


Victorian Electoral Commission

Candidate Handbook

REGION
LEGISLATIVE COUNCIL



VEC

Victorian Electoral Commission 

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The Victorian Electoral Commission

OUR MISSION

The Victorian Electoral Commission's mission is to conduct fair and impartial elections, efficiently and according to law, and to maintain the integrity of the Victorian electoral system.

We are committed to quality and accountability in the management and delivery of electoral services.

Our aim is to continue to be recognised for our excellence in providing these services.

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Please address all enquiries to the Victorian Electoral Commission, Level 8, 505 Little Collins Street, Melbourne, Victoria.

Electoral Commissioner, Melbourne.

INTRODUCTION

This handbook is intended to assist candidates at Victorian State elections. It explains those aspects of electoral law which relate directly to candidates. However, the handbook is not a substitute for the law. Victoria's electoral law is set out in the *Constitution Act 1975*, the *Electoral Act 2002* (EA) and the *Electoral Regulations 2002* (ER). Copies may be purchased from Information Victoria at 356 Collins Street, Melbourne.

Candidates are reminded that, while the Commission will assist them by providing information, it does not provide legal advice to candidates. Candidates must satisfy themselves as to their legal position, including, where appropriate, obtaining the advice of their own legal advisers. It is the responsibility of individual candidates to ensure that they comply with Victoria's electoral law.

Candidate Kit

Along with this handbook each candidate will receive a Candidate Kit. Each kit should contain:

- a *How-to-vote card Declaration*;
- one *Appointment of Scrutineer* as a sample;
- an *Electoral Roll Confidentiality Agreement*;
- a list of voting centres in the Region, including early voting centres;
- estimated votes and number of issuing points at each voting centre;
- Election Manager contact details;
- a *Nomination of an Independent Candidate for the Legislative Council (by 50 electors)* form;
- a Region fact sheet;
- a *Request for Group Registration* (2 pages);
- a *Lodgement of Group Voting Ticket* form; and
- contact details of the Election Manager who will conduct the ballot draw.

Information Session

An information session for candidates, not endorsed by registered political parties, will be held at 2.00 pm on Sunday, 5 November at Level 8, 505 Little Collins Street, Melbourne. It is strongly recommended that candidates attend this session.

Registered political party briefings will be held prior to the commencement of the election period.

VEC Website

The Commission has a website located at [**www.vec.vic.gov.au**](http://www.vec.vic.gov.au)

The site contains information about Victorian electoral processes, profiles of electorates, and election results. Electors can also download an enrolment form from the website, complete it, and post it to the Commission.

At the time of the State election, the website will include important information about voting, including how to vote if you cannot get to a voting centre on election day, the location of voting centres, and where to vote if you are interstate or overseas. It will also be possible to download an application form to vote by post.

Candidates' details will be posted on the website following their nomination and election results will be posted on election night and in the weeks that follow. This information will be initiated electronically by the Commission's Election Managers using EMS, the Commission's election management system.

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Glossary of Terms

Absent Elector	An elector who votes outside their enrolled District on election day.
Candidate	A person who is nominated under section 69 of the <i>Electoral Act 2002</i> to stand for election to Parliament.
Canvassing	Soliciting of votes at an election for a candidate or political party.
Central Counting Centre	The venue where the electronic count for the Region will take place.
Close of Roll	The roll closes at 8.00 pm seven days after the date of the issue of the writ.
Commission	The Victorian Electoral Commission established under section 6 of the <i>Electoral Act 2002</i> .
Declaration Vote	Means a vote on a ballot paper marked under the following sections in the <i>Electoral Act 2002</i> : <ul style="list-style-type: none"> • 106 – Postal; • 108 – Unenrolled; • 109 – Absent; and • 110 – Marked as Voted.
District	A District is an electorate for the Legislative Assembly. There are 88 Districts, each electing 1 member and there are 11 Districts in a Region.
Early Vote	An early vote is a vote cast before election day by an elector who is unable to attend a voting centre on election day.
Early Voting Centres	Types of early voting centres: <ul style="list-style-type: none"> • an early voting centre where an early vote is cast before election day by an elector who is unable to attend a voting centre on election day; or • a mobile voting centre providing voting facilities to assist electors who are patients/residents in a hospital, nursing home or similar accommodation. <p>The Electoral Commissioner appoints early and mobile early voting centres for each election.</p>
Election	Means: <ul style="list-style-type: none"> • a general election; or • a by-election; or • a supplementary election; or • a re-election.

Election Day	The day named as the election day in the writ for an election.
Election Manager	A senior election official appointed by the Electoral Commissioner to conduct an election for one or more electorates. The Election Manager for an election is the front-line manager for that election.
Election Office	The office where the Election Manager conducts the election for up to three Districts.
Election Official	An election official is appointed by the Election Manager to assist with the conduct of the election.
Election Period	In relation to an election, means the period that starts on the day on which the writ was issued for the election and ends at 6.00 pm on election day.
Elector	Means a person whose name appears on the roll for the election.
Electoral Advertisement, Handbill, Pamphlet or Notice	Means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.
Electoral Commissioner	A person appointed by the Governor-in-Council to be responsible for the administration of electoral law in Victoria. The Electoral Commissioner is the Chief Executive Officer of the Commission with the power to appoint Election Managers, voting centres and early voting centres.
Electoral Expenditure	Means expenditure incurred in relation to an election within the period of 12 months immediately before election day.
Group Names	Registered political parties registering a group may further request the name/s of the party/ies be printed on the ballot paper.
Group Registration	When two or more candidates make a request to the Commission to have their names grouped together on a ballot paper.
Group Voting Ticket	A document that sets out a group's order of voting preference for all candidates in the Legislative Council election.
How-to-vote Card	<p>A how-to-vote card is any card, handbill, pamphlet or notice that:</p> <ul style="list-style-type: none">• is or includes a representation or partial representation or purported representation or purported partial representation of a ballot paper for use in an election; or• lists the names of any or all of the candidates for an election with a number indicating an order of voting preference against the names of any or all of those candidates. <p>See also: Registered How-to-vote Cards.</p>
Party Worker	A person who assists a candidate on election day, usually by distributing 'how-to vote' material.

Preliminary Scrutiny	A validation of declaration envelopes on and after election day in the Election Office.
Recount	A re-examination and count of all formal and informal ballot papers by an Election Manager before the declaration of the election. A recount does not include a re-examination of declarations of postal, absent and unenrolled voters.
Region	A Region is an electorate for the Legislative Council. There are 8 Regions, each electing 5 members and each Region comprises 11 Districts.
Registered How-to-vote Cards	Registered how-to-vote cards are the only printed electoral material that may be distributed between 3 and 400 metres of a voting centre on election day.
Registered Political Parties (RPPs)	The Commission maintains a Register of Political Parties. To be eligible for registration, parties must have at least 500 members who are Victorian electors and not members of another registered political party. Registration entitles a registered political party to have the registered party details placed next to its candidate/s names on the ballot paper/s.
Roll	The certified roll of electors is supplied to Election Managers in three formats – scannable, reference and electronic. Scannable and electronic rolls are used to mark electors’ names as having voted and are used at voting centres and early voting centres for issuing votes. Reference rolls are for reference use only and supplied to all Voting Centre Managers. An electronic copy of the roll is provided to all candidates.
Scrutineers	Scrutineers are appointed by candidates to represent their interests. Scrutineers are permitted to observe voting, scrutiny and counting procedures during an election.
Silent Elector	An elector whose address is not on an electoral roll because of a request made under section 31 of the <i>Electoral Act 2002</i> . Their address is listed on the roll as “Address Suppressed”.
Writ for election	A writ is an order to the Electoral Commissioner that an election be held. The writ specifies key election dates.

1. ELECTION WRITS

See the *Electoral Act 2002* - sections 61 to 64, 121.

Issue of the Writ

Writs are issued by the Governor for State elections and the Speaker of the Legislative Assembly for by-elections for the Legislative Assembly, and are addressed to the Electoral Commissioner. The Electoral Commissioner then advises each Election Manager of the dates and directs each one to make the appropriate election arrangements (EA ss.61,64).

The writ specifies the critical election dates:

- close of rolls for the election, which is 8.00 pm, seven days after the date of the issue of the writ (EA s.63(2),(3),(4)). Any claim for enrolment or transfer of enrolment received after that time cannot be included on a roll for the election.
- close of nominations, which must be 10 days after the issue of the writ (EA s.63(5)).

Declaration of the Election and the Return of the Writ

Each Election Manager, as soon as convenient after the result of the election is known, publicly declares the result of the election and announces the name of the candidate elected. After such a statement has been received from every Election Manager, the Electoral Commissioner endorses on the writ the name of each candidate elected for each region or district, and returns the writ to whoever issued it—the Governor or the Speaker of the Legislative Assembly (EA s.121).

The date fixed for the return of the writ must be within 21 days after election day (EA s.61).

