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Candidates Handbook

By-elections



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

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About this handbook

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

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

The Candidates Handbook

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

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

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

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

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

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

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

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

- AEC – Australian Electoral Commission
- AEO – Australian Electoral Officer
- ARO – Assistant Returning Officer

- DRO – Divisional Returning Officer
- the Electoral Act – *Commonwealth Electoral Act 1918*
- HoR – House of Representatives

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

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

How this handbook can help you

The handbook provides important information and explains how you can comply with the law before, during and after a by-election. The handbook complements the *By-election Nomination Guide for Candidates* which describes the steps you will need to take to qualify as a candidate and lodge your nomination.

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

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

Public inspection

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

AEC website

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

All forms and publications referred to in this handbook are available from the [AEC Website](#).

AEC National, State, Territory and Divisional Office contact details

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

Timing of the by-election

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

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

Check

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

Respectful voting environment

The AEC is committed to doing everything we can to foster a voting environment that is safe and welcoming for voters, AEC temporary staff, candidates, campaigners and scrutineers.

Elections are hotly contested and involve the participation of passionate individuals – as they should. However, the environment during campaigning or near voting venues can be challenging for some people. The Electoral Act gives the AEC certain powers to help everyone involved in an election participate fairly and make informed decisions. We supervise conduct inside the polling place and within six metres of the entrance. We also regulate authorisation of electoral communications, such as posters and advertising.

Inside and within 6 metres of polling venues, we have a zero-tolerance policy for abusive, aggressive, or threatening behaviour. People who engage in such behaviour will be asked to leave and we may call the police.

There is a shared responsibility in promoting a respectful voting environment and we expect all political participants to engage with voters and AEC staff in a respectful manner.

Expected behaviours in Australian federal elections: Candidates and campaign workers

- Understand and comply with all relevant legal obligations.
- Understand information set out on the AEC's Candidates Hub. This includes content in the AEC's Candidate's Handbook and the Electoral Integrity Assurance Taskforce's Candidate's Guide to the Changing Electoral Environment.
- Engage respectfully with other candidates, campaign workers, AEC staff and members of the public.
- Support a safe voting environment by ensuring no one feels pressured, threatened, or intimidated.
- Keep polling places and surrounding public areas accessible, ensuring footpaths, entrances, and carparks are clear and unobstructed.
- Display or distribute campaign material, including when communicating online, that assists voters to make informed choices and is properly authorised. Do not distribute information that could mislead or confuse voters about any aspect of the election.
- Respect the campaign materials of others, leaving posters and signs belonging to other candidates, political parties, or third parties intact and visible.
- Use original campaign material, colours and design elements. Do not imitate other candidates' or political parties' names, acronyms, or symbols, or the AEC branding or staff uniforms.
- Seek permission from landowners before erecting signage, structures or other material. Obtain any required permits or other approvals from the relevant local council.

The writ

The Electoral Act

Part XIII, 'Writs for elections'

Part VIII, 'Enrolment'

Part XIX, 'The return of the writs'

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

Issue of the writ

The Constitution, ss 12 and 32;
the Electoral Act, ss 151 and 152

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

House of Representatives

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

It is the responsibility of the Speaker to issue a writ for a by-election whenever a vacancy occurs in the House of Representatives because of death, resignation, absence without leave, expulsion, disqualification or ineligibility of a member.

The writ is addressed to the Electoral Commissioner, who advises the Divisional Returning Officer (DRO) of the dates specified in the writ and directs them to make by-election arrangements.

Dates fixed in the writ

The Electoral Act, ss 152 and 154

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

The AEC advertises these dates within major newspapers circulating in the relevant state and/or territory and on the AEC website. An indicative election timetable is shown on page 10.

Close of rolls

The Electoral Act, ss 152 and 155

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

Close of nominations

The Electoral Act, ss 156 and 175

The date for the close of nominations is set out in the writ. It must be at least 10 days, but not more than 27 days, after the date of issue of the writ.

You can nominate as a candidate during AEC business hours, by appointment only, any time after the writ is issued up to 12 noon on the day nominations close.

Information on where to lodge your nomination and how to pay are available on the AEC website.

