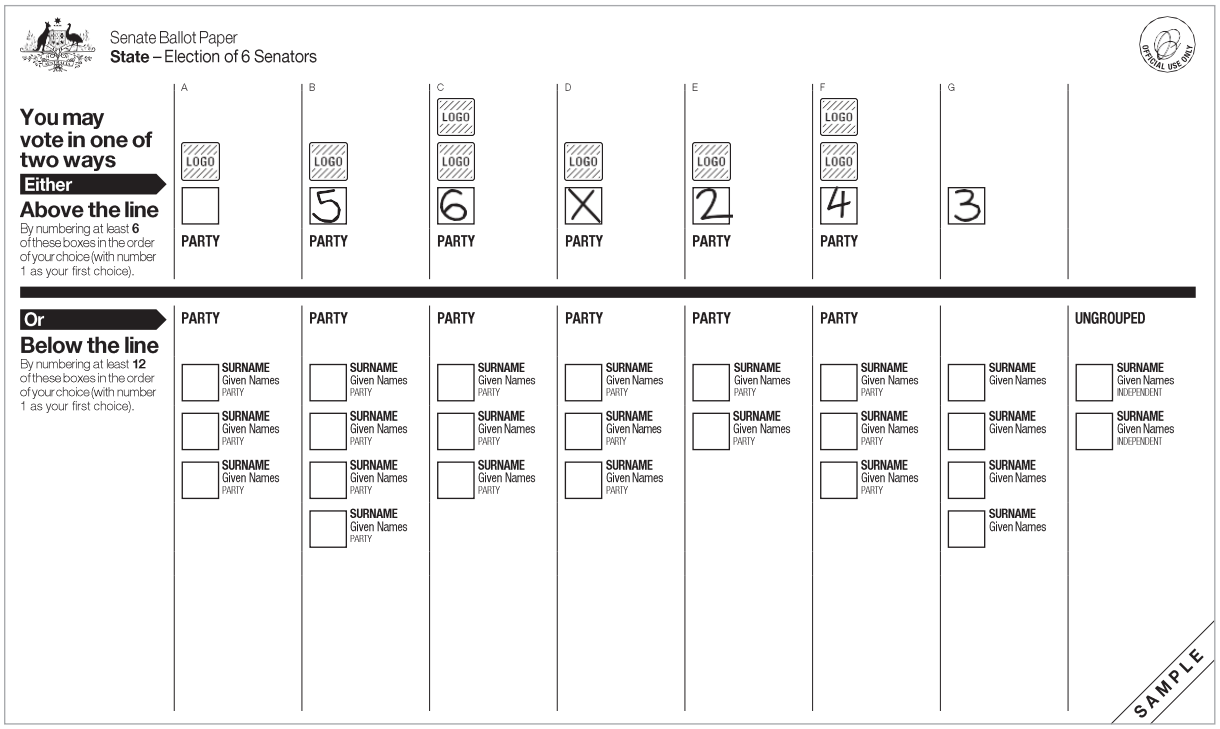
Example – numbering – BTL Senate



This ballot paper is formal

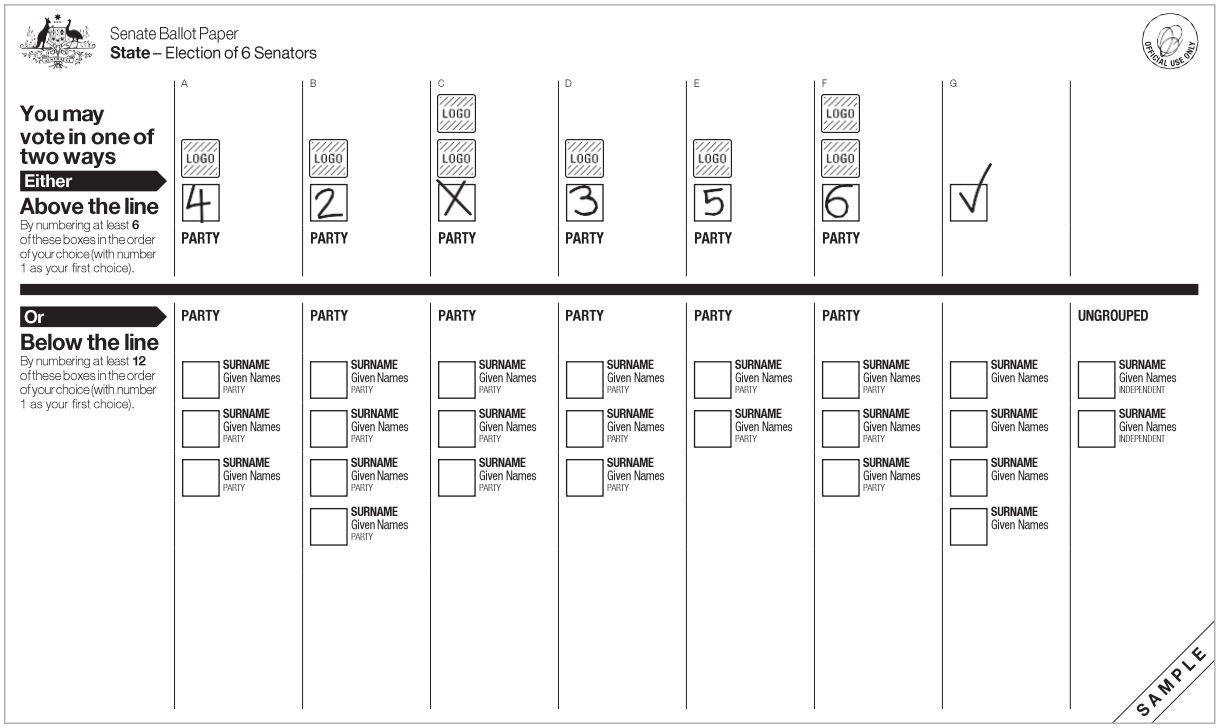
Example – use of a tick or cross – ATL Senate

Unlike in the HoR, for voting ATL and BTL in the Senate, ticks or crosses are acceptable as a first preference mark in lieu of the number '1'. Only one tick or cross or number '1' may be used to indicate the voter's first preference.



This ballot paper is formal

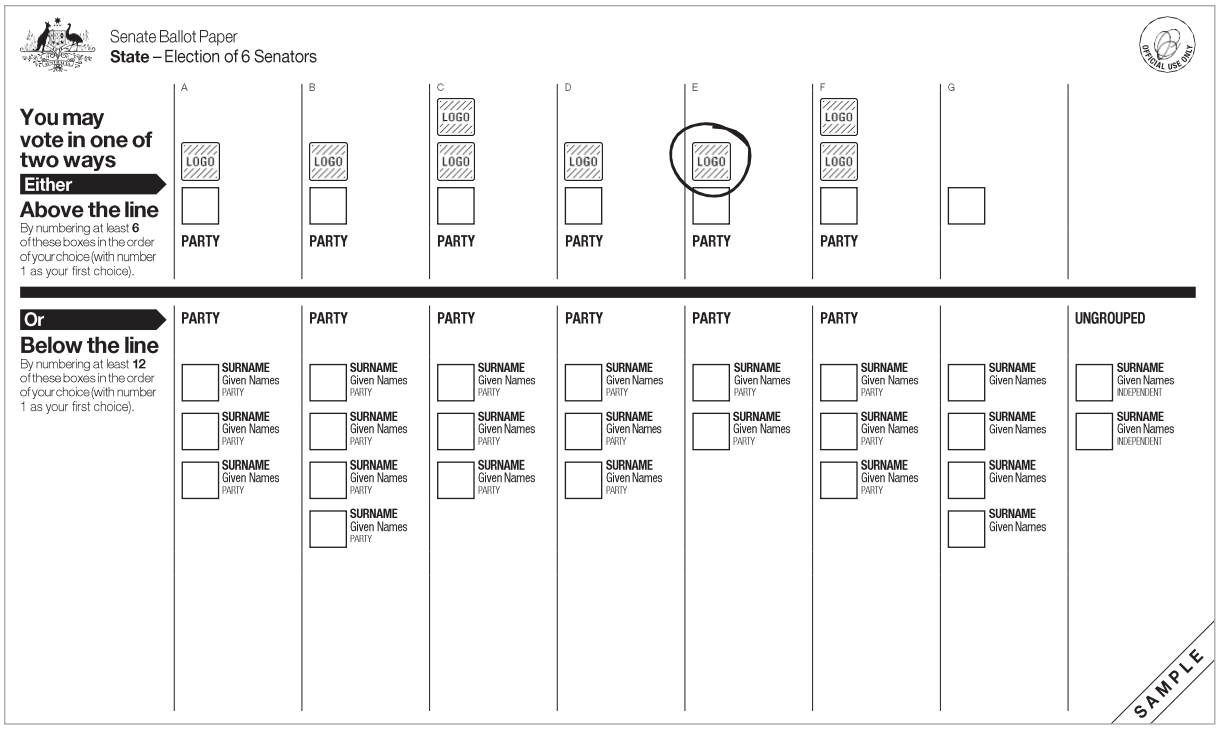
There is a single first preference mark (a cross) ATL and consecutive preferences from 2 to 6.



This ballot paper is informal

The voter's intention is not clear because there are two first preference marks (both a tick and a cross) ATL.

Example – use of symbols – ATL Senate



This ballot paper is informal

While s.268A(2)(a) and s.269(1A) of the Electoral Act allow a singular tick or cross to be treated as a first preference as the number '1' there is no provision in the Electoral Act that allows a circled logo to be treated as expressing a voter's first preference. The circle must be treated as an additional mark that appears on a ballot paper that does not represent a preference (number). Likewise, asterisks, hashtags, plus and minus symbols cannot represent a preference number.