2. TIMELINE FOR THE STATE ELECTION

Nominations open EM's office open to public	OCT 31	TUE ISSUE OF WRIT	
	NOV 1	WED	
	NOV 2	THU	
	NOV 3	FRI	
	NOV 4	SAT	
Information Session (Independent candidates) Victorian Electoral Commission 2pm	NOV 5	SUN	
	NOV 6	MON	
Election Offices are open	NOV 7	TUE CUP DAY	CLOSE OF ROLLS 8.00 pm
	NOV 8	WED	
	NOV 9	THU	RPPs CLOSE OF NOMS at VEC 12 noon Group registration closes
Ballot Draws will commence from 1pm Early Voting available from 4.00 pm in Election Offices	NOV 10	FRI	CLOSE OF NOMS with EMs 12 noon
VEC open by appointment for lodging group voting tickets	NOV 11	SAT	
VEC open by appointment for lodging group voting tickets	NOV 12	SUN	Lodgement of group voting tickets closes 12 noon
Early voting centres open 8.30 – 6.00 pm	NOV 13	MON	First day for registration of HTVCs
	NOV 14	TUE	
Mobile Early Voting commences	NOV 15	WED	
	NOV 16	THU	
	NOV 17	FRI	Final day for registration of HTVCs 12 noon
Early Voting open 9am to 2pm	NOV 18	SAT	
	NOV 19	SUN	
	NOV 20	MON	Close of HTVC correction period 12 noon
	NOV 21	TUE	
	NOV 22	WED	
Early Voting open until 8pm	NOV 23	THU	Postal Voting closes 6pm
	NOV 24	FRI	Early Voting closes 6pm
ELECTION DAY	NOV 25	SAT	
	DEC 1	FRI	
	DEC 4	MON	Last day that votes can be admitted to scrutiny

RPPs = Registered Political Parties
HTVCs = How-To-Vote Cards

3. CONSTITUTION AND LEGAL QUALIFICATIONS FOR CANDIDATES

Eligibility for Nomination

See the *Constitution Act 1975* - sections 44 to 61A. Candidates must be nominated before they can be elected to either House of Parliament.

A candidate for either House must be enrolled as an elector. Therefore, he or she must be:

- at least 18 years old;
- a Victorian resident; and
- an Australian citizen; or
- a British subject who was on either a Victorian or Commonwealth electoral roll at any time between 26 October 1983 and 25 January 1984 inclusive (*Constitution Act 1975* ss.44(1), 48(1)).

The *Constitution Act 1975* (s.44) disqualifies the following persons from being elected to either House:

- a person not enrolled as an elector;
- an elector who is a judge of a court of Victoria;
- an elector who has been convicted or found guilty of an indictable offence, which is punishable upon first conviction by imprisonment for life, or for a term of five years or more. This offence must have been committed by him or her when 18 years or over, under the law of Victoria, or under the law of any other part of the British Commonwealth of Nations;
- an elector who is an undischarged bankrupt; or
- a person who is a member of either House of Parliament of the Commonwealth.

A person who holds an office of profit under the Crown, including an employee in the Victorian or Commonwealth Public Service, is not disqualified from standing for election to State Parliament by reason only of holding an office of profit under the Crown. The election to State Parliament of such a person automatically terminates his or her tenure of the office in question (*Constitution Act 1975* (s.61)).

Municipal councillors are not disqualified from standing for election to State Parliament.

Certain contractors with the Crown cannot sit in State Parliament (*Constitution Act 1975* (ss.54-58)).

The qualifications to be a member of either House of the Victorian Parliament are the same. However, a member of either House cannot be elected to or sit as a member of the other House (*Constitution Act 1975* (ss.29, 36)).

Multiple Nominations

An elector cannot nominate as a candidate for more than one election to be held on the same day. (EA s.69(6)). If this occurs, all of his or her nominations as a candidate are declared void and the deposits paid in respect of the nominations are forfeited (EA s.69(7)).

Legal Issues

Candidates should be aware that the State election is conducted within a legal framework.

The principal legislation that covers the conduct of parliamentary elections in Victoria are the *Electoral Act 2002* and the *Electoral Regulations 2002*, copies of which can be purchased from Information Victoria at 356 Collins Street Melbourne.

Candidates should note that officers of the Commission (including Election Managers) are not in a position to give legal advice regarding the conduct of their campaigns or interpretation of the *Electoral Act 2002* or the *Electoral Regulations 2002*. If candidates are in any doubt about any legal matters regarding the election, they should seek their own legal advice.

4. NOMINATION PROCEDURES

See the *Electoral Act 2002* - sections 68 to 69.

How to Nominate

Intending candidates must nominate on the prescribed form. Nomination forms for candidates who are not endorsed by a registered political party are available from any Election Manager or the Commission.

Independent candidates nominating for a Region can lodge their nomination form with any Election Manager in **their** Region.

Candidates from registered political parties can only be nominated by the registered officer of the party and such nominations must be made with the Commission.

Nomination forms for political parties can be obtained from the Commission.

Deposit Required

Each nomination for the Legislative Council must be accompanied by a deposit of \$350. The deposit must be in cash or cheque drawn on a bank, building society or credit union (EA s.69(4)). Cheques should be made payable to the "Victorian Electoral Commission".

The nomination deposit will be returned to the candidate, or someone authorised by the candidate, if the candidate:

- is elected;
- receives at least 4% of the first preference votes in the electorate;
- was not declared elected, but was a member of a group of candidates at the election and the combined first preference votes received by all the candidates in the group was at least 4% of the total number of first preference votes in the election;
- retires before the close of nominations;
- dies before 6.00 pm on election day; or
- is a candidate in a failed election.

All other candidates forfeit their deposits (EA s.180).

When and where to Nominate

Nominations can only be lodged after the issue of the writ. It is advisable to nominate well before the close of nominations.

For candidates not endorsed by a registered political party a completed nomination form must be lodged **by 12 noon on Friday, 10 November 2006** with the Election Manager for the electorate for which the person wants to be a candidate (EA s.69(3)).

Registered political parties must nominate their endorsed candidates directly with the Commission after the issue of the writ and **before 12 noon on Thursday, 9 November 2006** (EA s.69(2)).

A faxed nomination form will not be accepted.

Candidates forming a group on the ballot paper are to refer to Chapter 5 "Group Registration & Ballot Draw". Requests must be lodged **with the Commission 24 hours before nominations close**. All candidates, including candidates not endorsed by a registered political

party wishing to be included in a group **must** have nominated **before** submitting a group registration request.

It is the candidate's responsibility to ensure that his or her nomination is received by the Election Manager before the deadline. Late nominations or group requests cannot be accepted.

Nomination Form

The nomination form completed by the candidate must include:

- the candidate's name and address as it appears on the register of electors;
- contact details for the candidate;
- a statement specifying the form in which their name is to be printed on the ballot paper. A given name may be replaced by an initial or a commonly accepted variation or abbreviation of that name. A commonly used other name by which the candidate is usually identified may also be specified. A surname **cannot** be varied;
- in the case of a candidate not endorsed by a registered political party, signatures, enrolment addresses and date of birth of at least **fifty** people entitled to vote for the Region for which the candidate is nominated;
- in the case of a candidate endorsed by a registered political party the signature of the registered officer of the party, and the form in which the party's name is to appear on the ballot paper;
- the suburb or locality in which is located the address in respect of which the candidate is enrolled (this is a requirement for all candidates, including silent electors);
- the consent of the nominated candidate; and
- a declaration signed by the candidate that the candidate is qualified under the *Constitution Act 1975* to be elected (EA s.69(2),(3),ER Form G).

Note – When specifying the way your name is to appear on the ballot paper you *must*:

- print your SURNAME and INITIALS in capitals. If your surname has any lower case letters or accents please specify clearly on the form (e.g. MacALISTER, van LEW or GLASÉ); and
- print your given name or names in lower case (e.g. SMITH, T. E. or MacALISTER, John P. or de FRIES, Joan Anne).

Retirement of a Candidate

A candidate who is not endorsed by a registered political party may withdraw their nomination by lodging with the Election Manager a notice of retirement, at any time up to the close of nominations.

A candidate endorsed by a registered political party may withdraw the candidate's nomination by lodging with the Electoral Commissioner a notice of retirement at any time before noon on the day **before** the close of nominations.

The nomination is then cancelled and the deposit refunded (EA s.71).

Death of a Candidate

If a nominated candidate dies before the close of nominations, the nomination period is extended by a day (EA s.63(6)).

If a candidate dies between the close of nominations and 6.00 pm on election day or if the successful candidate dies after 6.00 pm on election day and before being declared elected, the election continues and ballot papers are dealt with during the counting process as described in EA ss.93A(4) and 114A(27).

Uncontested Elections

If by the close of nominations only five candidates have nominated at an election, the Election Manager declares those candidates elected on nomination day (EA s.121(1)).

**Candidate Contact
Details Publicly
Available**

Candidates should note that once nominations close, candidate contact details, as specified by the candidate on the nomination form, automatically become publicly available.

The Commission will publish candidates' contact details on its website, and will provide the media with candidates' contact details.

**Nomination Forms not
Available for
Inspection**

A candidate's nomination form is not available for inspection (EA s.69(8)).