Declaration of nominations

The Electoral Act, ss 170B, 175, 176 and 213

Nominations are declared and a draw to determine the name order on the ballot paper is held 24 hours after the close of nominations.

At the declaration of nominations, the following information will be announced publicly:

- your name, town or suburb of residence (unless you are a silent elector), state or territory;
- your endorsing party name, or otherwise, the fact that you are unendorsed; and,
- whether you have requested that the word "Independent" be printed on the ballot paper.

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

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

By-election day

The Electoral Act, ss 152, 157 and 158

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

Declaration of the poll and return of the writ

The Electoral Act, ss 152, 159 and 284

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

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

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

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

Indicative by-election timetable

There are a number of essential steps involved in holding a by-election and a timing framework for when these events can legally occur.

Vacancy occurs in the House of Representatives	Action required due to death, resignation, absence without leave, expulsion, disqualification or ineligibility of a member.
Election announcement	No fixed time
Issue of writ	Writs are issued (the Constitution, s 32)
Close of rolls	Rolls close at 8pm seven days after the issue of the writ (the Electoral Act, ss 152, 155)
Close of nominations	Nominations close at 12 noon, on the date specified on the writ as the close of nominations, which can be between 10 and 27 days after the issue of writ (the Electoral Act, ss 152, 156)
Declaration of nominations	Nominations are publicly declared 24 hours after nominations close. At the same time, a draw for the order of names on the ballot papers is conducted (the Electoral Act, ss 175, 176 and 213).
By-election day	Election day is fixed between 23 and 31 days after the date of nominations (the Electoral Act, s 157)
Declaration of the poll	As soon as practicable (s 284)
Return of writ	Writs must be returned within 100 days of their issue (the Electoral Act, s 159)
Election expenditure	By-election period financial disclosure returns must be lodged by candidates within 15 weeks after election day.

Nominations

The Electoral Act
Part XIII, 'Writs for elections'
Part XIV, 'The nominations'

The Constitution
ss 43 and 44

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

- information about who is qualified to nominate
- important issues relating to the timing of nominations

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

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

How to nominate as a candidate

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

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

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

The guide is available on the AEC website.

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

Rejection of nomination

The Electoral Act, s 172

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

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

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

Nominations for candidates for the House of Representatives must be made by one individual. Nominations made by multiple individuals for one candidacy are not provided for by the Constitution or the Electoral Act and will be rejected.

Withdrawal of nomination

The Electoral Act, s 177

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

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

Uncontested by-elections

The Electoral Act, s 179

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

Death of a candidate

The Electoral Act, s 156(2)

If a nominated candidate dies before the close of nominations, the nomination period is extended by one day.

The Electoral Act, ss 180 and 181

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

Return of deposit on the death of a candidate

The Electoral Act, s 178

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

Provision of information on the certified lists of voters

The Electoral Act, s 90B

A candidate in a House of Representatives election is entitled to receive a copy of the certified list of voters for the division for which the candidate is seeking election. This copy is available from the AEC as soon as practicable following the declaration of nominations and will be provided without charge.

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

Ballot papers

The Electoral Act

Part XVI, 'The polling'

Part XIV, 'The nominations'

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

This section explains the law as it relates to ballot papers and the procedures that determine how candidates are listed on the ballot paper and also sets out the time frame in which requests can be lodged.

Ballot paper format

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

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

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

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

The ['How to make your vote count'](#) fact sheet demonstrates how electors should complete the House of Representatives ballot paper to ensure their vote counts.

Political party names and logos on ballot papers.

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

The request to have a registered party name or abbreviation and logo printed on a ballot paper is made on the nomination form. Alternatively, the registered officer of that party may make the request in writing to the relevant DRO before the close of nominations.

Endorsed House of Representatives candidates

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

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

Independent candidates

If you are not endorsed by a registered political party, you may request on the nomination form that the word 'Independent' be printed on the ballot paper next to your name. If you do not make this request, you will have nothing printed next to your name.

Order of names on ballot papers

A system called 'double randomisation' – two random draws – is used for determining the order of candidates on ballot papers.

All candidates and members of the public are welcome to attend these draws.