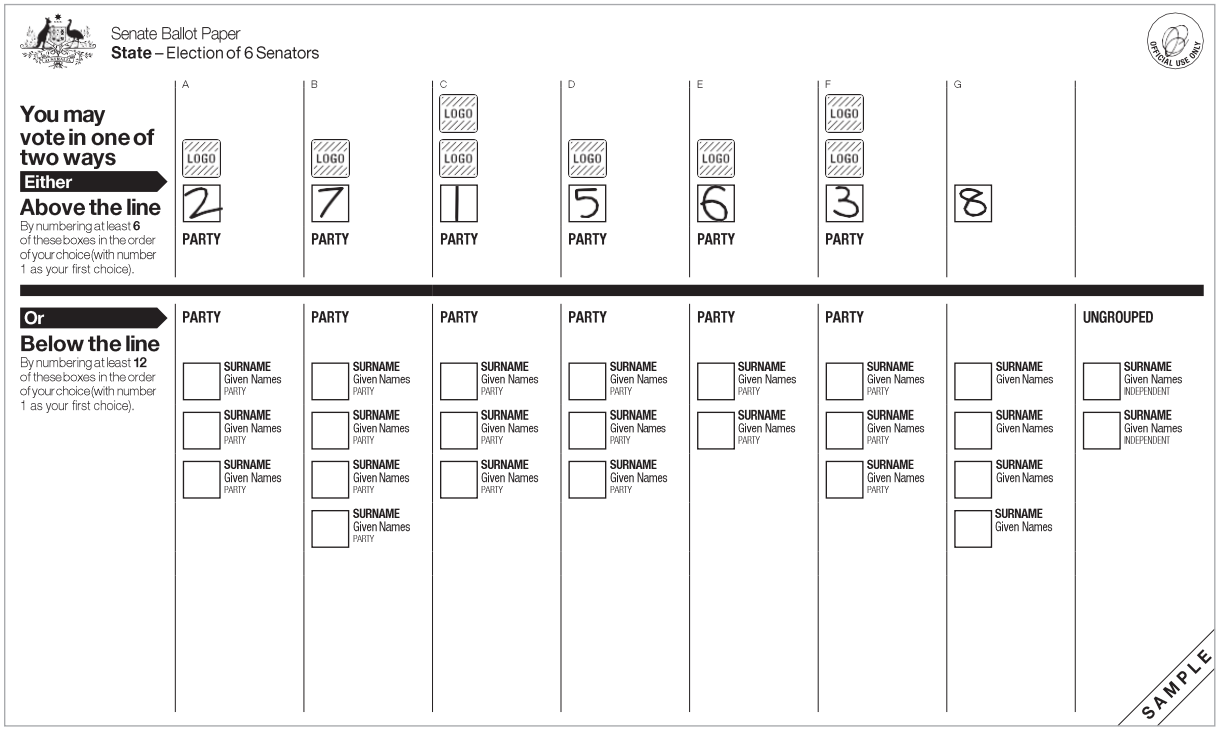
Missing or repeated numbers

Where it meets the minimum requirements, a ballot paper with missing or repeated numbers will still be formal and will exhaust at the missing or repeated number.

The ATL voter has to mark the number '1', or the number '1' and one or more higher numbers (s.268A(1)(b) of the Electoral Act).

The BTL voter has to consecutively number at least their first 6 preferences (s.268A(1)(b) of the Electoral Act).

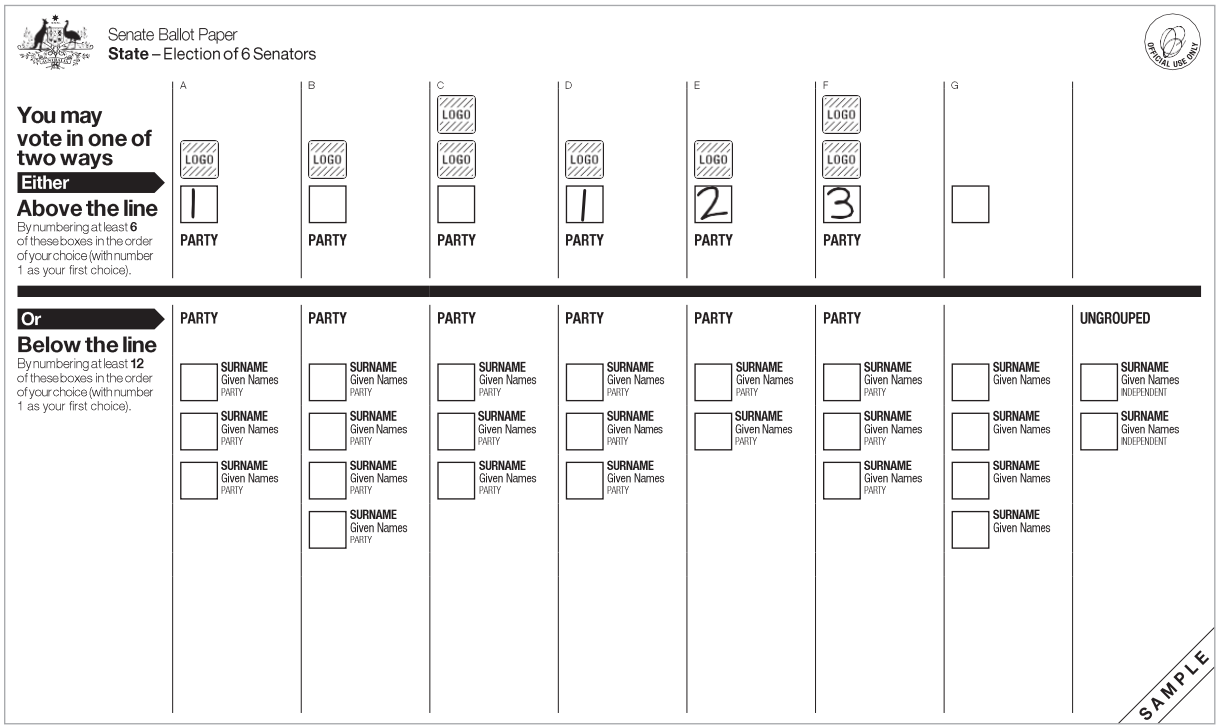
Example – missing numbers – ATL Senate



This ballot paper is formal

However, because the voter's fourth preference is missing only the first three preferences will be included in the count. The preferences numbered 5 to 8 will be disregarded.

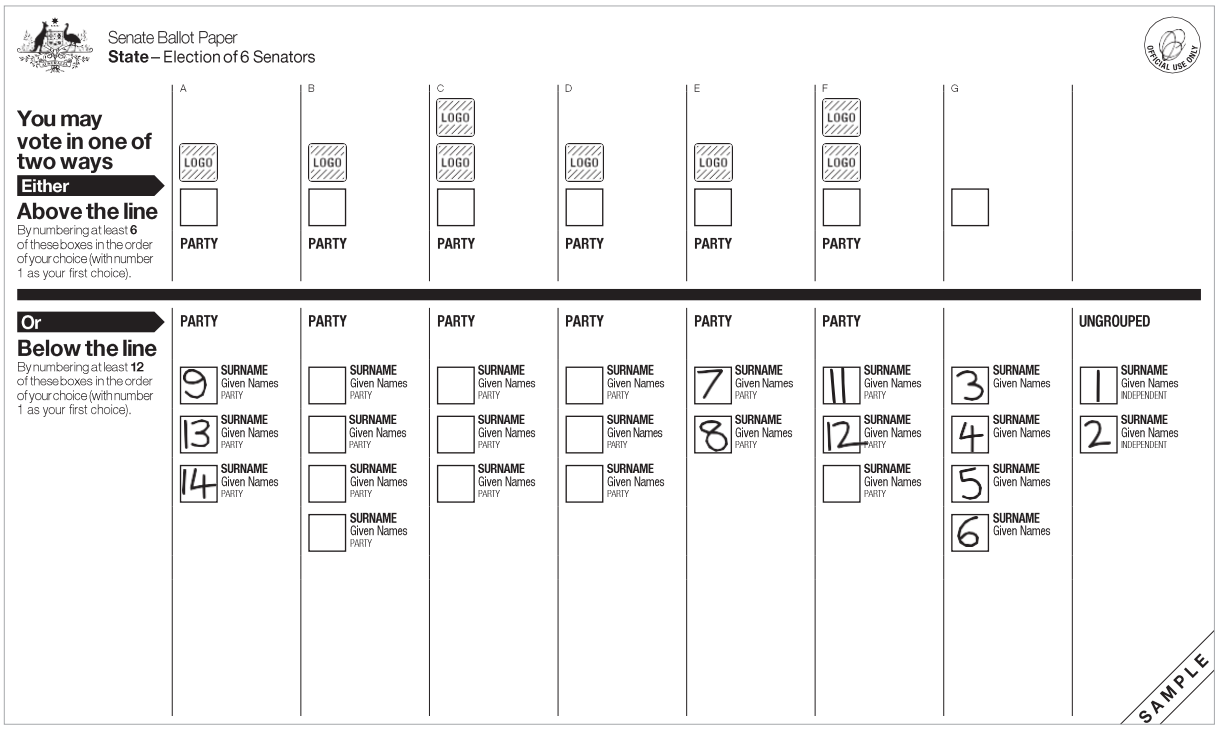
Example – repeated numbers – ATL Senate



This ballot paper is informal

The voter's intention is not clear. The repeated first preference means that no preferences can be counted.

