



Your CANBERRA. Your VOICE.

Candidate Information

**This handbook is current as at
28 April 2016**

ISBN 978-0-642-60640-2

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GPO Box 158, Canberra City ACT 2601.

Produced by Publishing Services for the

ACT Electoral Commission

PO Box 272, Civic Square ACT 2608.

Phone: 02 6205 0033

Web: www.elections.act.gov.au

Email: elections@act.gov.au

Publication number 15/0990

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Candidate's election checklist

This section provides a checklist for candidates to use throughout the election period. There are cross-references to the relevant sections of this handbook where more detailed information is provided. If there are questions about any of this information, contact the staff of Elections ACT – see page 3 for contact information.

✓	Key activities	Deadline	See page
<input type="checkbox"/>	I am aware of the key election dates for the election	Before nominating	2
<input type="checkbox"/>	I have confirmed that I am qualified to nominate	Before nominating	6
<input type="checkbox"/>	I have confirmed that, if I am elected, I will be qualified to be an MLA	Before nominating	6
<input type="checkbox"/>	I am to be endorsed by a registered political party	Before nominating	8
Or			
<input type="checkbox"/>	I have obtained the signatures of at least 20 electors entitled to vote in the electorate for which I want to be a candidate	Before nominating	8
<input type="checkbox"/>	I have provided all the information required on the nomination form and I have signed it	Before nominating	8
<input type="checkbox"/>	I have requested on the nomination form that the word independent be printed on the ballot paper next to my name (optional and only applies to candidates not endorsed by a political party)	12 noon 21 Sept 2016	9
<input type="checkbox"/>	I have lodged my nomination form, or confirmed my party's registered officer has lodged it, with the nomination deposit of \$250 in cash or banker's cheque	12 noon 21 Sept 2016	8
<input type="checkbox"/>	I have familiarised myself with the offence provisions relating to elections	Before you start campaigning	27
<input type="checkbox"/>	I am aware that I am not permitted to take any part in the official conduct of the election (this does not include campaigning)	Before campaigning	13
<input type="checkbox"/>	I am aware of the requirements and responsibilities with regard to electoral advertising, especially with respect to the authorisation of advertisements, including on the internet	Before campaigning	13, 30-33
<input type="checkbox"/>	I am aware of the rules relating to gifts received and election expenditure incurred	Before campaigning	15-2
<input type="checkbox"/>	I am aware that I can appoint scrutineers to represent me at polling places and at the various counts of votes	Before polling day	18
<input type="checkbox"/>	I have appointed scrutineers by completing and signing the appropriate appointment forms (optional)	Before polling day	18
<input type="checkbox"/>	I am aware of the requirements and procedures that may lead to a recount of votes	Before the scrutiny commences	24
<input type="checkbox"/>	I am aware of the requirements and procedures for disputing an election result	Before declaration of the result	26
<input type="checkbox"/>	I am aware of my responsibilities under the election funding, expenditure and financial disclosure provisions of the Electoral Act and have familiarised myself with the contents of the Election funding, expenditure and financial disclosure handbook – 2016 election	Before nominating	25
<input type="checkbox"/>	I have lodged my financial disclosure return (or my agent has done so) by the due date (non-party candidates only)	Within 60 days of polling day (15/12/2016)	25

2016 election dates

Last day for applying to register a political party	Thursday 30 June 2016
Close of register of political parties	Thursday 8 September 2016
Pre-election period commences/ nominations open	Friday 9 September 2016
Rolls close	Friday 16 September 2016 (8 pm)
Nominations close	Wednesday 21 September 2016 (12 noon)
Nominations declared/ ballot paper order determined	Thursday 22 September 2016 (12 noon)
Pre-poll voting commences	Tuesday 27 September 2016 ¹
Pre-poll voting concludes	Friday 14 October 2016 (8 pm)
Polling day	Saturday 15 October 2016 (8 am – 6 pm)
Last day for receipt of postal votes	Friday 21 October 2016
Distribution of preferences completed not earlier than	Saturday 22 October 2016

Note 1 – pre-poll voting would normally have commenced on 26 September 2016, however it is a public holiday.

Assistance and enquiries

Elections of Members of the ACT Legislative Assembly are administered by the ACT Electoral Commissioner and the staff of Elections ACT.

Assistance on any aspect of the election may be obtained from the staff of Elections ACT. Enquiries and requests for copies of this handbook should be directed to Elections ACT.