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

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

Political campaigning and electoral communications

The Electoral Act

Part XXA, 'Authorisation of electoral matter'

Part XXI, 'Electoral offences'

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

How-to-vote cards

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

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

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

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

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

If you have already printed material which does not contain compliant authorisation particulars, it is permissible for a sticker to be used to affix the authorisation particulars to the printed communication. However, care must be taken to ensure that the sticker does not fade or fall off of its own accord and can therefore cause the printed communication to be in breach of the authorisation requirements.

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

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

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

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

Any HTV card or other electoral communication that suggests to an elector that they can cast a vote in a manner that does not reflect the requirements of s 240 of the Electoral Act runs the risk of being found by a court to be misleading or deceptive in breach of s 329 of the Electoral Act.

Six-metre rule

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

HTV cards must not be exhibited or left in a polling place. This applies to candidates as well as other campaign workers.

Appendix 1 lists the offences under the Electoral Act.

Electoral communications and authorisations

The Electoral Act, ss 321D and 329

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

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

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

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

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

The [Authorising electoral communications info page](#), available on the AEC website, provides guidance on the authorisation requirements in Part XXA of the Electoral Act.

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

Ultimately it is for the person or organisation making an electoral communication to determine how to authorise the communication to ensure compliance with the Electoral Act.

The particulars of the authorisation on an electoral communication will depend on who is responsible for the communication and the format of the communication.

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

Complaints about electoral communications

Complaints must be made in writing and can be submitted by email (authorisations@aec.gov.au) or through the AEC's website [form](#). The complainant should provide as much information as possible to enable assessment of the alleged breach. If possible, complaints should be accompanied by a photograph, copy of, or link to, the communication from which the AEC can make a formal assessment of its compliance with the law.

Please ensure that the attachments are less than 10 megabytes (5MB if using the webform) in size and that a read receipt is requested (if sent by email) to ensure that they actually are received through the AEC's systems' firewall.

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

Information relevant to a complaint, allegation or investigation that is, or could become, subject to Part XXA or Part XXI proceedings (dealing with offences), will not be provided to any person not directly involved with the matter. Unless further information is required, the AEC will not further communicate with the complainant until the investigation has been completed and any subsequent legal proceedings have been completed. When appropriate the AEC will publicly publish the outcome of its decision and actions.

The AEC often receives complaints from the public, or candidates, that large banners or signs are attached to buildings, fences or trees.

The Electoral Act does not address the placement of signs outside the proclaimed area (six metres from the entrance to a polling booth). Provided that the banners or signs are at least six metres from the entrance to the polling place or early voting centre, and they are duly authorised, their placement is not a matter for the AEC.

The removal or relocation of signs is a matter for the property owner and applicable local government by-laws and/or state/territory legislation.

Election funding and financial disclosure

The Electoral Act

Part XX, 'Election funding and financial disclosure'

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

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

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

Agents

Candidate agents

Each candidate may appoint an agent whether or not they are endorsed by a party.

Candidates who do not appoint an agent will be taken to be their own agent and will be responsible for lodging their own disclosure return.

Eligibility of an agent

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

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

Appointing an agent

Agent appointment forms will be available on the [Candidate nominations](#) webpage when nomination forms for the election are released. You can also access them by contacting the AEC on (02) 6271 4452 or at fad@aec.gov.au.

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

Completed agent appointment forms should be sent to the AEC's National Office by email to fad@aec.gov.au, or posted to the address details provided on the forms.

The appointment is valid for a single by-election only.

Financial disclosure returns

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

If a candidate does not appoint an agent, the candidate is taken to be their own agent.

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

Election donations

Election donations may be in cash (money, direct deposit or cheque), or in-kind (such as professional services or office equipment provided free of charge or at less than normal commercial value).

Donations may be received directly by the candidate or by someone acting on behalf, or with the authority, of the candidate.

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

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

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

Electoral expenditure

The agent of a candidate must report electoral expenditure incurred by or with the authority of the candidate.

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

Candidates

All candidates have a financial disclosure obligation after the election.

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

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

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

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

The financial disclosure returns of candidates must include the following:

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

Where and when to lodge returns

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

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

Administration

Candidate record keeping

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

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

Examples of source documents are:

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

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

- date of the transaction
- name of person and/or organisation from whom a gift/donation was received
- name of person and/or organisation to whom a payment was made and what the payment was for

- name and address of an organisation that has provided a loan to the candidate
- total payment made or amount received
- amount of goods and services tax (GST)
- merchant fees.