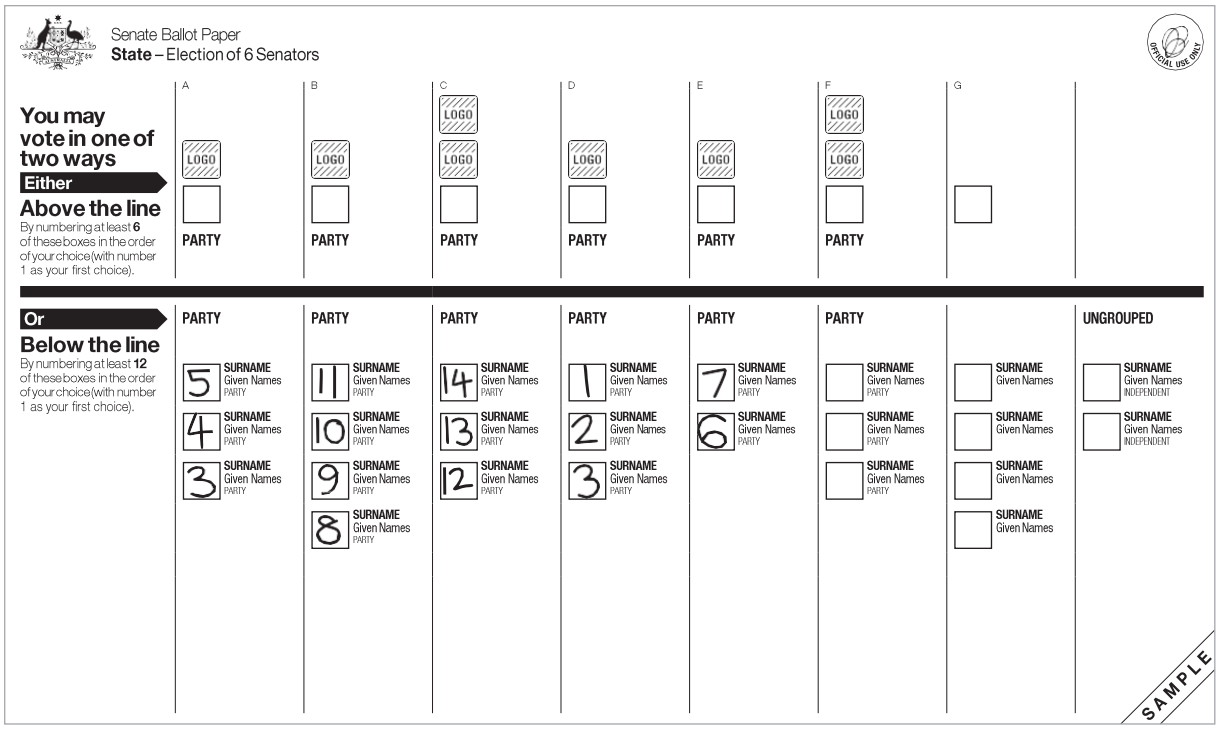
Example – missing numbers – BTL Senate



This ballot paper is formal

However the missing number '10' breaks the voter's preference sequence, so only the boxes marked 1 to 9 can be included in the count. The remaining preferences are disregarded.

Example – repeated numbers – BTL Senate



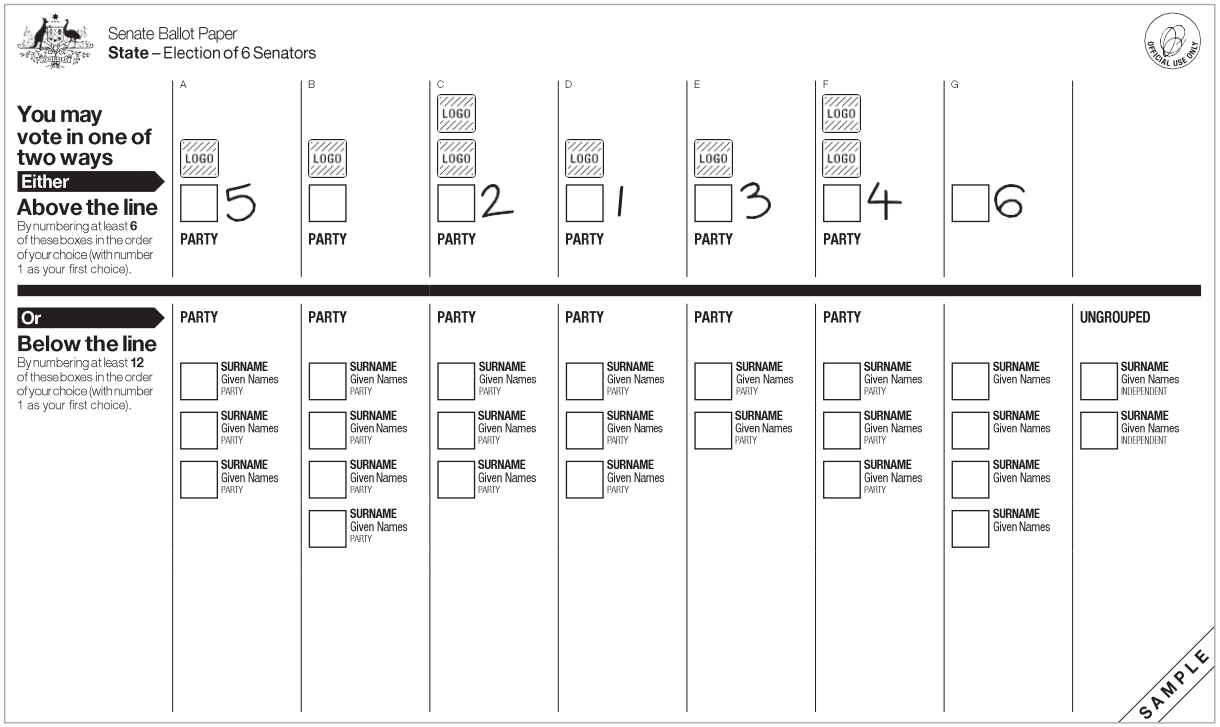
This ballot paper is informal

The repetition of the number '3' means that the voter has only clearly expressed two preferences, rather than the minimum requirement that the voter express the numbers 1 to 6.

Placement of votes

The vote can be made inside the box or beside the box/candidate name on a Senate ballot paper, provided the intention of the voter is clear.

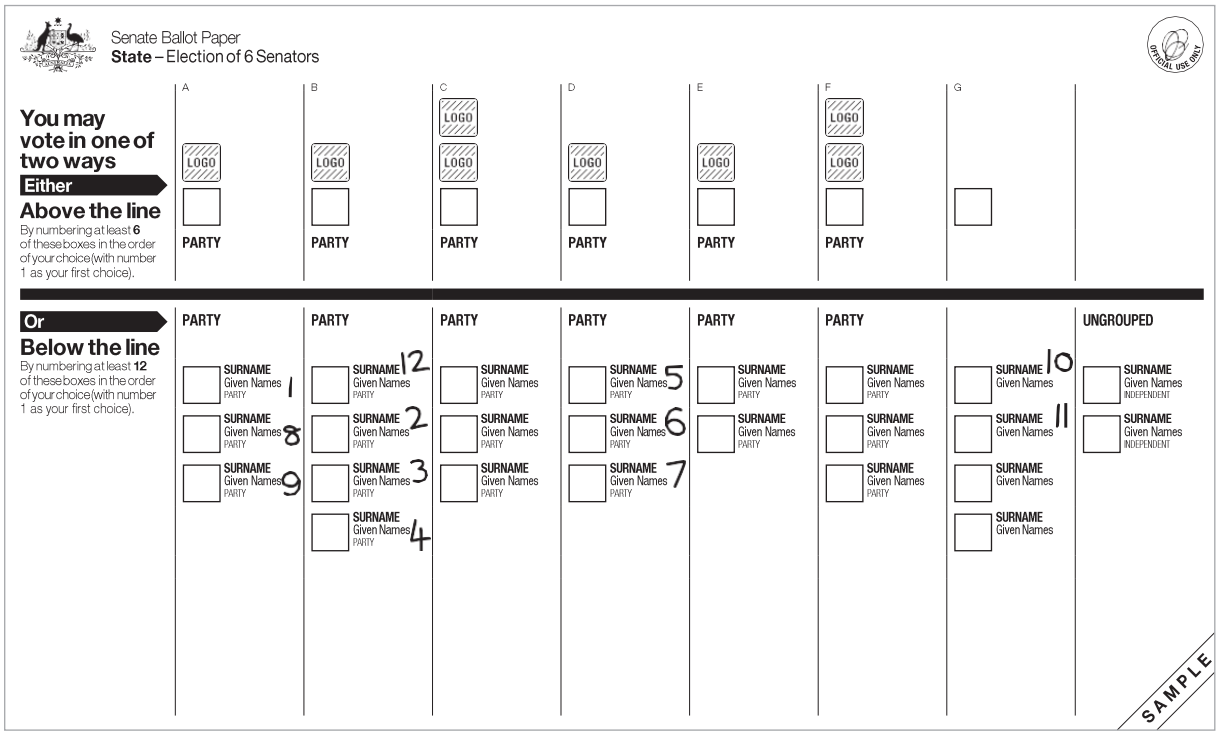
Example – placement of votes – ATL Senate



This ballot paper is formal

The voter's intention is clear.