**List of Nominations on
Display**

A summary of nominations, including the contact person's details for each candidate will be updated at the end of each business day and displayed at the Election Office (EA s.68).

5. GROUP REGISTRATION & BALLOT DRAW

See the *Electoral Act 2002* - section 69A.

Request for a Group on Ballot Paper

Two or more candidates nominating for a Region may request that their names:

- be grouped on the ballot paper; and
- be grouped in a specific order.

Requests should be submitted using the *Request for Group Registration* form **P313** (2 pages), available in the Candidate Kit, from the Election Manager or the Commission. **Note: Requests must be lodged with the Commission 24 hours before the close of nominations (12 noon) i.e. Thursday, 9 November 2006.** All candidates, including candidates not endorsed by a registered political party wishing to be included in a group, **must** have nominated **before** submitting a group registration request.

When registered political parties register a group, they may further request that the name of the party be printed on the ballot paper. Where there is a joint request by more than one registered party, a composite name formed from the parties can be printed on the ballot paper.

A candidate's name **may not** be included in more than one group.

The form must be signed by:

- each candidate in the case of two or more candidates not endorsed by a registered political party;
- the registered officer of the registered political party on behalf of two or more endorsed candidates; or
- the registered officer of each registered political party that has made a request to jointly have two or more endorsed candidates grouped on the ballot paper.

Ballot Draw

Candidates' names will appear on the ballot paper in the form specified on the *Nomination Form*. The order of groups on the ballot paper is determined by a random computerised draw.

The ballot draw button will be pressed once to initiate the following three draws:

- one to determine the order of groups;
- one to determine the order of candidates in a group where this has not been specified by the group; and
- one to determine the order of ungrouped candidates.

This will take place at the Election Office of the delegated Region Election Manager as soon as practicable after the close of nominations.

Candidates and any persons present may attend the draw (EA s.74(1)).

As soon as possible after the draw a report will be available for candidates, showing the order in which all candidates' names will appear on the ballot paper. This report will assist candidates/parties in preparing how-to-vote cards and group voting tickets for registration.

6. THE BALLOT PAPER

Ballot Paper

The ballot paper for the Council election will be 'Senate style', with voters able to choose to vote either above the line for a party or group or below the line for individual candidates.

Groups are printed from the left edge of the ballot paper. Groups are printed first on the ballot paper, followed by ungrouped candidates.

Group Voting Tickets

If a group has registered a group voting ticket a square will be placed on the ballot paper above the line and a letter of the alphabet will be allocated to that group after the draw for position on the ballot paper.

Where a group is registered by a registered political party, the name of the party will also be printed above the line on the ballot paper.

Political Party Names

Only a **registered political party** is allowed to have its name printed on the ballot paper adjacent to the names of the candidates endorsed by the party (EA s.74(4)). The form of the party's name is specified by the party on the nomination form.

Locality Name

The suburb or locality in which is located the address in respect of which the candidate is enrolled will also be printed next to the candidate's name on the ballot paper.

Additional Descriptions

Where the similarity in the names of two or more candidates is likely to cause confusion, the names of these candidates may include other additional descriptions to distinguish them from one another (EA s.74(2)).

7. GROUP VOTING TICKETS

See the *Electoral Act* Section 69B.

Registration of Group Voting Tickets

A group voting ticket is a document that sets out an order of preference for all candidates in the election. It must:

- give preferences to the candidates in the group lodging the ticket before giving preferences to any other candidate; and
- show a formal vote if followed.

Groups may apply to register 1, 2 or 3 group voting tickets.

The application *Lodgement of Group Voting Ticket P314* and voting ticket/s must be signed and **lodged with the Commission no later than 12.00 noon on Sunday, 12 November 2006.**

Voting tickets cannot be lodged with the Election Manager or faxed.

If the application is to register 2 or 3 voting tickets it must indicate the order in which the tickets are to be displayed (i.e. 1, 2, or 3 must be written at the top of the ticket).

The application must be signed:

- if all the members of the group have been endorsed by the same registered political party, by the registered officer of the party; or
- if the members of the group have been endorsed by different registered political parties, by the registered officers of all those parties; or
- in a case to which neither of the above two points applies, by the candidate whose name first appears in the group on the ballot paper or by a person authorised in writing by all the members of the group to sign such a statement on behalf of the group.

If voting above the line, voters place a 1 in the box for one group. Their vote is deemed to follow the registered ticket for that group.

When a group registers two or three group voting tickets, half or a third, according to the number of tickets, of the formal votes for that group are deemed to have followed each ticket. If the number of formal votes is not divisible by 2 or 3, the remaining ballot paper(s) are deemed to be marked in accordance with one of the group's tickets drawn by lot.

Appointment to be made with the Commission

Due to the short time frame between the close of nominations and the lodgement of voting tickets, it is advisable for candidates or their representatives to make an appointment at the Commission. The Election Manager will provide you with details of the contact person at the Commission when you nominate.

Amended, Withdrawn or Replaced Tickets

If before 12 noon on Sunday, 12 November a ticket is amended, withdrawn or replaced, a written notice must be signed by one of the following:

- the registered officer of the RPP;
- all registered officers of RPPs where a joint registration has been lodged; or

7. Group Voting Tickets

- in the case of candidates not endorsed by a registered political party – the candidate whose name first appears in the group on the ballot paper **or** a person authorised by all the members of the group.

The application must be lodged **at the Commission by 12 noon on Sunday, 12 November 2006.**

Display of Group Voting Tickets

Registered voting tickets will be available at voting centres and on the VEC website. Voting tickets are to be submitted with the *Lodgement of Group Voting Ticket P314* form provided in the Candidate Kit.

8. ELECTORAL ROLLS FOR CANDIDATES

Candidates will be provided with a CD ROM for the election they are contesting, free of charge. It will include a copy of the electoral roll which can be printed if required, as well as an electronic file which can be used to look up names, mail merge or as a basis for street walks. The electoral roll will contain the name and address of electors entitled to vote in the election. The electoral roll will not contain the addresses of any silent electors (EA s.33(6),(7)).

Candidates may only use the electoral roll in connection with their candidacy at the election and for monitoring the accuracy of information contained on the electoral roll (EA s.36(2)). There are very sound reasons why candidates must treat the electoral roll with absolute privacy. The electoral roll contains electors' personal information. Electors are required by law to provide their personal information to the Commission for the purpose of enrolment. If electors believe that their personal information is being misused then they will be reluctant to maintain their enrolment.

Enrolment information is protected information under Victoria's electoral law and candidates must not disclose protected information other than for a permitted purpose in connection with the candidate's campaign. Candidates will be asked to sign a declaration to this effect prior to receiving their copy of the roll.

A candidate may use the electoral roll information to send electors campaign material. A candidate may provide the electoral roll to a mailhouse for the purpose of direct mailing electors with campaign material. However, the candidate remains responsible for ensuring that the mailhouse does not disclose the information for another purpose.

Once the election is over, a person who was a candidate in an election may not use the electoral roll for any purpose whatsoever.

Enrolment information must not be used for a commercial purpose.

PENALTY: 600 penalty units in the case of an individual, and 3000 penalty units in the case of a body corporate or registered political party (EA ss.36, 37).

9. ELECTORAL ADVERTISING

See the *Electoral Act 2002* - sections 83 to 86.

These provisions operate all the time.

Electoral Advertisements must be Authorised

An electoral advertisement, handbill, pamphlet or notice may not be printed, published or distributed unless:

- the name and address of the person who authorised the electoral advertisement, handbill, pamphlet or notice appears at its end; and
- in the case of an electoral advertisement, handbill, pamphlet or notice that is printed or published otherwise than in a newspaper, the name and place of business of the printer or publisher appears at its end.

A person who makes copies for distribution of an electoral advertisement, handbill, pamphlet or notice that is published on the Internet is deemed to be the printer of those copies (EA s.83(2)).

However authorisation is not required for a car sticker, an item of clothing, lapel button, lapel badge, fridge magnet, pen, pencil or balloon (EA s.83(3)).

Electoral advertisement, handbill, pamphlet or notice means an advertisement, handbill, pamphlet or notice that contains electoral matter (EA s.3).

Electoral matter means matter which is intended or likely to affect voting in an election.

Without limiting the generality of that definition of electoral matter, matter is taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to or comment on, the election, the Government, the Opposition, a previous Government or a previous Opposition, of the State, Commonwealth or any other State or Territory, a member or former member of the Parliament of the State or of the Commonwealth or any other State or Territory; a political party, a branch or division of a political party or a candidate in the election; or an issue submitted to, or otherwise before the electors in connection with the election (EA s.4).

PENALTY: up to 10 penalty units for an individual and up to 50 penalty units for a body corporate (EA s.83(1)).

Headings of Electoral Advertisements

Newspaper proprietors must ensure that all paid paragraphs or articles containing electoral matter that appear in their newspapers are headed by the word "Advertisement".

PENALTY: 5 penalty units for an individual, and 25 penalty units for a body corporate (EA s.85).