Retention of records

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

Offences

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

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

Public inspection

Election financial disclosure returns are available for public inspection 24 weeks after election day on the [AEC website](#).

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

Election funding

Candidates who receive four per cent or more of the formal first preference votes in an election are entitled to receive election funding.

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

An automatic payment of election funding is paid in the fourth week after election day on the basis of votes counted as at the 20th day after election day. For endorsed candidates, payment is made to the agent of the endorsing party. In the case of independent candidates, payment is made to the agent or candidate.

A claim must be made to receive election funding of more than the automatic payment amount. The claim is made by the agent of the party or candidate. The claim must set out the amount of electoral expenditure incurred by the party or candidate.

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

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

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

Scrutineers

The Electoral Act

Part XVI, 'The polling'

Part XVIII, 'The scrutiny'

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

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

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

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

What is the role of scrutineers?

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

Scrutineers may observe:

- the polling in a polling place
- the early sorting of ordinary pre-poll ballot papers
- the counting of ballot papers (the scrutiny)
- the preliminary scrutiny of declaration vote envelopes
- the further scrutiny of declaration votes
- distribution of preferences

Appointment of scrutineers by candidates

At early voting and during polling

The Electoral Act ss 200DA and 217

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

You appoint scrutineers by completing a scrutineer appointment form for each scrutineer.

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

You must give the name and residential address of the scrutineer and sign the form.

The form may be provided in person to the relevant DRO or officer in charge of a polling place, or by email.

Please note, establishments that have agreed to mobile polling may have entry requirements that apply to AEC staff and scrutineers who attend these locations to observe polling.

Entry requirements may include COVID vaccination, influenza vaccination, wearing a mask, undertaking a rapid antigen test and, in some jurisdictions, a working with vulnerable people clearance.

Candidates and scrutineers are required to ensure scrutineers who are attending mobile polling locations are able to comply with the entry requirements of that location to avoid potential disruptions to polling.

Acceptable forms of evidence to support compliance may need to be provided if requested by the establishment.

A list of mobile polling locations will be made available on the AEC website soon after the Issue of Writ for an electoral event. You may contact establishments receiving mobile polling for details of their entry requirements.

Candidates and scrutineers wishing to obtain information about the locations and hours of operation of call centres for voters who are blind or have low vision and Antarctic electors, may contact the AEC on 132326 or by emailing info@aec.gov.au.

At the preliminary scrutiny of declaration votes

The Electoral Act, ss 266 and Schedule 3

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

The preliminary scrutiny of declaration vote envelopes can begin before election day from receipt of the envelope.

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

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

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

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

At the scrutiny

The Electoral Act, ss 217, 264, 265 and 274

You may also appoint scrutineers to represent you at the early sorting of ordinary pre-poll ballot papers from 4pm on polling day, and the checking and counting of the ballot papers after the close of polling. However, scrutineers are not entitled to object to ballot papers

before the closing of the poll. Challenges may occur only after the closing of the poll at 6pm. This is when the official scrutiny begins.

The number of scrutineers who may represent you at each counting centre is limited to the number of officers engaged in the counting of ballot papers.

The appointment of a scrutineer must be made in writing and given or emailed to the officer conducting the scrutiny at the counting centre. You must sign the appointment form, which must give the name and address of the scrutineer.

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.

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

At the further scrutiny of declaration votes

The DRO conducts the further scrutiny of HoR ballot papers. Declaration vote envelopes which have passed the preliminary scrutiny are opened, and the ballot papers are extracted. This process commences from the Monday prior to polling day. Then at the further scrutiny after the close of polling, the ballot papers are sorted and counted.

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

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

At the fresh scrutiny

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

Scrutineers Handbook

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

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

The By-Election [Scrutineers Handbook](#) is available on the AEC website.

Counting the votes

The Electoral Act

Part XVIII, 'The scrutiny'

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

On by-election night

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

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

In relation to pre-poll votes cast as ordinary votes in the lead up to polling day HoR votes will be counted on by-election night.