Example – placement of votes – BTL Senate



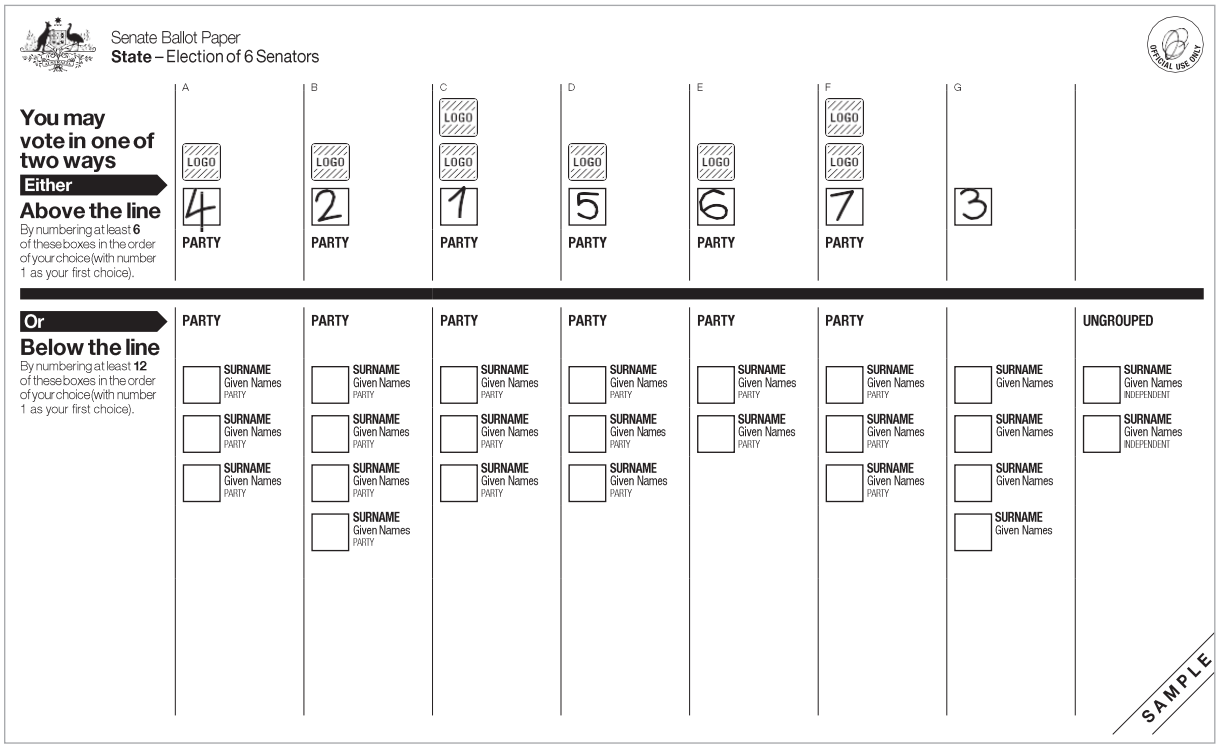
This ballot paper is formal

There is a consecutive series of discernible numbers from 1 to 12. The voter's intention is clear.

Variations in handwriting

Unconventional but recognisable variations in handwriting, such as placing a stroke through the vertical stem of the number ‘7’ or an upward angular stroke before the familiar vertical stroke on the number ‘1’, should not result in a ballot paper being informal, provided any variations result in a series of numbers and the voter’s intention is obvious.

Example – variations in handwriting – ATL Senate



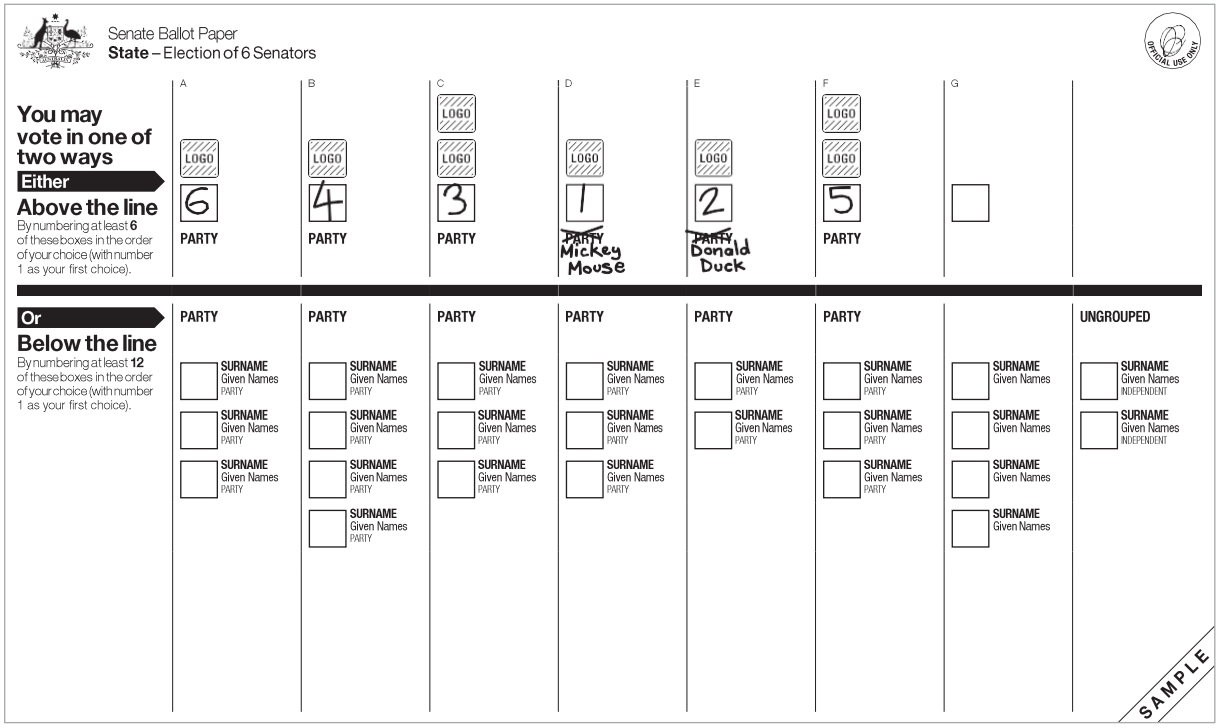
This ballot paper is formal

The figure in the third box reasonably resembles a ‘1’.

Group or candidate name substitution

If the voter crosses out or replaces a political party or group's name or a candidate's name on a ballot paper, that ballot paper may be informal.

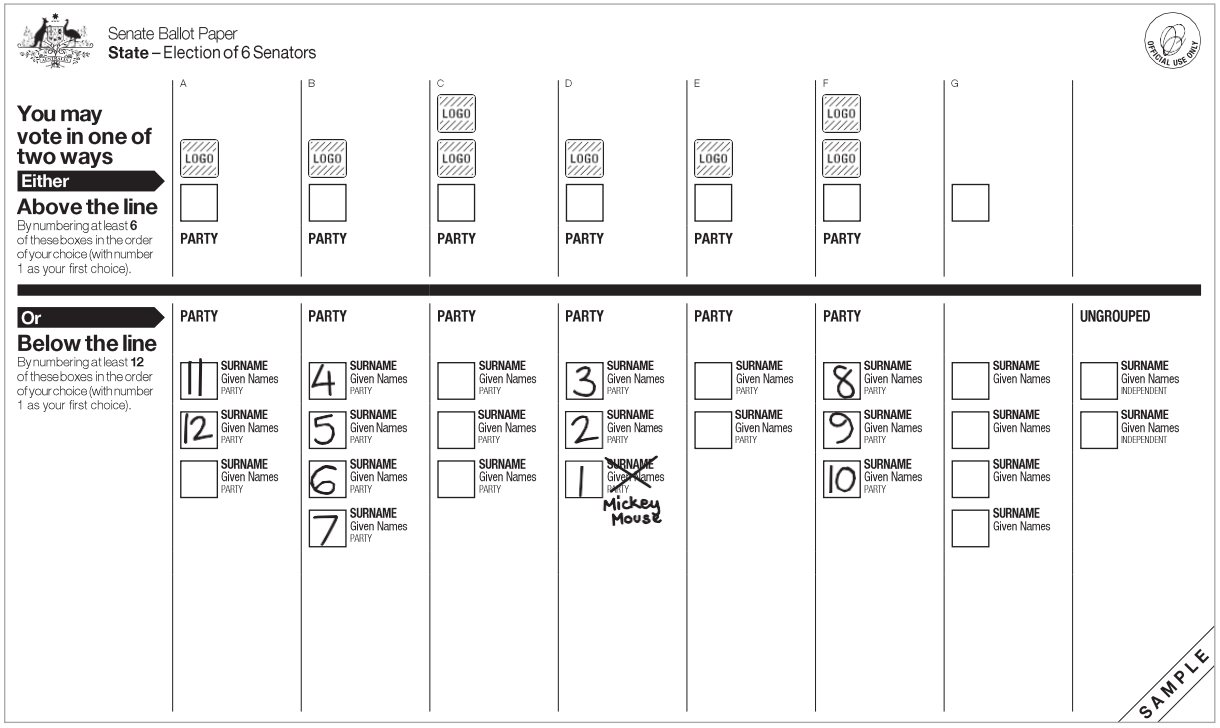
Example – group name substitution – ATL Senate



This ballot paper is informal

The voter has not indicated a valid first preference for any available group.

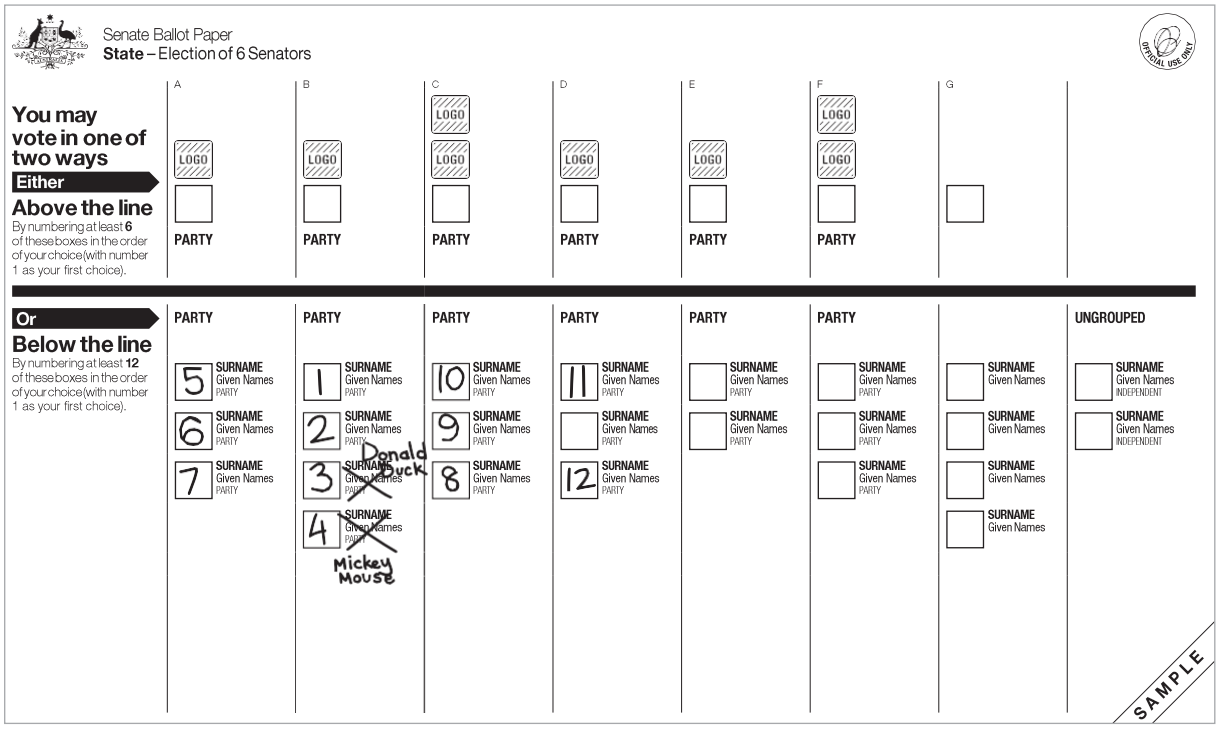
Example – candidate name substitution – BTL Senate