Local Laws

Candidates should check with their local council to see if there are any local laws that may apply to the distribution and display of advertising material within the municipality and with VicRoads for provisions covering the display of material on highways.

The following provisions relating to electoral advertising operate only during an election period, that is, in the period between the issue of the writ and 6.00 pm on election night.

Identification of Authors

During an election period, all articles or letters containing electoral matter which are printed, published or distributed in a newspaper, circular or pamphlet must include the name and address of the author at the end ("Address" does not include a post-office box number).

However, letters simply have to include the author's name and the suburb or locality in which the author's address is located.

The identification requirement does not apply to a newspaper leading article or an article that is solely a report of a meeting.

PENALTY: 5 penalty units for an individual, and 25 penalty units for a body corporate (EA s.86).

Misleading or Deceptive Material

During an election period it is illegal to print, publish, distribute, permit or authorise:

- anything that is likely to mislead or deceive an elector in relation to the casting of their vote; or
- an electoral advertisement containing a representation of a ballot paper that is likely to induce an elector to vote otherwise than in accordance with the directions on the ballot paper.

PENALTY: up to 60 penalty units, or imprisonment for up to 6 months, for an individual, and up to 300 penalty units for a body corporate (EA s.84 (1)).

Matter Broadcast or Televised

The broadcast on radio or television of all political and election matter (including election advertisements), must comply with the requirements set out in Schedule 2 of the *Broadcasting Services Act 1992* (Commonwealth).

The Commission is not in a position to offer any advice regarding the operation of Commonwealth legislation. Any enquiries concerning the operation of the above Commonwealth Act should be directed to:

Australian Communications and Media Authority
PO Box 13112 Law Courts, Melbourne Vic 8010

Tel: 03 9963 6800

Fax: 03 9963 6899

10. HOW-TO-VOTE CARDS

See the *Electoral Act 2002* - sections 77 – 82A, 156, 157 and the Electoral Regulations 2002 (Regulations 16 – 18).

All how-to-vote cards distributed within 400 metres of a voting centre on election day must be registered. No other printed electoral material may be distributed within 400 metres of a voting centre (EA s.156(1)).

Registration

Applications to register how-to-vote cards must be submitted between the first working day after the close of nominations and 12 noon on the **sixth** working day before election day.

Any person may submit a how-to-vote card to an Election Manager for registration by the Commission.

A registered political party **must** submit a how-to-vote card directly to the Commission for registration.

The person submitting the how-to-vote card must make a declaration on the prescribed form concerning his or her identity and the party, organisation or person on whose behalf the card will be distributed. A form for this purpose is included in the Candidate Kit.

If the card includes a section in a language other than English, the person submitting the card must also submit a translation of that section and sign a declaration that the translation is fair.

PENALTY for false declaration: **Indictable Offence.** Up to 600 penalty units or 5 years imprisonment (EA s.148).

To ensure that Election Managers are aware of where your card is being distributed you will need to complete section D on the *How-to-vote Card Declaration* form.

To be registered, a card:

- must clearly identify the person, political party, organisation or group on whose behalf the card is to be distributed;
- must contain:
 - an indication of preference for one group in relation to which a square is printed above the line on the ballot paper; or
 - an indication of preferences for **all** candidates whose names are printed opposite squares below the line on the ballot paper; or
 - a statement to the effect that:
 - a number 1 must be placed in a box above the line for the electors preferred party or group of candidates; or at least the numbers 1-5 in order of preference be placed against the names of individual candidates below the line.
- must ensure that the size of any logo, emblem or insignia belonging to the person, political party, organisation or group on

whose behalf the card is to be distributed appearing on the how-to-vote card is not less than the relevant prescribed size of 4 square centimetres;

- must contain the name and address of the person authorising the card (the address must be a street address, **not** a post office box), and the name and place of business of the printer;
- must not be likely to mislead or deceive an elector in casting their vote;
- must not be likely to induce an elector to mark their vote otherwise than in accordance with the directions on the ballot paper;
- must not contain offensive or obscene material; and
- must contain the prescribed endorsement i.e. Registered by the Victorian Electoral Commission.

(EA s.79, Electoral Regulations 2002, regulations 18 and 18A)

Where possible you should submit your own card at the finished artwork stage. **Do not** have your cards printed until registration is approved.

A **How-to-vote Card Checklist** at the back of this handbook will assist in the preparation of your how-to-vote card.

Check each item as it applies to your card, paying particular attention to the spelling of candidates' names. The Election Manager or the Commission will also check each item when you submit your card.

You **must** include the following endorsement at the bottom of your printed card:

Authorised by: (name and street address of authoriser, not a PO Box)

Printed by: (name and place of business)

Registered by the Victorian Electoral Commission

Advice to Applicants

The Election Manager or the Commission may provide appropriate assistance to applicants prior to submission of their cards for registration (EA ss.78(4)).

Before noon on the next working day after receiving a how-to-vote card the Commission must inform the applicant that they are:

- registering the how-to-vote card; or
- refusing to register the how-to-vote card.

Any person has the right to inspect your card at the office of the Commission, once it has been registered.

The Commission will indicate which candidate, registered political party or other person has registered how-to-vote cards on the Victorian Electoral Commission's website www.vec.vic.gov.au

Alterations to Registered How-to-vote Cards to Correct an Error

If an alteration is required on a registered how-to-vote card to correct an error, the person who applied for the registration must submit an amended version to the Commission for registration **no later than 12.00 noon on the fifth working day before election day.**

Before 12.00 noon on the next day after receiving the amended card, the Commission must inform the applicant that they are;

- registering the how-to-vote card; or
- refusing to register the how-to-vote card.

Review of Decision

Any person may apply to the Victorian Civil and Administrative Tribunal for a review of the Commission's decision on a how-to-vote card no later than 12 noon on the next working day after the Commission has advised the applicant of that decision.

The Victorian Civil and Administrative Tribunal must make a decision no later than 5.00 pm on the next working day (EA s.82A).

Supply and Inspection of Cards

Once a how-to-vote card has been registered, the applicant **must immediately** provide the Commission with two copies of the registered how-to-vote card. These must **not** be faxed copies.

Cards registered by the Commission are available for inspection at the Commission (EA s.82).

Election Day

Registered how-to-vote cards are the only form of printed electoral material permitted to be distributed within 400 metres of a voting centre on election day.

PENALTY: 600 penalty units or imprisonment for up to six months (EA s.156(1)).

This restriction does not apply to posters, material in campaign offices and normal distribution of newspapers (EA s.156(4)).

Registered how-to-vote cards for an electorate are available for inspection at each voting centre appointed for that electorate (EA s.82(2)).

Persons in charge of voting centres are empowered to require a person reasonably suspected of distributing unregistered how-to-vote cards to produce their how-to-vote cards for inspection and to hand over all unregistered cards.

PENALTY: 10 penalty units (EA s.157).

How-to-vote Cards Distributed at Early Voting Centres

How-to-vote cards to be distributed at early voting centres **are not required to be registered.** They are required to contain the name and street address of the person authorising the card and the name and place of business of the printer. They must not contain material that is likely to mislead or deceive an elector in relation to the casting of the vote of the elector.

PENALTY: for unauthorised card: 10 penalty units for an individual and 50 penalty units for a body corporate.

PENALTY: for misleading material: 60 penalty units for an individual and 300 penalty units for a body corporate.

How-to-vote Cards at Mobile Early Voting Centres

How-to-vote cards carried by election officials at mobile early voting centres **must be registered**.

It is the responsibility of the party/candidate to provide printed copies of registered how-to-vote cards to Election Managers for inclusion in material carried by election officials. The Commission will not facilitate distribution to Election Managers.

When how-to-vote cards have been provided by the candidate/party, the Election Manager will enclose the how-to-vote cards in a folder in the same order as group names appear on the ballot paper.

Mobile voting teams will advise electors that how-to-vote cards have been supplied and show electors the how-to-vote cards if so requested. (EA s. 65(4)).

Multiple Electorate How-to-vote Cards

Registered political parties may submit a Multiple Electorate How-to-vote card to the Commission for registration, that is a how-to-vote card submitted with respect to no less than every District or Region for which the registered political party submitting the how-to-vote card has endorsed a candidate (EA s.78(3)(b)).

11. POSTAL VOTING

During the State election, the Commission will establish a centralised processing centre to handle postal vote applications. The centralised processing centre will minimise any delays in electors receiving their postal voting papers.

Electors can obtain an application for a postal vote from:

- any post office;
- candidates and political parties;
- Election Offices;
- the VEC website;
- any of the interstate and overseas postal voting centres; or
- by telephoning the VEC election hotline number on **131 832** or **13 VOTE (13 86 83)**.

Postal vote applications can be mailed to the Commission in the reply paid envelope attached to the application, or faxed on **(03) 9299 0595**.

If candidates require postal vote applications for supply to electors, they should make a request to the Election Manager or the Commission.

12. EARLY VOTING CENTRES

The Commission will appoint early voting centres at suitable locations throughout Victoria, interstate and overseas.