Tally Room

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

The TR allows people visiting the website on election night and the weeks following to access progressive House of Representatives results, together with a comprehensive range of summary and analysis screens. These results are updated regularly on by-election night and in the post-election period.

House of Representatives count on by-election night

Ballot papers are initially sorted by AEC staff 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 including pre-poll voting centres in their division into the national computerised Election Management System which, in turn, updates the TR. The TR can be accessed on the AEC website.

Indicative two-candidate-preferred (TCP)

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

The TCP count shows where preferences have been distributed to the probable final two candidates in an election. It must be remembered that this count is only an indicative result of the by-election.

It is possible that early, absent and mobile polling votes, counted after election day, could alter the outcome.

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

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

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

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

After by-election night

Fresh scrutiny

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

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

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

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

Declaration votes

Some declaration votes (such as postal votes) may be counted on by-election night.

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

In the days following election day, a 'declaration vote exchange' may be carried out between the divisions within each state and territory, where declaration votes are physically passed on to the relevant division. This may only occur if there is more than one by-election on the same day.

Declaration votes received on behalf of divisions in another state or territory or overseas are sent to the relevant divisions. Once the declaration votes are received and processed in the home division, the counting of these votes can begin. This may only occur if there is more than one by-election on the same day.

Finalising the count

For by-elections, the legislation requires that declaration vote envelopes need to be received by the AEC on or before 13 days after election day.

These votes are included in the count if:

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

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

Recounts and disputed returns

The Electoral Act

Part XVIII, 'The scrutiny'

Part XXII, 'Court of Disputed Returns'

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

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

Recounts

The Electoral Act, ss 279, 270A, 279B, 280 and 281

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

In the absence of specifically alleged errors, it is unlikely that a recount would be required.

However, in the case of a House of Representatives division, if the margin of votes at the completion of the full distribution of preferences is less than 100, a recount is conducted as a matter of course.

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

Note: During a **House of Representatives** recount, the DRO conducting a recount has the same powers as if the recount was the original scrutiny.

A DRO may reverse any decision in the scrutiny to admit or reject a ballot paper. The DRO may, and at the request of a scrutineer must, reserve any ballot paper for the decision of the AEO.

The AEO must decide whether any ballot paper reserved for their decision is to be admitted or rejected. If a ballot paper is considered as being admitted by the AEO, the DRO will complete the recount on the basis of the AEO's decision.

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

If a request for a recount in a House of Representatives division is refused by the DRO, there is no obligation in the Electoral Act that the rejected request is reviewed by the AEO or Electoral Commissioner.

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

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

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

- the time available to complete the recount and declare the result prior to the return of writ deadline
- the likelihood that the recount could change the result of the by-election
- allegations or incidents regarding the conduct of the scrutiny have been raised and indicate valid and specific grounds for supposing that it could change the result of the by-election.

- Only one recount of any set of ballot papers will occur.
- Requests for recounts will only be considered, and actioned, in the period after the completion of all scrutines and before the declaration of the poll in the division.
- Requests for recounts will be refused where the purpose is to boost the first preference votes of a candidate to at least four per cent for public funding purposes, to avoid forfeiture of a nomination deposit, or because the candidate did not have scrutineers in attendance at a particular scrutiny.
- Frivolous requests for recounts, or requests due to dissatisfaction of the result, will be refused.
- Where the margin of votes at the completion of the full distribution of preferences for a House of Representative division is less than 100, a recount will be undertaken as a matter of course.
- In addition to the grounds for an automatic recount, the AEC may initiate a recount considering the following:
 - the margin of votes between candidates.

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

Evaluating a request for a recount

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

- A recount may take place where there are valid and specific grounds for supposing that it could change the result of the election in the division or where there are specific grounds for determining the need for a recount of specific ballot papers (such as in response to specific allegations or incidents).
- A request for a recount which does not plead any valid and specific grounds must be refused. A request for a recount needs to identify specific ballot papers and associated significant counting process errors or irregularities that could change the result of an election within a division.
- Wherever possible, the grounds pleaded by the candidate requesting the recount will be used to narrow down to as small a category as possible the ballot papers that need to be re-examined.