This ballot paper is informal

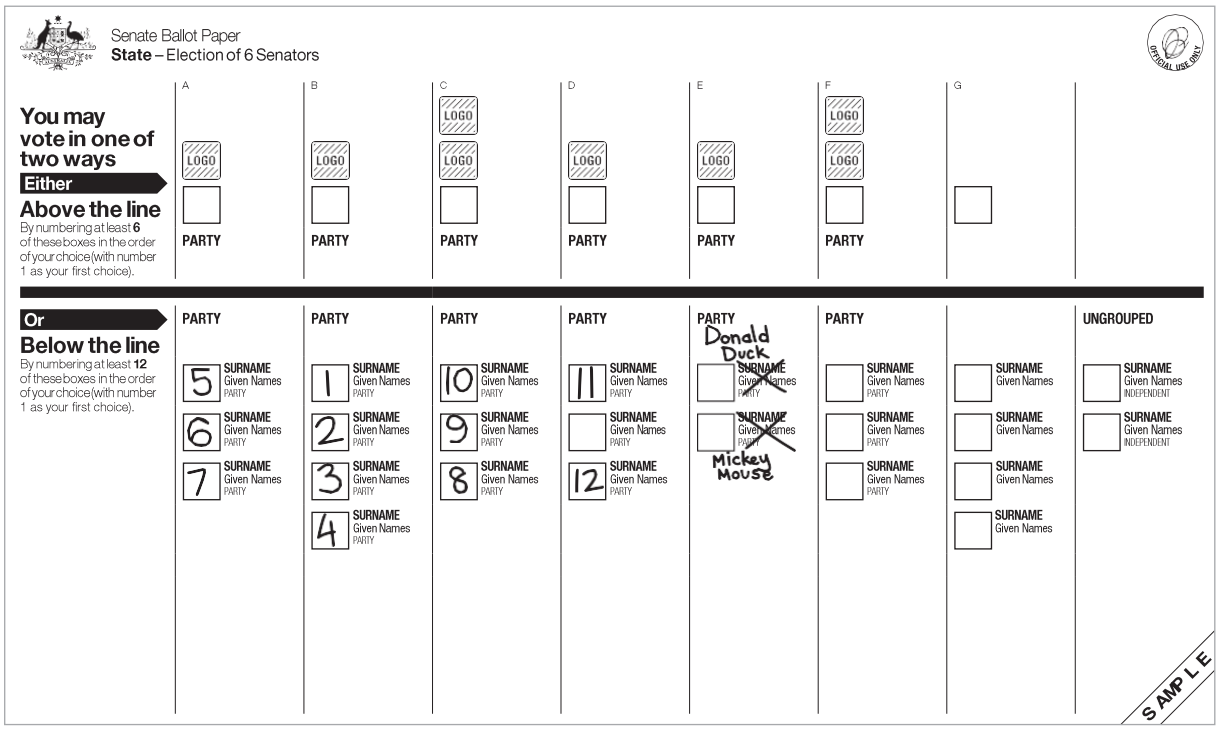
The voter has not indicated a valid first preference for any of the available candidates.

Example – candidate name substitution – BTL Senate



This ballot paper is informal

By expressing preferences for “substituted candidates” the voter has not complied with the minimum requirement to express at least six consecutive preferences from 1 to 6.



This ballot paper is formal

While the voter has substituted the names of two candidates, they are additional marks and are disregarded. The voter has not expressed any preference for the 'substitute candidates' so the additional marks are irrelevant to the consideration of formality. The voter has complied with the requirement to mark the ballot paper in accordance with s.239(1) of the Electoral Act.

Referendum ballot paper tests

A voter filling in a referendum ballot paper is obliged to indicate their vote by either:

- writing the word 'yes' on the ballot paper in the space provided if the voter approves the proposed law, or
- writing the word 'no' on the ballot paper in the space provided if the voter does not approve the proposed law.

The prescribed method of recording a vote in a referendum is to use the words 'yes' or 'no' written alone (i.e. without qualification). In all cases, however, ballot papers must be admitted where the voter's intention is clear (Referendum Act, s 93(8)). Words, stamps, or stickers with the same meaning as 'yes' or 'no' (e.g. 'definitely' or 'never'), an indication of either 'Y' or 'N', as well as ticks are all capable of clearly demonstrating the voter's intention.

A vote at a referendum will be informal if any of the following apply:

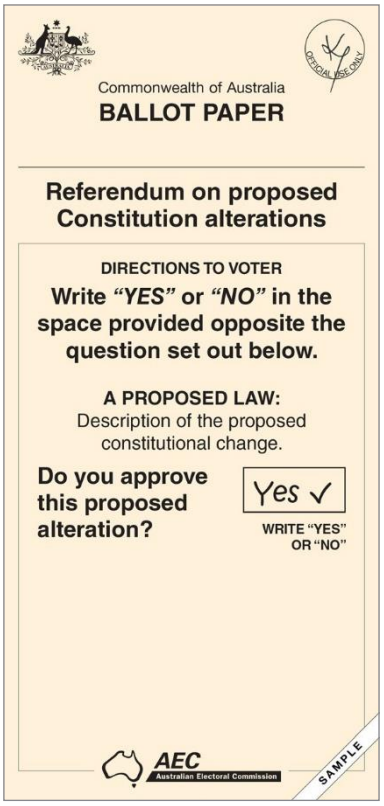
- no vote is marked on the ballot paper (Referendum Act, s 93(1)(b))
- it has more than one vote mark on the ballot paper (Referendum Act, s 93(1)(c))
- terms are used that convey indecision and uncertainty, such as 'not sure', or
- a cross is used on a referendum ballot paper which has only one question, since a cross on its own may mean either 'yes' or 'no'.

A ballot paper is not informal merely because a ballot paper with the wrong state or territory was issued to the voter.

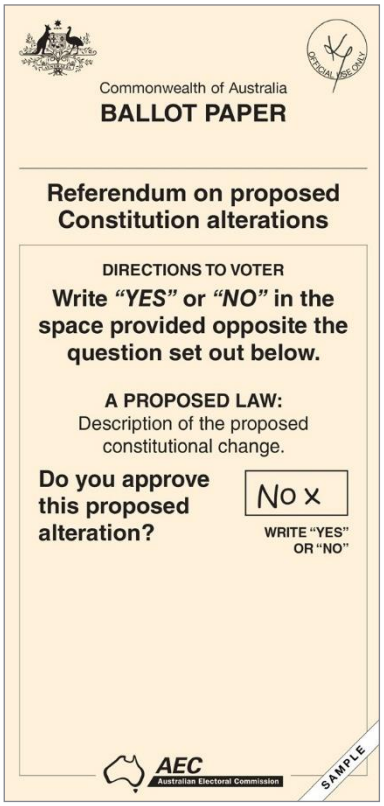
Use of multiple marks

Where a voter has marked a ballot paper in numerous ways, the vote is formal as long as conflicting answers have not been given. For example, a tick and a 'yes' in the one box will be formal, as the intention of the voter is to indicate approval for the question.

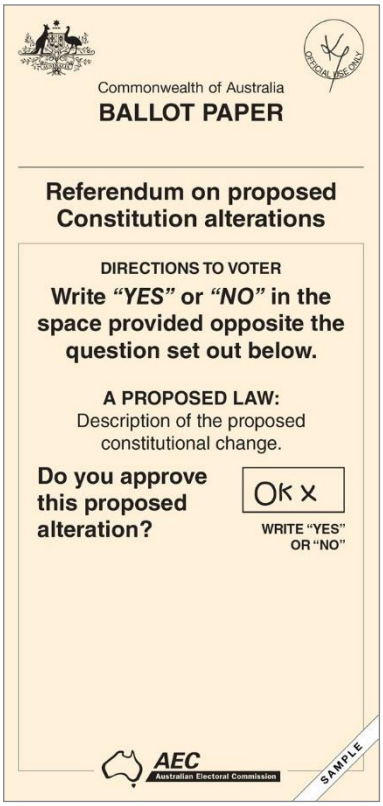
Example – use of multiple marks


Commonwealth of Australia
BALLOT PAPER
Referendum on proposed Constitution alterations
DIRECTIONS TO VOTER
Write *"YES"* or *"NO"* in the space provided opposite the question set out below.
A PROPOSED LAW:
Description of the proposed constitutional change.
Do you approve this proposed alteration?
Yes ✓
WRITE "YES" OR "NO"
AEC Australian Electoral Commission
SAMPLE

This ballot paper is formal
The intention of the voter is clear that they approve.