Electors who are unable to get to an election day voting centre can vote beforehand at one of the early voting centres.

Early voting centres will operate from the first working day after the close of nominations to 6.00 pm on the day before election day.

In special cases electors can obtain an early vote from 4.00 pm after the close of nominations, at the Election Office.

The Commission can determine the hours of operation of early voting centres. Candidates can obtain this information from the Election Manager. Hours of operation will also be advertised.

Electors may vote in person at:

- any of the early voting centres in Victoria (details will be available on the VEC website);
- any of the interstate and overseas early voting centres; or
- the Melbourne Airport early voting centre.

In addition six E Centres will be set up with facilities for electors with special needs.

13. MOBILE EARLY VOTING CENTRES

Mobile early voting centres are institutions (typically hospitals and nursing homes) appointed by the Electoral Commissioner at which a team of Early Voting Officers conduct mobile voting in the period prior to election day. Early Voting Officers move around the institution issuing early votes to patients and residents.

Candidates may appoint scrutineers to accompany the mobile team.

The Commission will advise candidates of arrangements for mobile voting and the number of scrutineers permitted.

An itinerary listing mobile early voting centres, dates and times of visits will be prominently displayed in Election Offices before 4.00 pm on the day preceding any visit. However, should it become necessary to vary the timetable, candidates and the centre administration will be advised by telephone.

Candidates should note that scrutineers are not permitted to display election material or distribute how-to-vote cards while accompanying the mobile team.

In addition, supporters of candidates and party workers are not permitted to canvass for votes, or distribute election material, including how-to-vote cards within three metres of any entrance to the grounds containing the voting centre while voting is in progress.

Mobile voting teams will advise electors that registered how-to-vote cards have been supplied and show electors the how-to-vote cards if so requested (EA s.65(4)).

14. ASSISTANCE TO VOTE

Election officials may assist electors outside a voting centre where the voter is physically unable to enter the voting centre to vote.

Election officials may take ballot material outside the voting centre for this specific purpose.

Strict procedures are in place to enable scrutineers, if present, to observe this process.

If an elector requests special assistance to vote, the Voting Centre Manager or the Election Manager will advise scrutineers of the procedures.

15. COUNT OF BALLOT PAPERS

All ballot papers completed by electors within their own electorate will be counted according to first preferences and included in the results on election night. The following summarises the votes that will be counted on election night.

Early Votes

Early votes cast at early voting centres, within an elector's own electorate, will be counted at a venue designated by the Election Manager commencing at 6.00 pm on election day. Scrutineers may request to view the early voting journals containing the reconciliation of ballot papers for each early voting centre.

Mobile Early Votes

Mobile early votes for the District and Region will be counted from 6.00 pm on election day at a venue designated by the Election Manager.

Postal Votes

The preliminary scrutiny of postal vote declarations will commence at 8.00 am on election day at the Election Office. The count of postal votes will commence at 6.00 pm on election day at the Election Office. Candidates can appoint scrutineers to be present at the scrutiny for postal votes.

Election Day Votes

Votes cast on election day at voting centres are counted at the voting centres commencing at 6.00 pm.

The following summarises votes that will be counted after election night.

Exchange

On the Sunday after election day, Election Managers sort and package completed ballot material for other electorates. These are collected from Election Offices on Monday and distributed to their appropriate electorates on Tuesday. These are checked against the roll where necessary before being counted.

Absent, Interstate, Overseas and remaining Early Votes

Absent, interstate and overseas ballot papers are counted at the Election Office after election day. Early votes cast by electors at early voting centres outside their own electorate will also be counted at the Election Office after election day. Candidates should check with the Election Manager for the dates and times these scrutines and counts will take place.

Counting Process (Region)

The counting process can be summarised as follows:

1. Formality check and sort to first preferences

All ballot papers are checked for formality (see Chapter 18) and sorted according to the first preference recorded on each ballot paper. Two types of first preference results are recorded:

- the number of first preference votes for each group marked above the line; and
- the number of first preference votes for each candidate marked below the line.

2. Check-count of ballot papers marked below the line

On the Sunday following election day Election Managers will check-count Legislative Council ballot papers marked below the line and will despatch these to the Central Counting Centre at the Melbourne Exhibition Centre on Monday.

Note: this activity is only a check to confirm the number of ballot papers being sent to the Central Counting Centre.

As additional ballot papers are received from other electorates in the week following election day, Election Managers will re-check these progressively and forward to the Central Counting Centre in one batch.

3. Re-check of ballot papers marked above the line

Election Managers will re-check ballot papers marked above the line later in the week following election day. The re-checked number of above the line ballot papers marked for each group will be transmitted to the Central Counting Centre for inclusion in the count.

4. Data entry of Legislative Council ballot papers

The preferences on all Legislative Council ballot papers marked below the line will be data entered at the Central Counting Centre in the weeks following election day.

Note: any missorted ballot papers will be identified during the data entry process.

The total number of ballot papers marked above the line for each group will also be entered into the Victorian Electoral Commission's computer count application at the Central Counting Centre. The calculation of the result will take place at the end of processing. The method used to calculate the result is described in detail in Chapter 16.

16. DETERMINATION OF ELECTION RESULT

The following extracts from the *Electoral Act 2002* describe in detail the process for determining a result for the Legislative Council.

Section 114A. Procedure for ascertaining number of votes for Council candidates

- (1) The result of a Council election is to be determined as set out in this section.
- (2) In this section –
 - “continuing candidate”** means a candidate not already elected or excluded from the count;
 - “quota”** means the number determined by dividing the number of first preference votes by 1 more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1;
 - “surplus votes”** means the number, if any, of votes in excess of the quota of each elected candidate.
- (3) A reference to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer.
- (4) Sub-sections (2) to (4) of section 113 are to be followed as if a reference to the ballot-box containing ballot papers used for an Assembly election were a reference to a ballot-box containing ballot-papers used for a Council election.
- (5) A quota is to be determined.
- (6) Any candidate who has received a number of first preference votes equal to or greater than the quota is to be declared elected by the election manager.
- (7) Unless all the vacancies have been filled, the surplus votes of each elected candidate are to be transferred to the continuing candidates as follows –
 - (a) the number of surplus votes of the elected candidate is to be divided by the number of first preference votes received by the elected candidate and the resulting fraction is the transfer value;
 - (b) the total number of ballot-papers of the elected candidate that express the first preference vote for the elected candidate and the next available preference for a particular continuing candidate is to be multiplied by the transfer value;
 - (c) the number obtained under paragraph (b) (disregarding any fraction) is to be added to the number of first preference votes of the continuing candidate and all those ballot-papers are to be transferred to the continuing candidate.
- (8) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any transfer under sub-section (7) is to be declared elected by the election manager.

- (9) Unless all the vacancies have been filled, the surplus votes, if any, of any candidate elected under sub-section (8) or elected subsequently under this sub-section are to be transferred to the continuing candidates in accordance with sub-section (7) and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of the transfer is to be declared elected by the election manager.
- (10) If a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer of the surplus votes of a particular elected candidate under sub-section (7) or (9), no votes of any other candidate are to be transferred to the continuing candidate.
- (11) For the purposes of the application of sub-section (7) in relation to a transfer of the surplus votes of an elected candidate under sub-section (9) or (14), each ballot-paper of the elected candidate obtained by the elected candidate on a transfer is to be dealt with as if –
- (a) any vote it expressed for the elected candidate were a first preference vote; and
 - (b) the name of any other candidate previously elected or excluded had not been on the ballot-paper; and
 - (c) the numbers indicating subsequent preferences had been altered accordingly.
- (12) If, after the counting of first preference votes or the transfer of any surplus votes of elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes is to be excluded and all that candidate's votes are to be transferred to the continuing candidates as follows –
- (a) the total number of ballot-papers of the excluded candidate that express the first preference vote for the excluded candidate and the next available preference for a particular continuing candidate are to be transferred at a transfer value of 1 for each ballot-paper and added to the number of votes of the continuing candidate and all those ballot-papers are to be transferred to the continuing candidate;
 - (b) the total number, if any, of other votes obtained by the excluded candidate on transfers are to be transferred from the excluded candidate beginning with the highest transfer value and ending with the ballot-papers received at the lowest transfer value, as follows –
 - (i) The total number of ballot-papers received by the excluded candidate at a particular transfer value and expressing the next available preference for a particular continuing candidate is to be multiplied by that transfer value; and
 - (ii) the number so obtained (disregarding any fraction) is to be added to the number of votes of the continuing candidate; and
 - (iii) all those ballot-papers are to be transferred to the continuing candidate.
- (13) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of a transfer of votes of an excluded candidate under sub-section (12) or (16) is to be declared elected by the election manager.