Court of Disputed Returns

The Electoral Act, Part XXII

Anyone contemplating a challenge to an election result should consult their own legal advisers. The validity of the by-election of any member of parliament may only be disputed by a petition to the Court of Disputed Returns within 40 days of the return of the writ.

The Electoral Act, s 360(1)

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

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

A petitioner may only challenge the election in the division of the House of Representatives, for which they were enrolled on the date on which the election was held.

What must a petition contain?

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

The Electoral Act, s 355

A petition must:

1. set out the facts relied on to invalidate the election,
2. set out those facts with sufficient particularity to identify the specific matter or matters on which the petitioner relies as justifying the grant of relief the Court may at any time after the filing of the petition relieve the petitioner from complying with this,
3. contain a prayer asking for the relief the petitioner claims to be entitled to,
4. be signed by a candidate at the election in dispute or by a person who was qualified to vote at the election,
5. be attested by two witnesses whose occupations and addresses are stated,
6. for a by-election, be filed in the Registry of the High Court within 40 days after:
 - a. the return of the writ if no other elections are held on the same day; or
 - b. if the election day for the election in dispute is also the election day for another election or other elections—the return of the writs for the election in dispute and that other election or those other elections is returned last.

The Electoral Act, ss 356 and 359

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

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

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

Voiding an election for illegal practices

The Electoral Act, s 362

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

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

1. If the Court of Disputed Returns finds that a successful candidate has committed or has attempted to commit bribery or undue influence, the election of the candidate shall be declared void.
2. No finding by the Court of Disputed Returns shall bar or prejudice any prosecution for any illegal practice.
3. The Court of Disputed Returns shall not declare that any person returned as elected was not duly elected, or declare any election void:
 - a. on the ground of any illegal practice committed by any person other than the candidate and without the

knowledge or authority of the candidate, or

- b. on the ground of any illegal practice other than bribery or corruption or attempted bribery or corruption,
 - c. unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.
4. The Court of Disputed Returns must not declare that any person returned as elected was not duly elected, or declare any election void, on the ground that someone has contravened the *Broadcasting Services Act 1992* or the *Radio Communications Act 1992*.

The Electoral Act, s 386

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

Appendix 1: Electoral offences

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

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

The Electoral Act, s 383

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

Offences during the election period

For offences committed on or after 7 November 2024, the value of one penalty unit is \$330.

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

	Offence	Maximum Penalty	Comment
s.327(2)	<p>Discriminating against another person for making a donation to a political party, a candidate or a group in an election or by-election by:</p> <ul style="list-style-type: none"> ▪ denying them access to membership of any trade union, club or other body ▪ not allowing them to work or continue to work ▪ subjecting them to any form of intimidation or coercion ▪ subjecting them to any other detriment 	<p>If the offender is a natural person imprisonment for 2 years or 50 penalty units, or both; or if the offender is a body corporate – 200 penalty units</p>	
s 321D(5)	<p>Failure to authorise electoral matter in accordance with s 321D</p>	<p>Civil penalty for: an individual – up to 120 penalty units; a body corporate – up to 600 penalty units</p>	
s 329(1)	<p>A person shall not, during the relevant period in relation to an election under this Act, print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of a vote</p>	<p>If the offender is a natural person – by imprisonment for 3 years or a fine not exceeding 100 penalty units, or both; or if the offender is a body corporate – by a fine not exceeding 500 penalty units</p>	<p>Offence during the election period. The scope of what amounts to "publish" includes not just the print media, but also by radio, television, internet or telephone. Publications that could be mistaken to be AEC publications (e.g. purple and white signs) may be misleading and deceptive</p>

Bribery

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

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

will, in any manner, be influenced or affected.

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

2. A person shall not, with the intention of influencing or affecting:
 - a. any vote of another person;
 - b. any candidature of another person; or
 - c. any support of, or opposition to, a candidate, group of candidates or a political party by another person;
 - d. the doing of any act or thing by another person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of an elector; or
 - e. ...
 - f. give, or confer, or promise or offer to give or confer, any property or benefit of any kind to that other person or to a third person.