Contacting Elections ACT

Locality address:

ACT Electoral Commission
Level 9 Eclipse House
197 London Circuit, Civic Square
CANBERRA CITY ACT 2601

Phone:

(02) 6205 0033

Facsimile:

(02) 6205 0382

Postal address:

ACT Electoral Commission
PO Box 272
CIVIC SQUARE ACT 2608

Email:

elections@act.gov.au

Elections ACT Homepage:

www.elections.act.gov.au

Increase in the size of the Assembly and the redistribution of electoral boundaries

On 13 December 2012, the ACT Chief Minister, Ms Katy Gallagher MLA, appointed an Expert Reference Group (ERG) to conduct a review into the size of the ACT Legislative Assembly. The ERG sought community, expert and stakeholder views on the size of the Assembly.

After consideration, the ERG recommended to the Assembly that the ACT Legislative Assembly be increased to 25 members at the 2016 election, consisting of 5 electorates each returning 5 members.

On 5 August 2014 the ACT Legislative Assembly voted to increase the size of the Assembly in line with the recommendation of the ERG.

A redistribution of electoral boundaries for the ACT Legislative Assembly commenced in October 2014 and concluded in May 2015. The redistribution determined the boundaries and names for 5 electorates each with 5 members for the 2016 ACT Legislative Assembly election.

The 5 electorates for the 2016 ACT election are:

- **Brindabella** - comprising the district of Tuggeranong (excluding the suburb of Kambah and that portion of Tuggeranong District adjacent to Kambah to the west of Athllon Drive), and the districts of Booth, Cotter River, Paddy's River, Rendezvous Creek, Tennent and Mount Clear.
- **Ginninderra** - comprising the district of Belconnen (excluding the suburbs of Evatt, Giralang, Kaleen, Lawson and McKellar and that portion of Belconnen District adjacent to the Barton Highway).
- **Kurrajong** - comprising the districts of Canberra Central, Jerrabomberra (including the suburb of Hume), Kowen and Majura.
- **Murrumbidgee** - comprising the districts of Molonglo Valley, Weston Creek, Woden Valley, Coree (including the village of Uriarra) and Stromlo, the Tuggeranong suburb of Kambah, and that portion of Tuggeranong District adjacent to Kambah to the west of Athllon Drive.
- **Yerrabi** - comprising the districts of Gungahlin and Hall, the Belconnen suburbs of Evatt, Giralang, Kaleen, Lawson and McKellar and that portion of Belconnen District adjacent to the Barton Highway.

Map of ACT electoral boundaries for the 2016 ACT election



What you should know before you nominate

This section describes the qualifications required to be a Member of the Legislative Assembly (MLA) and the qualifications to be nominated as a candidate for election as an MLA. It also describes the employment rules that apply for public servants who nominate as candidates in ACT Assembly elections.

Qualifications to be a Member of the ACT Legislative Assembly

To be eligible to be an MLA, subject to the following exceptions, a person must be:

- An Australian citizen;
- At least 18 years of age; and
- An elector or entitled to be an elector.

To be entitled to be an elector on the ACT electoral roll, a person must also have a current place of living in the ACT and have had a place of living in the ACT for at least the preceding month. (A candidate is not required to live in the electorate for which he or she is standing.)

A person is not entitled to be an elector if:

- Because of unsound mind, he or she is incapable of understanding the nature and significance of enrolment and voting;
- He or she has been convicted of treason and has not been pardoned; or
- Under the *Migration Act 1958*, he or she is the holder of a temporary visa or is an unlawful non-citizen.

A person is not eligible to be an MLA if:

- The person is a member of the Commonwealth Parliament or the legislature of a State or another Territory;
- The person:
 - holds an office or appointment (other than the office of Speaker, Deputy Speaker, Chief Minister, Deputy Chief Minister, Minister or MLA) under a Commonwealth, State or Territory law; or
 - is employed by the Territory, the Commonwealth, a State or another Territory, or by a Territory authority or a body (whether corporate or not) established by a law of the Commonwealth, a State or another Territory;

and he or she is entitled to any remuneration or allowance (other than reimbursement of expenses reasonably incurred) in respect of the office, appointment or employment;

- The person is under a sentence of imprisonment for one year or longer for a conviction of an indictable offence; or
- The person has, within the preceding two years:
 - been convicted of an offence related to bribery, violence or intimidation under the *Electoral Act 1992*, or
 - been convicted of an offence related to interfering with political liberty under the Commonwealth *Crimes Act 1914* or the *Criminal Code 2002*, or
 - been found by the Court of Disputed Elections to have contravened one of the above laws.