- (14) Subject to sub-section (15), unless all the vacancies have been filled, the surplus votes, if any, of a candidate elected under sub-section (13) are to be transferred in accordance with sub-section (7).
- (15) If a candidate elected under sub-section (13) is elected before all the votes of the excluded candidate have been transferred, the surplus votes, if any, of the elected candidate are not to be transferred until the remaining votes of the excluded candidate have been transferred in accordance with sub-section (12) to continuing candidates.
- (16) Subject to sub-section (18), if after the transfer of all the votes of an excluded candidate no continuing candidate has received a number of votes greater than the quota –
 - (a) the continuing candidate who has the fewest votes must be excluded; and
 - (b) that candidate's votes must be transferred in accordance with sub-section (12).
- (17) If a candidate is elected as a result of a transfer of ballot-papers under sub-sections (12) and (16), no other ballot-papers of an excluded candidate are to be transferred to the candidate so elected.
- (18) In respect of the last vacancy for which 2 continuing candidates remain, the continuing candidate who has the larger number of votes is to be elected notwithstanding that that number is below the quota.
- (19) Despite any other provision of this section, if the number of continuing candidates is equal to the number of remaining unfilled vacancies, those candidates are to be declared elected by the election manager.
- (20) Subject to sub-sections (21), (22) and (23), if after any count or transfer, 2 or more candidates have surplus votes the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative size of the surpluses, the largest surplus being transferred first.
- (21) Subject to sub-section (23), if after any count or transfer, 2 or more candidates have equal surpluses, the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count or transfer being transferred first.
- (22) For the purposes of sub-section (21), if there has been no count or transfer the election manager must determine the order in which the surpluses are to be dealt with.
- (23) If after any count or transfer, a candidate obtains surplus votes, those surplus votes are not to be transferred before the transfer of any surplus votes obtained by any other candidate on an earlier count or transfer.
- (24) If on any count or transfer 2 or more candidates have the fewest number of votes and the candidate who has the fewest number of votes is required to be excluded, the result is to be determined –
 - (a) by declaring whichever of those candidates had the fewest votes at the last count at which those candidates had a different number of votes to be excluded; or

- (b) if a result is still not obtained or there has been no count or transfer, by lot by the election manager.
- (25) If on the final count or transfer 2 candidates have an equal number of votes, the result is to be determined by lot by the election manager.
- (26) If a candidate is elected by reason that –
- (a) the number of first preference votes received by the candidate; or
 - (b) the aggregate of first preference votes received by the candidate and all other votes obtained by the candidate on transfers –
is equal to the quota, all the ballot-papers expressing those votes are to be set aside as finally dealt with.
- (27) In any case in which section 93A(4) applies, a vote marked on the ballot-paper opposite the name of a deceased candidate must be counted to the candidate next in order of the voter's preference, and the numbers indicating subsequent preferences shall be taken to be altered accordingly.
- (28) For the purposes of this section each of the following constitutes a separate transfer –
- (a) a transfer under sub-section (7), (9) or (14) of all the surplus votes of an elected candidate;
 - (b) a transfer in accordance with sub-section (12)(a) of all first preference votes of an excluded candidate;
 - (c) a transfer in accordance with sub-section (12)(b) of all the votes of an excluded candidate that were transferred to that candidate from a particular candidate.

17. SCRUTINEERS

See the *Electoral Act 2002* - section 76, and the *Scrutineer Handbook* (published by the Commission).

Role of Scrutineers

On behalf of candidates, scrutineers observe the issuing of ballot papers and the counting of votes conducted by election officials. Scrutineers have legal rights and obligations under the *Electoral Act 2002*.

Appointment of Scrutineers by Candidates

The appointment of a scrutineer by a candidate must be by notice in writing. This notice must specify the name and address of the scrutineer, be signed by the candidate, and must be produced for inspection on request by an Election Manager or election official (EA s.76(4)).

Appointment forms are available from the Election Manager and the Commission. The forms may be photocopied but the signatures on each appointment **must be original**.

Candidates may appoint scrutineers to represent them during voting at every issuing point, but not more than one scrutineer is allowed per candidate for each issuing point in a voting centre (EA s.76(1)).

On election day, at a voting centre, scrutineers intending to be present at the scrutiny and count of ballot papers must report to the Voting Centre Manager during the day and be inside the voting centre by 6.00 pm when the doors of the voting centre are locked.

During the counting, the number of scrutineers allowed per candidate is no greater than the number of officials engaged in counting the ballot papers (EA s.76(3)).

Scrutineers' Responsibilities

A scrutineer must not interfere with, or attempt to influence, any elector within the voting centre, communicate with any person in the voting centre except in so far as is necessary in the discharge of his or her functions or handle any ballot papers.

PENALTY: 60 penalty units or imprisonment for 6 months (EA s.76(5)).

18. FORMALITY OF BALLOT PAPERS

A Region vote can be made in one of two ways:

- by showing a preference against one of the squares above the line on the ballot papers; or
- by showing a number 1 and continuing preferences up to at least the number 5 opposite candidates' names below the line on the ballot paper.

Formality of ballot papers above the line

Ballot papers are formal if:

- the number 1 appears by itself;
- a tick appears by itself;
- a cross appears by itself; or
- a single first preference and second, third etc. preference appears (the numbers after number 1 are ignored).

Formality of ballot papers below the line

Ballot papers are formal if:

- at least the numbers 1 to 5 appear in sequential order.

Note: Alterations made to numbers or numbers placed outside the boxes do not make a ballot paper informal, providing the voter's intention is clear.

Informality of ballot papers above the line

Ballot papers are informal if:

- the number 1 appears more than once;
- the number 1 and a tick appear in different boxes;
- the number 1 and a cross appear in different boxes;
- a tick and a cross appear in different boxes;
- a tick appears more than once in different boxes;
- a cross appears more than once in different boxes.

Informality of ballot papers below the line

Ballot papers are informal if:

- the number 1 does not appear against any candidate's name (a tick or a cross is not acceptable below the line on a Region ballot paper);
- any of the numbers 1 to 5 are repeated against two or more candidates' names; or
- any of the numbers between 1 and 5 are missing.

Note: As long as the numbers 1 to 5 are sequential, mistakes in numbering beyond 5 do not make the ballot paper informal.

Region ballot papers marked both above and below the line

Where a voter has marked **both** above and below the line the ballot paper is treated as follows:

- when both above and below are formal, use the below the line part for scrutiny;
- when only one part is formal, use the formal part for scrutiny; and
- when both above and below are informal, the ballot paper is informal.

18. Formality of Ballot Papers

□	✕	□	□	□	□	□	□	□
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Formal: A number 1, a tick or a cross appears by itself

3	□	1	□	2	4	5	□
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□	□	□	□	□	□	□	□	□	Ungrouped
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Formal: A single first preference, and second, third, etc. preference appears (the numbers from number 2 onwards are ignored)

□	□	□	□	□	□	□	□	□
2	□	□	□	□	3	5	□	□
□	1	□	□	□	4	□	□	□
□		□	□		□	□	□	□
□			□		□			□
□					□			□

Formal: the numbers 1 to 5 appear in sequential order

□	□	□	□	□	□	□	□	□
1	6	□	8	□	11	13	□	□
2	□	7	9	□	12	14	□	17
3		□	□		□	15	16	□
4			□		□			□
5					□			□

Formal: the numbers 1 to 5 appear in sequential order. It doesn't matter that the number 10 is missing

18. Formality of Ballot Papers

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox" value="3"/>	<input type="checkbox"/>	<input type="checkbox" value="1"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox" value="4"/>	<input type="checkbox"/>	<input type="checkbox" value="2"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox" value="5"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>			<input type="checkbox"/>
<input type="checkbox"/>					<input type="checkbox"/>			<input type="checkbox"/>

Ungrouped

Informal: the number 1 and a tick appear

<input type="checkbox"/>	<input checked="" type="checkbox" value="x"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>			<input type="checkbox"/>
<input type="checkbox"/>					<input type="checkbox"/>			<input type="checkbox"/>

Ungrouped

Informal: Both a tick and a cross appear

□	✓	□	□	□	□	□	□	□
Ungrouped								
□	1	□	□	□	3	□	□	□
□	2	□	□	□	4	□	□	□
□		□	□		5	□	□	□
□			□		□			□
□					□			□

Formal: Both above and below the line are formal – use the below the line part for scrutiny

□	□	1	2	3	□	□	x	
Unarouped								
1	4	17	6	18	10	□	□	□
2	5	□	7	8	9	□	□	13
3		□	□		11	12	□	□
16			□		□			14
19					□			15

Formal: The above the line section is informal – both a number 1 and a cross appear. Below the line section is formal – use this section for scrutiny

18. Formality of Ballot Papers

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1	6	8	x		11				Ungrouped
2	7	9			12				
3			10		13				
4									
5									

Formal: The below the line section is informal – the number 1 and a cross appears. The above the line section is formal – use this part for scrutiny

✓					1		
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	1	4			1				Ungrouped
		2			2				
6					3		5		
7					4				
					5				

Informal: Both sections are informal. Both a tick and a number 1 appear above the line and the number 1 appears twice below the line

19. ELECTION OFFENCES BEFORE AND ON ELECTION DAY

See the *Electoral Act 2002* for a detailed description of all electoral offences. The following is a brief list of certain electoral offences.

Postal Voting

No candidate may witness the signature of an elector applying for a postal vote for the electorate which the candidate is contesting (EA s.3 (authorised witness)).