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

Other offences during polling

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

	Offence	Maximum Penalty	Comment
<i>Commonwealth Electoral Act 1918</i>			
s 245	Failure to vote without valid and sufficient reason	1 penalty unit	
s 335	Exhibiting or leaving a how-to-vote card in any polling booth	5 penalty units	
s 338	Marking a vote or making any other mark on a ballot paper issued to another elector	Imprisonment for 6 months or 10 penalty units, or both	The Act expressly authorises certain exceptions, such as assistance to voters who are incapacitated or have low literacy skills
s 339(1)(a)	Impersonating any person with the intention of securing a ballot paper to which the impersonator is not entitled	Six months imprisonment	
s 339(1)(b)	Impersonating any person with the intention of voting in that other person's name	Six months imprisonment	
s 339(1)(d)	Fraudulently putting any ballot paper or other paper into the ballot box	Six months imprisonment	
s 339(1)(e)	Fraudulently taking any ballot paper out of any polling booth or counting centre	Six months imprisonment	
s 339(1)(g)	Supplying ballot papers without authority	Six months imprisonment	
s 339(1)(h)	Doing an act that results in the unlawful destruction of, taking of, opening of, or interference with, ballot boxes or ballot	Six months imprisonment	
s 339(1A)	Voting more than once in the same election	10 penalty units	
s 339(1C)	Intentionally voting more than once in the same election	60 penalty units or 12 months imprisonment, or both	
s 339(2)	Engaging in any act that results in the defacement, mutilation, destruction or removal of any notice, list or other document affixed by, or by the authority of, any DRO	5 penalty units	

	Offence	Maximum Penalty	Comment
s 340	Canvassing for, or soliciting votes, inducing an elector not to vote for a particular candidate in an election or in an election at all, or displaying or exhibiting any non-official sign within six metres of the entrance of a polling place, early voting centre or mobile polling team. These acts are also prohibited if they involve broadcasting by electronic equipment and are audible within six metres of the entrance to a polling place, early voting centre or mobile polling location	5 penalty units	Applies to party workers, scrutineers and candidates' representatives. When a building used as a polling place is situated in enclosed grounds and the DRO has authorised the officer-in-charge to display at each entrance a notice signed by the DRO stating that the grounds are part of the polling place, those grounds are considered to be part of the polling place for the purposes of these offences
s 341	Wearing or displaying in a polling place any badge or emblem of a candidate or political party	10 penalty units	Applies to electoral officials and scrutineers only
s 348	Engaging in misconduct; disobeying a lawful direction of the person in charge; or entering or remaining in specified places without the permission of the person in charge	5 penalty units	Applies to any early voting office, any polling place on election day or any counting centre. An offender may be removed by the police or anyone else authorised by the person in charge

Please note that the penalties imposed under the *Commonwealth Electoral Act 1918* are subject to sections 4AA and 4AB of the *Crimes Act 1914* and as such the value of the penalty unit listed may increase from time to time. The value of 1 penalty unit for offences committed on or after 7 November 2024 is \$330. Unless otherwise specified, all penalties are the maximum able to be imposed upon conviction of the offence.

Photographers and media

Photographers and members of the media or their equipment must not hinder, inconvenience or delay any polling staff or voters. No photographs or videos may be taken of a person at a polling booth or a counting centre without the permission of the person in charge.

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

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

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

Appendix 2: Additional information available to candidates

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

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

Other information materials will be available during the election campaign.

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

Official material available to candidates

House of Representatives candidates are entitled to receive a copy of the certified list of voters for the division for which they are seeking election. This copy is available from the AEC as soon as practicable following the declaration of nominations and will be provided without charge.