Commonwealth of Australia
BALLOT PAPER
Referendum on proposed Constitution alterations
DIRECTIONS TO VOTER
Write *"YES"* or *"NO"* in the space provided opposite the question set out below.
A PROPOSED LAW:
Description of the proposed constitutional change.
Do you approve this proposed alteration?
No x
WRITE "YES" OR "NO"
AEC Australian Electoral Commission
SAMPLE

This ballot paper is formal
The intention of the voter is clear that they disapprove.

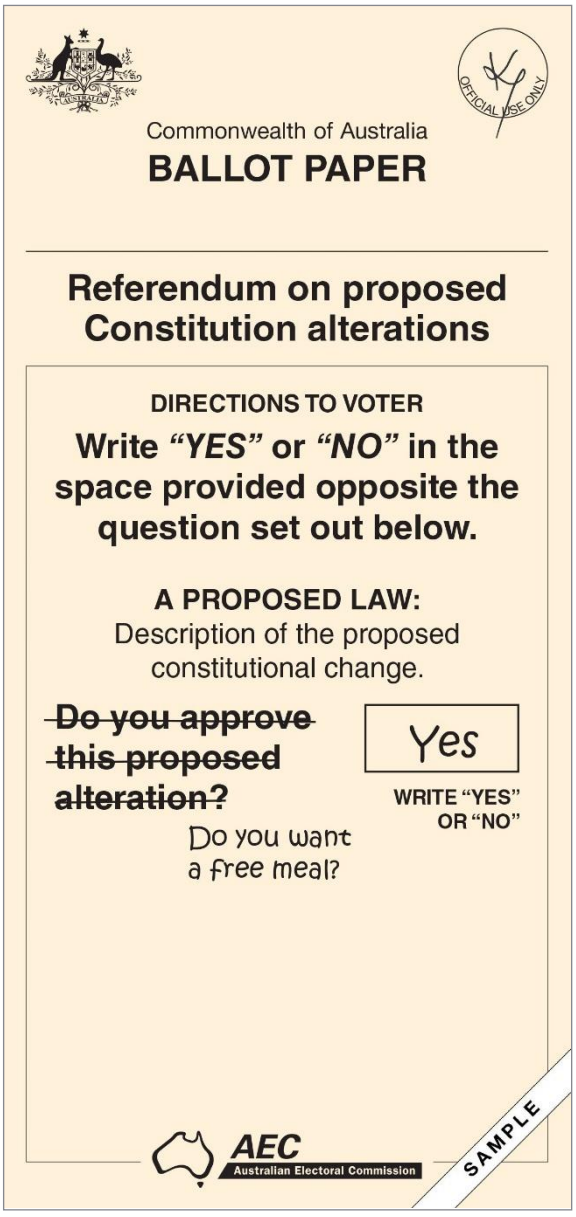

Commonwealth of Australia
BALLOT PAPER
Referendum on proposed Constitution alterations
DIRECTIONS TO VOTER
Write *"YES"* or *"NO"* in the space provided opposite the question set out below.
A PROPOSED LAW:
Description of the proposed constitutional change.
Do you approve this proposed alteration?
Ok x
WRITE "YES" OR "NO"
AEC Australian Electoral Commission
SAMPLE

This ballot paper is informal
The intention of the voter is not clear.

Change to wording on ballot paper

If the voter changes the wording of the referendum question, whether by adding or deleting words so that the voter's intention regarding the question is made unclear, then the vote is informal.

Example – change to wording on ballot paper



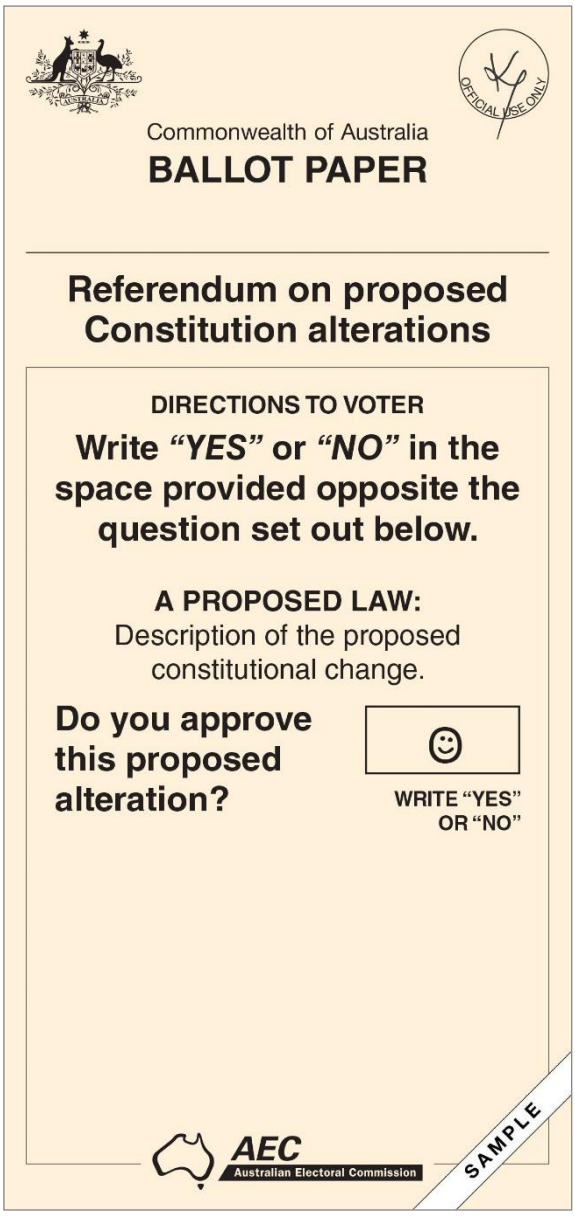
This ballot paper is informal

Change to the wording on the ballot paper makes the voter's intention unclear.

Use of symbols and other languages on ballot paper

If a voter marks a ballot paper with words, symbols or figures or a language other than English, the ballot paper can be accepted if it is established that the voter's intention is clear.

Example – use of symbols on ballot paper



This ballot paper is informal

The intention of the voter is not clear.

Ballot papers with more than one question

Referendum ballot papers with more than one question require each question to be considered as if it was on a standalone ballot paper, i.e. it is possible for the answer to one question to be formal and the answer to another question to be informal.

On referendum ballot papers with two or more questions, crosses are also capable of clearly demonstrating the voter's intention but are only formal if at least one other question on the same ballot paper is answered with a tick.

Example – ballot paper with more than one question

This ballot paper is formal for both questions

The voter's intention is clear having used a tick and a cross.

This ballot paper is informal for both questions

The voter's intention is not clear having used two crosses.

Allocation of preferences

The Electoral Act

Part XVIII, 'The scrutiny'

This chapter describes in some detail the different processes during the scrutiny for determining the successful candidates. It will be most useful to those who are acting as scrutineers for the first time at an election. The better your understanding of the voting system and counting procedures, the more effective you are likely to be as a scrutineer.

As a scrutineer, you have an essential role to play in observing that all due process is followed on behalf of your candidate until the result is declared.

Fresh scrutiny and DRO Senate count

After election day, upon receipt of ballot papers from the officers-in-charge/AROs, the DRO conducts a fresh scrutiny, or re-check, of ballot papers. This proceeds separately for the HoR ballot and the DRO Senate count.

More than 85 per cent of the total HoR formal vote, including early votes, is counted on election night. The remainder, comprising postal, absent, provisional and early declaration votes, cannot be counted until after election night.

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

House of Representatives

The Electoral Act, s 274

The system of voting used for HoR elections is a full preferential voting system. The voter must indicate a preference for all candidates on the ballot paper. This system has been used in Australian federal elections since 1918.

The system of counting votes for the HoR requires a candidate to obtain an absolute majority (more than 50 per cent of the formal votes) to be elected.

Firstly, all the number '1' formal first preference votes are counted for each candidate. If no candidate has an absolute majority of first preference votes, counting of votes then proceeds as outlined below.

A full distribution of preferences takes place in every division, even where a candidate has an absolute majority of first preference votes.

Step 1: The candidates are ranked according to how many formal first preference votes they have received in the election.

Step 2: If no candidate has an absolute majority, the candidate who has received the fewest first preference votes is excluded and all the ballot papers held by that candidate are transferred to the continuing candidates, according to the next available preference expressed on each ballot paper.

Step 3: The process of excluding the candidate who has the fewest votes continues until a single candidate has an absolute majority of the votes.

Step 4: The candidate who has an absolute majority of votes is elected.

Example of a distribution of preferences: Division of Lowe – (2007 Federal Election)

	Rerceretnam, Marc (GRN)		Murphy, John (ALP)		Shailer, Bill (CDP)		Tsolakis, Jim (LP)		
Count	Votes	%	Votes	%	Votes	%	Votes	%	Total
First	6 774	8.61	38 766	49.27	1 616	2.05	31 518	40.06	78 674
Second	230		572		EXCLUDED		814		1 616
Total	7 004	8.90	39 338	50.00			32 332	41.10	78 674
Third	EXCLUDED		5 798				1 206		7 004
Total			45 136	57.37			33 538	42.63	78 674
			ELECTED				UNSUCCESSFUL		

In cases where the distribution of preferences is required to determine the result, this does not normally occur until at least 13 days have elapsed after election day, to allow for the receipt of declaration votes.

The AEO for a state or territory may, however, direct a DRO to conduct a provisional scrutiny of preferences as part of the fresh scrutiny.

Two-candidate-preferred count

The result of the full distribution of preferences is used to calculate the two-candidate-preferred statistics.

Two-party-preferred count

In divisions that do not have Australian Labor Party (ALP) and Coalition candidates as the final two candidates, a 'Scrutiny for Information' is conducted to determine the two-party-preferred result.

A 'Scrutiny for Information', in these cases, is a notional distribution of preferences to find the result of preference flows to the ALP and Coalition candidates.

Tied result

If there is a tied result on the final count, there is an immediate fresh scrutiny of votes and a fresh scrutiny of all rejected declaration votes.