An authorised witness must not witness the signature of any elector to an application for a postal vote unless he or she:

- is satisfied as to the identity of the applicant;
- has seen the applicant sign the application; and
- is satisfied that the statements in the application are true.

PENALTY: 5 penalty units (EA s.102).

Details of who is an authorised witness can be found on the *Postal Vote Application for State Elections*.

Bribery

The provisions relating to bribery are set out in section 151 of the *Electoral Act 2002*.

Interference with Political Liberty

No one shall hinder or interfere with the free exercise or performance of any other person's political right or duty relevant to an election.

PENALTY: **Indictable Offence**. 600 penalty units or imprisonment for 5 years (EA s.152).

Prohibition of Canvassing

The following acts are prohibited within 3 metres of the entrance of, or within, the building used as a voting centre:

- canvassing for or soliciting votes;
- inducing any elector not to vote for any particular candidate, or not to vote at the election;
- exhibiting any notice or sign (other than an official one) relating to the election;
- conducting an exit poll; or
- if the person is an election official or a scrutineer, wearing any badge or slogan of a candidate or political party.

PENALTY: 5 penalty units (EA s.158).

When a voting centre is situated in enclosed grounds and there is displayed an official notice stating that the grounds are part of the voting centre, those grounds are considered to be part of the voting centre for the purpose of the offences described above (EA s.158(3)).

Secrecy of Vote

Except as authorised under The Act, a person who is present when an elector votes must not ascertain or disclose the elector's vote, attempt to induce the elector to show how the elector intends to vote, communicate with the elector during voting or look at the elector's vote.

PENALTY: 120 penalty units or 1 year imprisonment (EA s.154).

Prohibition of Publicly Disseminating Exit Poll Results

A person must not, during the hours of voting, publicly disseminate, or cause, permit or authorise the public dissemination of the results of any exit poll carried out at an election day voting centre.

PENALTY: 60 penalty units or imprisonment for 6 months (EA s.155).

Prohibition of Use of Public Address System

During the hours of voting, no candidate or other person shall use any loud speaker, public address system, amplifier or other device to disseminate any matter likely to affect the result of the election, or make a public demonstration about an election, within 400 metres of a voting centre (EA s.159).

PENALTY: 1 penalty unit (EA s.159).

Distribution of Printed Electoral Material

A person may not distribute printed electoral material other than registered how-to-vote cards, within 400 metres of a voting centre on election day.

PENALTY: 60 penalty units or 6 months imprisonment (EA s.156(1)).

Printing, publication or distribution of a how-to-vote card which has not been registered and which contains a representation of the prescribed endorsement is an offence.

PENALTY: 60 penalty units or 6 months imprisonment (EA s.156(2)).

It is an offence to refuse to comply with a request on election day by an election official to produce how-to-vote cards for inspection or to hand over all unregistered cards.

PENALTY: 10 penalty units (EA s.157).

Advocating a Vote Contrary to Directions on the Ballot Paper

It is an offence to print, publish or distribute, or to cause to be printed, published or distributed:

- a handbill, pamphlet or notice that contains a representation of a ballot paper that is likely to induce an elector to mark his or her vote otherwise than in accordance with the directions on the ballot paper.

PENALTY: 60 penalty units or six months imprisonment for an individual, and 300 penalty units for a body corporate (EA s.84(2)).

False Statements

It is an offence to provide orally or in writing any false or misleading information under the Electoral Act.

PENALTY: **Indictable Offence.** 600 penalty units or 5 years imprisonment (EA s.148).

Misconduct in a Voting Centre

Any person who wilfully obstructs procedures, behaves in a disorderly manner, or causes a disturbance at a voting centre may be removed from the voting centre by the police (EA s.174).

Compulsory Voting

Voting is compulsory for all electors, including candidates, for the electorate for which they are enrolled.

PENALTY: half a penalty unit (EA ss.166, 170).

Voting Offences

A person must not vote in the name of another person, vote more than once, or apply for a ballot paper in the name of another person.

PENALTY: **Indictable Offence.** 600 penalty units or 5 years imprisonment (EA s.150).

Injunctions

If a person has engaged, is engaging or is proposing to engage, in any conduct that would constitute a contravention of this Act or any other law of Victoria in its application to elections, the Supreme Court may, on the application of a candidate or the Commission, grant an injunction restraining the person from engaging in the conduct (EA s.176).

Similarly, if a person has refused or failed, is refusing or failing or is proposing to refuse or fail, to do an act or thing and the refusal or failure was, is, or would be, a failure to comply with this Act or any other law of Victoria in its application of elections, the Supreme Court may, on the application of a candidate or the Commission grant an injunction requiring the person to do that act or thing (EA s. 176).

20. RECOUNTS, TIED & DISPUTED ELECTIONS

Recounts

A recount may occur if the result of an election is extremely close. Recounts should not be confused with routine rechecks of the votes counted on election night.

A recount can occur in 3 ways:

- as a result of a written request received by an Election Manager from a candidate. The letter must detail the reasons for the request for a recount;
- an Election Manager may decide to conduct a recount; or
- the Electoral Commissioner may direct an Election Manager to conduct a recount (EA s.120).

The Election Manager is not obliged to conduct a recount automatically on the request of a candidate.

The recount will involve re-keying all above and below the line ballot papers.

A recount can only occur prior to the declaration of the result of an election (EA s.120).

The Election Manager conducting a recount may, and at the request of a scrutineer shall, reserve any ballot paper for the decision of the Electoral Commissioner (EA s.120(4)).

The Electoral Commissioner will decide whether any ballot paper reserved for his decision is to be admitted or rejected if the outcome of the election can be affected by the decision on those ballot papers. If the outcome cannot be affected, the Election Manager's decision is final on these papers (EA ss. 19(2),120(5)).

Candidates should note that the Election Manager conducting a recount has the same powers as if the recount were the original scrutiny, and may reverse any decision in the scrutiny to admit or reject a ballot paper (EA s.120(3)).

It is most desirable that candidates, particularly a candidate requesting a recount and any other candidate who could possibly win the election as a result of a recount, be represented by scrutineers during the recount.

Tied Elections

If, on the final count, two or more candidates have an equal number of votes, the result is determined by lot by the Election Manager.

Disputed Elections

The validity of any election may only be disputed by a petition to the Court of Disputed Returns (EA s.133).

Procedures for disputing an election are laid down in Division 2 of Part 8 of the *Electoral Act 2002*. Those contemplating a challenge should consult their own legal advisers.

21. ELECTION EXPENDITURE AND PUBLIC FUNDING

Overview

Refer to the *Electoral Act 2002* – sections 206 to 222. These sections are relevant for all candidates and registered political parties.

The Act provides for public funding for candidates who gain *at least* 4% of the total number of first preference votes given in the election. The amount (entitlement) was set at \$1.20 per first preference vote for the previous election. This amount is indexed by applying the All Groups CPI. The final amount will be available closer to the election. In the case of a candidate endorsed by a registered political party, the payment will be made to the registered officer of the relevant registered political party. In the case of a candidate *not* endorsed by a registered political party, the payment will be made to the candidate.

Payment is dependent upon the Commission receiving an audited (complete with an Audit Certificate) 'Statement of Expenditure' (SOE) that details the expenditure spent or incurred by the candidate or registered political party (as the case may be). Should the audited SOE reveal that an amount equal to or greater than the entitlement has been spent/incurred, then the payment will be calculated per first preference vote. Should the SOE reveal that an amount less than the entitlement has been spent/incurred, then the payment will be to the amount as detailed in the SOE.

Entitlement

A sum is payable for each first preference vote for a candidate *provided* that the candidate has obtained *at least* 4% of the total number of first preference votes in the election (EA s.211).

The Commission will make payments of the entitlement within 30 days of receipt of an audited SOE (EA s.212). Payments are made:

- In the case of a candidate endorsed by a registered political party – to the registered officer of that party.
- In the case of a candidate not endorsed by a political party - to the candidate.

The payment is subject to the comments in 'Statement of Expenditure'.

Statement of Expenditure

The SOE (EA s.208) is required to be lodged by registered political parties (or in the case of a candidate not endorsed by a registered political party, the candidate himself/herself) to advise the Commission that the registered political party or candidate has spent or incurred in relation to the election –

- (a) not less than the entitlement; or
- (b) less than the entitlement, being the amount specified in the statement.

For registered political parties, the SOE is to be in the form of 'Attachment A' to this chapter. For non-endorsed candidates, the SOE is to be in the form of 'Attachment B' to this chapter.

If the SOE indicates that 'not less than the entitlement has been spent or incurred in relation to the election' then the Commission will pay the whole of the entitlement.

If the SOE indicates that 'an amount less than the entitlement has been spent or incurred in relation to the election' then the Commission will

pay that amount listed in the SOE.