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

Glossary

Term	Description
Assistant Returning Officer (ARO)	The Officer in charge of each polling place is officially called the ‘presiding officer’ during polling but is called the ARO during the scrutiny (see also ‘Officer in charge’).
Australian Electoral Commission (AEC)	The independent statutory authority established in 1984 to maintain and update the Commonwealth electoral roll, raise public awareness, and conduct federal elections and referendums.
Australian Electoral Officer (AEO)	The AEC’s chief manager in each state and the Northern Territory. An AEO for the Australian Capital Territory is only appointed for each election period. The AEO is the returning officer for the Senate in their state or territory.
By-election	A by-election is held whenever a vacancy occurs in the House of Representatives. A supplementary election must be held if a candidate for a House of Representatives election dies in the period between close of nominations and election day.
Candidate	A person standing for election to the Senate or House of Representatives.
Financial disclosure return	Documents detailing information on the receipts and expenditure of participants in the political process. There are specific return forms for candidates, their donors and political parties. Financial disclosure returns are made public 24 weeks after election day.
Certified list of voters	The official electoral roll used to mark off electors’ names. Polling officials place a mark against an elector’s name when the elector is issued with a ballot paper at a polling place, or where appropriate during early voting, to indicate that the elector has voted.
Close of rolls	The roll closes on the seventh day after the issue of the writ.
<i>Commonwealth Electoral Act 1918</i>	The legislation governing the Commonwealth electoral process. Referred to as ‘the Electoral Act’ in this handbook.
Constitution	The Australian Constitution.
Counting centre	Any site at which a scrutiny or counting of votes is to be, or is being, conducted.
Court of Disputed Returns	A candidate, an elector or the AEC may dispute the validity of an election by a petition to the High Court sitting as the Court of Disputed Returns. The court has wide powers to resolve the matter.
Declaration vote	A declaration vote is recorded by a voter whose entitlement to vote cannot be confirmed at the place of voting. The voter makes a signed declaration on an envelope and then puts their completed ballot paper inside. These votes are counted after election day if the voter’s entitlement to vote is verified using the information provided on the declaration envelope.
Divisions (electorates)	For representation in the House of Representatives, Australia is divided into electoral divisions. The number of these divisions is determined by population. To ensure equal representation, the boundaries of these divisions have to be redrawn or redistributed periodically.
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
Early vote	A postal vote or a vote cast at an early voting centre, or via a mobile polling team in the lead-up to election day. They are cast by electors who will not be able to get to a polling place on election day.
Election Management System	The AEC system which centrally calculates election results, displays those results and is the interface to the Tally Room.
Electoral Commissioner	The officer who performs the functions of the chief executive officer of the AEC.
Electronic certified list	An electronic copy of the certified list of eligible people who are registered to vote in Australian elections.
Formal	A ballot paper is generally considered formal if it is filled out correctly in accordance with the Electoral Act and the instructions on the ballot paper. It is therefore included in the scrutiny.
Fresh scrutiny	A re-check of votes cast in a House of Representatives election or referendum, conducted by the DRO in the days following election day.
How-to-vote (HTV) cards	Cards provided to voters by candidates showing how a party or candidate would like voters to fill in their ballot papers.
Informal	A ballot paper is generally considered informal if it is not filled out correctly in accordance with the Electoral Act and the instructions on the ballot paper. It cannot therefore be included in the scrutiny.
Issuing point	The part of the polling place where ballot papers are issued to electors.
Mobile polling team	A team of polling officials who bring the polling to the elector. They visit electors in locations including nursing homes, prisons and remote locations to enable them to vote.
Nomination form	The form which must be used by a candidate nominating for election. Nomination forms are explained in detail in the By-Election Nomination Guide for Candidates .
Officer in charge (OIC)	The officer who is in charge at a polling place. They are officially called 'presiding officers' during polling (8am to 6pm). From 6pm, during the scrutiny, they are called the Assistant Returning Officer (ARO).
Ordinary vote	An ordinary vote is recorded by an elector whose entitlement to vote is verified at the place of polling and whose name is marked off on a certified list of voters. Ordinary votes may be cast on, or in certain circumstances, before polling day. These votes are counted on polling day after the close of polling.
Preferential voting (full or 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.
Provisional votes	Votes cast at a polling place where the elector's name cannot be found on the certified list, or where the elector's name has been marked off the roll as having voted, or where the elector has silent enrolment, or where, after questioning, the elector has failed to satisfy the officer in charge that they are a particular person on the certified list.
Qualification checklist	A compulsory component of the candidate nomination process. The checklist must be completed by nominating candidates to demonstrate their eligibility to be elected to Parliament under Section 44 of the Constitution. The qualification checklist is explained in detail in the By-Election Nomination Guide for Candidates .

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

www.aec.gov.au 13 23 26



Authorised by the Electoral Commissioner, 10 Mort Street, Canberra