If one candidate then receives an absolute majority of votes, the DRO declares the result accordingly. If not, the DRO shall give to the Electoral Commissioner written notice that the election cannot be decided.

The Electoral Act, ss 274(9C) and 357(1A)

If the fresh scrutinies confirm the deadlock, the DRO advises the Electoral Commissioner that the election cannot be decided. The Electoral Commissioner must then file a petition disputing the election result with the Court of Disputed Returns.

Senate

The Electoral Act, ss 273 and 273A

A system of proportional representation is used to elect six senators from each state and two senators from each territory in a half-Senate election. The voting method used for Senate elections is an optional preferential system. At a double dissolution election, 12 Senators from each state are elected.

The AEO conducts the Senate scrutiny and the distribution of preferences by a computer process.

The essential features of the Senate system are as follows:

1. To be elected, candidates must secure a quota of votes.
2. Should a candidate gain an exact quota, they are declared elected and their ballot papers are set aside as finally dealt with. A candidate who receives more than a quota is said to have surplus votes.
3. Should more than one candidate be elected at the same count, the candidate with the largest surplus is said to be elected first, the candidate with the second largest surplus is said to be elected second, and so on.
4. For each candidate elected with a surplus, commencing with the candidate elected first, a transfer value is calculated on all their ballot papers.
5. The transfer value is determined by dividing the number of surplus votes received by the candidate by the total number of ballot papers received by the candidate. The result will be a number between 0 and 1.
6. All the candidate's ballot papers are then re-examined, and the number showing a next available preference for each continuing candidate is determined. For each continuing candidate, the number of ballot papers is multiplied by the transfer value. The resulting numbers, ignoring any fractional remainders, are added to the continuing candidates' respective progressive totals of votes.
7. Where a transfer of ballot papers raises the number of votes obtained by a candidate up to the quota, that candidate is elected. No more votes are transferred to that elected candidate at any subsequent count.
8. When all surpluses have been distributed, and vacancies remain to be filled, and the number of continuing candidates exceeds the number of unfilled vacancies, exclusion of candidates commences.
9. To exclude a candidate can be a multi-step process. At each step, ballot papers for a single transfer value are dealt with, with the first step dealing with ballot papers that have the highest transfer value. The excluded candidate's ballot papers of the highest transfer value are re-examined, and the number showing a next available preference for each continuing candidate is determined. For each continuing candidate, the number of ballot papers is multiplied by the transfer value. The resulting numbers, ignoring any fractional remainders, are added to the continuing candidates' respective progressive totals of votes.

   This will continue, working down to the lowest transfer value, until all ballot papers and votes for the excluded candidate have been reallocated.
10. Steps 4 to 9 are continued, as necessary, until either all vacancies are filled or the number of candidates continuing in the count is equal to the number of vacancies remaining to be filled. In the latter case, the remaining candidates are declared elected.

The quota

Senate candidates must gain a quota of the formal votes to be elected.

The quota is calculated by dividing the total number of formal ballot papers by one more than the number of vacancies, and then adding one to the result (ignoring any remainder).

Election below quota

If two candidates remain in the scrutiny and there is only one vacancy to fill, the continuing candidate with the larger number of votes is elected, even if that number is below the quota. This can happen if the election result is so close, and so many ballot papers have been set aside as exhausted, that it becomes mathematically impossible for any continuing candidate to reach a quota.

Tied result

The Electoral Act, s 273(17)

In the event candidates are tied for exclusion or for election, the order is determined by lot.

Appendix 1: Offences

Scrutineer offences

The Electoral Act and Referendum Act describe certain offences that relate particularly to scrutineers.

	Offence	Penalty	Comment
Commonwealth Electoral Act 1918 and *Referendum (Machinery Provisions) Act 1984*			
s 218(1) Electoral Act s 28(1) Referendum Act	Interfering with or attempting to influence any elector within the polling place or communicating with any person in the polling place except as is necessary in the discharge of the scrutineer's functions A scrutineer who commits such a breach, or is guilty of misconduct or fails to obey the lawful directions of the officer in charge may be removed from the polling place by the police or a person authorised by the officer in charge	Imprisonment for 6 months or 10 penalty units, or both	
s 218(2B) Electoral Act s 90(3) Referendum Act	If present during the early opening and sorting of pre-poll ballot papers (s.274(2AA)), disclosing or communicating information that relates to those actions to persons outside the counting centre before the closing of the poll.	Imprisonment for 6 months or 10 penalty units, or both	Applies to scrutineers
s 323 Electoral Act s 116 Referendum Act	Disclosing any information acquired concerning the vote of any elector in a manner that is likely to enable identification of the elector	Imprisonment for 6 months or 10 penalty units, or both	Applies to AEC officers and scrutineers
s 335 Electoral Act s 126 Referendum Act	Exhibiting or leaving in any polling place any card or paper that directs or instructs an elector how to vote	5 penalty units	Does not apply to official instructions exhibited by proper authority at a polling place
s 341(1) Electoral Act s 132 Referendum Act	Wearing or displaying a badge or emblem of a candidate or political party in a polling place on polling day	10 penalty units	Applies to AEC officers and scrutineers
s 348(1) Electoral Act s 135 Referendum Act	Engaging in misconduct or failing to obey any lawful direction of the person in charge Applies to anyone at a polling place or counting centre	5 penalty units	Applies to any early voting centre, 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

Other offences

Scrutineers, campaign workers and other supporters of candidates should also be aware of various other acts and omissions that constitute an offence during the polling period.

	Offence	Penalty	Comment
Commonwealth Electoral Act 1918 and *Referendum (Machinery Provisions) Act 1984*			
s 339(1)(c) Electoral Act s 130(1)(b) Referendum Act	Fraudulently doing an act that results in the destruction or defacement of any nomination paper or ballot paper	Electoral Act: Six months imprisonment. Referendum Act: six months imprisonment or 10 penalty units, or both.	
s 339(1)(d) Electoral Act s 130(1)(c) Referendum Act	Fraudulently putting any ballot paper or other paper into the ballot box	Electoral Act: Six months imprisonment. Referendum Act: six months imprisonment or 10 penalty units, or both.	
s 339(1)(e) Electoral Act s 130(1)(d) Referendum Act	Fraudulently taking any ballot paper out of any polling place or counting centre	Electoral Act: Six months imprisonment. Referendum Act: six months imprisonment or 10 penalty units, or both.	
s 339(1)(g) Electoral Act s 130(1)(f) Referendum Act	Supplying ballot papers without authority	Electoral Act: Six months imprisonment. Referendum Act: six months imprisonment or 10 penalty units, or both.	
s 339(1)(h) Electoral Act s 130(1)(g) Referendum Act	Doing an act that results in the unlawful destruction of, taking of, opening of, or interference with, ballot boxes or ballot papers	Electoral Act: Six months imprisonment. Referendum Act: six months imprisonment or10 penalty units, or both.	
s 339(1A) Electoral Act s 130 (1A) Referendum Act	Voting more than once in the same election	10 penalty units.	
s 339(1C) Electoral Act s 130(1C) Referendum Act	Intentionally voting more than once in the same election	60 penalty units or 12 months imprisonment	

s 339(2) Electoral Act s130(2) Referendum Act	Engaging in any act that results in the defacement, mutilation, destruction or removal of any notice, list or other document affixed by, or by the authority of, any DRO	5 penalty units

Polling place offences

The following acts are prohibited within six metres of the entrance of a polling place, early voting centre or a mobile polling team. These provisions apply to campaign 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 a notice signed by the DRO at each entrance 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.

	Offence	Penalty	Comment
Commonwealth Electoral Act 1918 and *Referendum (Machinery Provisions) Act 1984*			
s.340(1)(a) Electoral Act s.131 Referendum Act	Canvassing for votes	5 penalty units	Consequently, campaign workers and supporters must only hand out how-to-vote cards to electors outside the six-metre limit from the designated entrance to any polling location
s.340(1)(b) Electoral Act s.131 Referendum Act	Soliciting the vote of any elector	5 penalty units	
s.340(1)(c) Electoral Act s.131 Referendum Act	Inducing an elector not to vote for a particular candidate	5 penalty units	
s.340(1)(d) Electoral Act s.131 Referendum Act	Inducing an elector not to vote at the election	5 penalty units	
s.340(1)(e) Electoral Act s.131 Referendum Act	Exhibiting any notice or sign (other than an official notice) relating to the election	5 penalty units	

These acts are also prohibited if they involve broadcasting by electronic equipment and are clearly audible within six metres of the entrance to a polling place or early voting centre.

For example, a person who is using a loudspeaker or radio equipment attached to a car to solicit for votes will breach the provision if the car drives past a polling place and the loudspeaker broadcast can be heard at the polling place entrance even if the road is 20 metres away from the polling place.

A person found guilty of this offence can be fined up to 5 penalty units.

Offences under crime legislation

There are also offence provisions in the *Criminal Code Act 1995 Cth* (Criminal Code) and the *Crimes Act 1914 (Cth)* that are relevant to the election and referendum processes. These include forgery (Criminal Code, Part 7.7), false or misleading statements (Criminal Code, Part 7.4) and unlawful destruction of Commonwealth property (Crimes Act, s.29).