The SOE should include expenditure, **not including any GST component**, paid or incurred within the period of 12 months immediately before election day in relation to (EA s.206):

- (a) the broadcasting of an advertisement relating to the election; or
- (b) the publishing in a journal of an advertisement relating to the election; or
- (c) the display at a theatre or other place of entertainment, of an advertisement relating to the election; or
- (d) the production of an advertisement detailed in (a), (b) and (c) above; or
- (e) the production of any material in relation to the election (not being material referred to in (a), (b) or (c) above) that is required under section 83 to include the name and address of the author of the material or of the person authorising the material; or
- (f) the production and distribution of electoral matter that is addressed to particular persons or organisations; or
- (g) fees or salaries paid to consultants or advertising agencies for –
 - (i) services provided relating to the election; or
 - (ii) material relating to the election; or
- (h) the carrying out of an opinion poll, or other research, relating to the election.

In the context of (d), (e) and (f) above, the meaning of the word 'production' is to include all expenditure, *that has been certified by audit as pertaining to the election*, paid or incurred in relation to the election in the period of 12 months immediately before the election.

For a registered political party, party spending by a campaign committee or endorsed candidate is to be treated as spending by the registered political party (EA s.207).

The legislation places *no* limits on how much a registered political party or candidate can spend on electoral expenses.

The SOE must be lodged with the Commission *before* the expiration of 20 weeks after the election day (EA s.208).

The Commission cannot pay the entitlement unless the SOE has been provided together with an audit certificate (refer 'Audit Certificate').

Audit Certificate

The SOE must be lodged with an audit certificate that testifies to the correctness of the expenditure listed on the SOE. The certificate must be provided as follows (EA s.209):

For a registered political party: via a registered company auditor within the meaning of the *Corporations Act*.

For a candidate: via an independent auditor advising that the SOE has been audited in accordance with Australian Accounting Standards as specified in s.334(1) of the *Corporations Act*.

The certificate must state that the auditor –

- (a) was given full and free access at all reasonable times to all accounts, records, documents and papers relating directly or indirectly to any matter required to be specified in the SOE; and
- (b) examined the material referred to in paragraph (a) for the purpose of giving the certificate; and

- (c) received all information and explanations that the auditor requested in respect of any matter required to be specified in the SOE; and
- (d) has no reason to believe that any matter stated in the SOE is not correct.

Records

All records pertaining to claimed election expenditure must be retained for a period of three years from the date of the election (EA s.220).

Remedy for Omission or Error

The Commission may request the auditor, in writing, to provide further information if it is satisfied on reasonable grounds that the information contained within the SOE or audit certificate is materially incorrect. The auditor is required to respond within 14 days of the date of the request (EA s.210).

If the auditor fails to comply with the above request, the Commission may request, in writing, the registered officer of the registered political party or the candidate to provide further information. The response time required is also 14 days.

If the registered officer or candidate fails to provide the requested information, the Commission may –

- withhold any payment until the information is provided; or
- if a payment has already been made, take proceedings in a court of competent jurisdiction, to recover the payment.

The Commission can amend the SOE if it is satisfied that it contains a formal error or defect (EA s.221).

A person who has submitted the SOE may also request the Commission’s permission to correct an error or omission.

Offences and Penalties

Offences and penalties related to this area are (EA s.218):

1. If the registered officer of a registered political party gives a statement that contains particulars that are, to the knowledge of the registered officer, false or misleading in a material particular, the registered officer is guilty of an offence. PENALTY: 120 penalty units.
2. If a candidate gives a statement that contains particulars that are, to the knowledge of the candidate, false or misleading in a material particular, the candidate is guilty of an offence. PENALTY: 60 penalty units.
3. A person who gives to another person who is required to give a statement any information that relates to the statement and that is, to the knowledge of the first mentioned person, false or misleading in a material particular is guilty of an offence. PENALTY: 10 penalty units.
4. If a person is convicted of an offence against sub-section (1) or (2), the Court may, in addition to imposing a penalty under that sub-section, order the person to forfeit to the State an amount equal to the amount of any payment obtained by the person.

A prosecution in respect of an alleged offence may be started at any time within three years after the alleged offence was committed.

STATEMENT OF EXPENDITURE Attachment A

To be printed on the registered political party letterhead

Pursuant to section 208(1) of the *Electoral Act 2002* I,*insert full name*....., the registered officer of*insert registered political party name*..... hereby advise that electoral expenditure paid or incurred by the Party during the twelve months immediately before the election day dated*insert date of election*..... and relating entirely to that election, totalled:

(a) Not less than the entitlement

or (delete (a) or (b) whichever not applicable)

(b) Less than the entitlement, being: \$*insert amount*.....

I confirm that the amounts included as electoral expenditure are as per the definition of electoral expenditure as it appears in section 206(1) of the *Electoral Act 2002*.

I further confirm that the above figures do **not** include a Goods and Services Tax component and I attach an audit certificate, provided by*insert name of audit firm*..... as required under section 209(1) of the Act.

Signed Date: / /
Registered officer of the*insert registered political party name*.....

STATEMENT OF EXPENDITURE Attachment B

To be printed on the candidate's letterhead (if available)

Pursuant to section 208(2) of the *Electoral Act 2002* I,*insert full name*....., a candidate for*insert name of District/Region*..... hereby advise that electoral expenditure paid or incurred by me during the twelve months immediately before the election day dated*insert date of election*..... and relating entirely to that election totalled:

(a) Not less than the entitlement

or (*delete (a) or (b) whichever not applicable*)

(b) Less than the entitlement, being: \$*insert amount*.....

I confirm that the amounts included as electoral expenditure are as per the definition of electoral expenditure as it appears in section 206(1) of the *Electoral Act 2002*.

I further confirm that the above figures do **not** include a Goods and Services Tax component and I attach an audit certificate, provided by*insert name of audit firm*..... as required under section 209(2) of the Act.

Signed
Candidate

Date: / /

22. PRIVACY

The Commission is subject to the *Information Privacy Act 2000* (IPA) and handles all of the personal information it holds in accordance with the Information Privacy Principles.

Although a candidate's nomination form is not available for public inspection, by nominating for an election a candidate is taken to understand that the Commission is required to disclose certain personal information about the candidate. These disclosures, which are governed by legislation, are as follows:

- Once nominations for an election close, the Commission will make each candidate's name and contact details publicly available by publishing these details on the Commission's website, releasing them to the media, and by making them available for inspection at Election Offices (EA ss.68, 73). See chapter on "Nomination Procedures".
- Candidate's names and localities will appear on ballot papers and how-to-vote cards and, where appropriate, will appear together with the name of the registered political party that has endorsed the candidate (EA ss.74, 82). See chapters on "How-To-Vote Cards" and "The Ballot Paper".

All internal uses of candidate's personal information by the Commission are either expressly specified by, or necessary to implement, the Commission's legislative requirements (the *Electoral Act 2002*). These legislative requirements include processing applications to nominate for an election, to register a how-to-vote card, or for the payment of election expenses, as well as monitoring the distribution of electoral material at or near voting centres on election day.

The personal information about candidates that is collected, used and disclosed by the Commission is fundamental to the running of an election. The Commission thus accords the highest priority to ensuring that this information is accurate, complete and up to date.

Candidates have rights of access and correction in relation to any personal information about them held by the Commission, subject to the range of exemptions listed in the Information Privacy Principles.

23. COMPLAINTS

Any complaints regarding the administration of the election must be referred in the first instance, to the Election Manager. If after consideration by the Election Manager, a candidate wishes to take the matter further, the candidate should write to the Electoral Commissioner clearly outlining the nature of the complaint.

The address for lodgement of a written complaint to the Electoral Commissioner is:

Electoral Commissioner
Victorian Electoral Commission
Level 8, 505 Little Collins Street
Melbourne 3000

Candidates should be aware that under section 175 of the *Electoral Act 2002* they can institute legal proceedings in their own right. Candidates seeking to do so are advised to seek their own legal advice before proceeding.

24. HOW-TO-VOTE CARD CHECKLIST

Do not print cards until the Commission notifies you that the card has been registered	Candidate Check
Declaration must be signed by the person on whose behalf it is being distributed	
Translation attached if in a language other than English	
If photograph submitted with card, it must be recent	
Clearly identifies person, political party or organisation or group on whose behalf the card is to be distributed	
<p>Must:</p> <ul style="list-style-type: none"> • indicate a voting preference for one group above the line; or • indicate an order of voting preference for all candidates below the line; or • contain a statement to the effect that a number 1 must be placed above the line for the elector's preferred party or group of candidates or at least the numbers 1-5 in order of preference be placed against the names of candidates below the line 	
No empty boxes against the names on the ballot paper (if showing how to vote below the line)	
Groups and candidates (if applicable) listed in ballot paper order with correct spelling	
No titles or other designations against the names of candidates	
Logo/emblem/insignia is not less than the prescribed size (4 square cm)	
Must not be misleading, deceptive, offensive or obscene	
Name and street address of authoriser (not a PO Box)	
Name and place of business of printer	
<p>"Registered by the Victorian Electoral Commission".</p> <p>Important: Prior to VEC approval of registration, the endorsement must not appear on cards if being distributed outside an early voting centre</p>	
Information provided on where card is being distributed	