Appendix 2: Postal voting

Eligibility

The Electoral Act, s 183 and Schedule 2; the Referendum Act, s 54 and Schedule 3

The Acts state that an elector is entitled to apply for a postal vote if:

- throughout the hours of polling on polling day, the elector will be absent from the electoral division for which the elector is enrolled
- the elector will not, at any time during the hours of polling on polling day, be within eight (8) kilometres by the nearest practicable route of any polling place in the state or territory for which the elector is enrolled
- throughout the hours of polling on polling day, the elector will be travelling under conditions that will prevent the elector attending a polling place in the state or territory for which the elector is enrolled
- the elector will be unable to attend a polling place on polling day because of:
  - serious illness
  - infirmity
  - approaching childbirth
  - a reasonable fear for their personal wellbeing or safety
- on polling day, the elector will be unable to attend a polling place because the elector will be at a place (other than a hospital) caring for a person who is seriously ill or infirm or who is expected shortly to give birth
- throughout the hours of polling on polling day, the elector will be a patient at a hospital and unable to vote at the hospital
- because of the elector's religious beliefs or membership of a religious order, the elector:
  - is precluded from attending a polling place, or
  - for the greater part of the hours of polling on polling day, is precluded from attending a polling place
- on polling day, the elector is in prison serving a sentence of less than three years or otherwise under detention (please note that not all people in prison or under detention are eligible to vote)
- the elector's address has been excluded from the roll (silent elector)
- throughout the hours of polling on polling day, the elector will be engaged in their employment or occupation, and
  - if the elector is an employee, the elector is not entitled to leave of absence, and
  - in any other case, the absence of the elector for the purpose of attending a polling place to vote would likely to cause loss to the person in their occupation.

Application

The Electoral Act, s 184; the Referendum Act, s 55

An application for a postal vote can be made online through the AEC's Postal Voting Application or via a paper form and must:

- contain a declaration by the applicant that they are an elector entitled to apply for a postal vote, and
- be made after the issue of the writ for the election or referendum or the public announcement of the proposed date of the election, whichever is the earlier, and before 6pm on the Wednesday before polling day.

Completion and return

The Electoral Act, s 194; the Referendum Act, s 65

On receipt of the postal vote material, which comprises a postal vote certificate and postal ballot papers, the elector should substantially observe the requirement to:

- show the unmarked ballot papers and unsigned postal vote certificate to an authorised witness
- sign the postal vote certificate in the presence of the authorised witness
- have the authorised witness sign, date, and indicate the capacity in which the witness acts on the postal vote certificate
- cast a vote in the presence of the authorised witness, but so that the authorised witness cannot see the vote
- post or deliver the sealed envelope to the appropriate DRO.

Postal vote envelopes containing the ballot papers need to be received by the AEC on or before 13 days after polling day. The postal vote must be completed by 6pm on polling day and can be posted or delivered within the 13 day timeframe to:

- any DRO
- an early voting officer
- any polling place on polling day before the close of the poll; or
- a person who is at an office of the AEC and who is either:
  - the Electoral Commissioner, Deputy Electoral Commissioner or AEO
  - a person employed under Division 4 of Part II of the Electoral Act
  - a member of the staff of the AEC who is engaged under the *Public Service Act 1999* as an ongoing Australian Public Service employee, or
  - employed under section 35(1)(b) of the Electoral Act.

Postal voting arrangements and deadlines

The following conditions apply:

- For postal vote applications received up to and including 6pm on the Friday eight days before polling day, the AEC is to dispatch postal voting material to the applicant by post or other appropriate (non-electronic) means. For applications received in this period, the applicant may also request another means of delivery (non-electronic). If these means are reasonable and practicable, the AEC is required to dispatch the postal voting material by those means.
- The AEC is to dispatch postal voting material by the most reasonable and practicable means for applications received after 6pm on the Friday eight days before polling day and up to and including 6pm on the Wednesday before polling day.
- The AEC will not be required to post or deliver postal vote material to those electors whose applications for postal votes were received after 6pm on the Wednesday prior to polling day.

Registered general postal voters

Electors who are registered general postal voters will automatically be sent a postal vote certificate and postal ballot papers as soon as they become available after an election or referendum is called.

As ballot papers for an election cannot be printed until after nominations have been finalised, there is at least a two-week period after the issue of the writ before ballot papers can be distributed.

In practical terms this means that the first dispatch of postal ballot papers to any postal voter is not possible until the 3rd day following declaration of nominations (See Appendix 3).

An elector may also apply to be registered as a general postal voter if one of the grounds specified in section 184A of the Electoral Act applies.

Appendix 3: Additional information available to scrutineers

The AEC produces a range of publications for scrutineers, candidates and other participants in elections and referendums in addition to the Scrutineers Handbook.

Some of the information materials available are:

- Candidates Handbook: information for candidates in the election
- Electoral Pocketbook: a quick reference guide to the last federal election
- Nominations Guide for Candidates: a quick reference guide for prospective candidates
- Ballot Paper Formality Guidelines: detailed information on how electoral officials determine formality 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 election and referendum campaigns.

A copy of the Scrutineers Handbook is available on the AEC website.

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

Other official material

Subject to availability, all relevant official electoral forms (except in relation to funding and disclosure) may be obtained from the AEC's National Office or divisional offices.

Funding and disclosure forms can be obtained from the AEC's National Office in Canberra.

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.
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. The certified list can be in paper or electronic format.
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 Electoral Act' in this handbook.
Constitution	Commonwealth of Australia Constitution Act
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 or return 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 papers inside. These votes are counted after polling day if the voter's entitlement to vote is verified using the information provided on the declaration envelope.
Divisions (electorates)	For representation in the House of Representatives, Australia is divided into Electoral Divisions. The number of these divisions is determined by population. To ensure equal representation, the boundaries of these divisions have to be redrawn or redistributed periodically. (For representation in the Senate, each state and territory is one electorate. All states are multi-member electorates and have the same number of Senators. Territory representation is determined by the federal parliament).
Divisional Returning Officer (DRO)	The AEC officer responsible for conducting the election in each division. The DROs are the returning officers for the House of Representatives in their divisions and are also responsible for electoral administration within that division, in particular, the maintenance of the electoral roll, providing information sessions to schools and community groups and preparations for the next election.

Term	Description
DRO Senate count	The DRO Senate count is a: ▪ count of the ballot papers counted in polling places on polling night, or ▪ a first (initial) count of any Senate ballot papers received by the DRO in a ballot box.
Early vote	A postal vote or a vote cast at an early voting centre or via a mobile polling team in the lead-up to polling day. They are cast by electors who will not be able to get to a polling place on polling day.
Election Management System	The AEC system which centrally calculates election results, displays those results and is the interface to the Tally Room on the AEC website.
Electoral and Referendum Regulation 2016	Regulations that support the operation of the Act.
Electoral Commissioner	The person nominated as the electoral commissioner in accordance with section 18 of the Electoral Act.
Financial disclosure return	A document 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 return forms for candidates are made public 24 weeks after polling day.
Formal	A ballot paper is generally considered formal if it is filled out correctly in accordance with the Act and the instructions on the ballot paper. It is therefore included in the scrutiny.
Fresh scrutiny	A re-check of votes cast in a House of Representatives election or referendum, conducted by the DRO in the days following polling day.
How-to-vote cards	Cards provided to voters by candidates or campaigns showing how a group, 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 Electoral Act or Referendum Act and the instructions on the ballot paper. It cannot therefore be included in the scrutiny.
Issuing officer	Polling officials who issue ordinary ballot papers to electors whose names are found on the certified list of voters, mark the certified list, complete the account of ballot papers and assist with the count of ballot papers after the close of poll.
Issuing point	The part of the polling place where ballot papers are issued to electors.
Mobile polling team	A team of polling officials who bring the polling to the elector. They visit electors in locations including nursing homes, prisons and remote locations to enable them to vote.
Nomination form	The official form which must be used by a candidate nominating for election.
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).

Term	Description
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 polling day. These votes are counted on polling day after the close of polling.
Polling official	There are two categories of polling officials, those who are required to work in the period before polling day to assist with mobile and early voting, and those who are required to work in a polling place on polling day only.
Polling place	A place appointed to take the votes of electors on polling day.
Postal Vote Certificate	The certificate specific to postal voting on which the voter declares their entitlement to vote, inserted inside the return envelope provided by the AEC.
Preferential voting (full and optional)	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. 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 if they so wish.
Proportional representation	The term used that describes a group of electoral systems used to elect candidates in multi-member electorates. In such systems parties, groups and independent candidates are elected to the parliament in proportion to their support in the electorate.
Provisional votes	Votes cast at a polling place where the elector's name cannot be found on the certified list, or where the elector's name has been marked off the certified list as having voted, or where the elector has silent enrolment, or where, after questioning, the elector has failed to satisfy the OIC 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.
Referendum	A vote to consider a proposal to alter the Australian Constitution. The Constitution can only be altered by a 'double majority' – a national majority of electors from all states and a majority of electors in a majority of states passing the proposed amendments.
Referendum Act	*Referendum (Machinery Provisions) Act 1984*
Registered officer	A person nominated by a registered political party to be the registered officer for the purposes of the Act.
Registered political party	A party registered with the AEC under Part XI of the Electoral Act.

Term	Description
Scrutineers	People appointed by candidates (or other appointers for a referendum) 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 result.
Silent elector	An elector who has applied to have their address not appear on the roll for reasons of personal safety or safety of their family members.
Surplus votes	The number of votes in excess of the quota required to be elected in Senate elections.
Transfer value	A fractional number between 0 and 1 that is calculated and applied as part of the Senate voting system.
Tally Room (TR)	A website results system, which provides election and referendum information and results in a user-friendly format.
Two-candidate-preferred	These figures show where preferences have been distributed to the likely final two candidates in a House of Representatives election.
Two-party-preferred	These figures indicate results where HoR preferences have been distributed to the major sides of politics – the Australian Labor Party (ALP) and the Liberal and National Party Coalition. In most cases two-candidate-preferred and two-party-preferred are the same because the final two candidates are ALP and the Liberal and National Party Coalition. In an electorate held by an independent or another party, the counts will differ.
'Vote saving' provisions	'Vote saving' provisions at sections 268A and 269 of the Electoral Act allow some Senate votes that have not been marked in accordance with voting instructions in section 239 of the Electoral Act to still be included in the count.
Writ	In an electoral context, a writ is a document which commands an electoral officer to hold an election or referendum and contains dates for the close of rolls, the close of nominations, the day of voting and the return of the writ. The issue of the writ triggers the election or referendum process.