Qualifications to be nominated for election as an MLA

A person is eligible to be nominated for election as an MLA if, at the hour of nomination (12 noon on 22 September 2016):

- The person is eligible to be an MLA; or
- The person would be eligible to be an MLA but for the fact that the person holds an office or appointment under a Commonwealth, State or Territory law or is employed by the Territory, the Commonwealth, a State or another Territory.

Do public servants or public office holders have to resign before contesting an election?

A person who holds public office or employment is eligible to be nominated under the Electoral Act but is not eligible to be an MLA. Therefore, a candidate who holds public office or employment should resign from that office or employment before the official declaration of the election result after polling day if, following the counting of votes, that candidate is to be declared elected.

Any public office holders or public servants considering contesting an election are advised to seek their own legal advice on their particular circumstances. In addition, advice should be sought from the relevant employer or service as to whether such a potential candidate is under any obligation to take leave or to resign his or her office or employment under the relevant conditions of service.

The Code of Conduct for MLAs

It is suggested that candidates familiarise themselves with the Code of Conduct for Members, which is a resolution of continuing effect agreed to by the Legislative Assembly. The resolution is contained in the standing orders, which can be accessed by visiting the Assembly's website at **www.parliament.act.gov.au/in-the-assembly/standing_orders**

Nominating as a candidate

This section describes the process of nominating as a candidate.

How is a candidate nominated?

A nomination should be made on the approved form provided by Elections ACT and be given to the Electoral Commissioner within the nomination period. A nomination deposit must be paid at the same time as the nomination is given to the Commissioner.

To be correctly completed, a nomination form must be signed by the candidate(s) and:

- In the case of a party candidate, the form must be signed by the registered officer or a deputy registered officer of the party; or
- In the case of a non-party candidate, the form must be signed by at least 20 electors who are on the electoral roll and entitled to vote for the electorate for which the candidate is standing.

Each candidate must sign a statement on the nomination form to the effect that the candidate consents to the nomination and declares that he or she is eligible to be nominated.

Who can nominate candidates?

Candidates can be nominated in two ways:

- **Party candidates** can be nominated by the registered officer of a registered political party (or by a duly appointed deputy registered officer); and
- **Non-party candidates** can be nominated by at least 20 electors who are entitled to vote for the electorate for which the candidate is being nominated.

When can candidates be nominated?

Nominations open on 9 September 2016 and close at 12 noon on 21 September 2016. Candidates are advised to submit their nomination forms well before the close of nominations to allow time for any errors to be corrected before nominations are closed. If a person's nomination is submitted so close to the cut-off that an error that could otherwise be corrected cannot be, the person could miss out on being a candidate.

Deposit

A deposit of \$250 must accompany each candidate's nomination. The deposit must be in cash or banker's cheque. A personal cheque is not acceptable.

The deposit is returned to the person who paid the deposit, or someone else authorised in writing by the person, if:

- The candidate is elected; or
- At the time at which the candidate is excluded during the counting of preferences, the candidate's total votes equal or exceed 20% of the quota for the election; or
- The candidate is neither elected nor excluded during the counting of preferences and the candidate's total votes equal or exceed 20% of the quota for the election at any stage of the count.

How candidates' names appear on ballot papers

A candidate can specify on the nomination form how he or she wishes his or her name to appear on the ballot paper, subject to the following restrictions.

- The surname or family name of a candidate must be the same as the surname or family name under which he or she is enrolled or entitled to be enrolled.
- The given name of a candidate can be the same as any given name under which he or she is enrolled or entitled to be enrolled, or a commonly accepted variation of that name (including an abbreviation or truncation of that name or an alternative form of that name), or an initial for that name. A candidate may give more than one given name, but there is no obligation to do so. Nicknames cannot be used.
- A candidate's name must be written in the alphabet used for the English language.

Non-party candidates

A non-party candidate can choose to have the word "Independent" printed under his or her name on the ballot paper.

The election to have the word "Independent" printed on the ballot paper is made on the nomination form.

What happens after you have nominated

This section describes what happens after you have lodged your nomination form with the Electoral Commissioner, including whether you can withdraw your nomination.

Can a person be nominated more than once?

No. If, at the hour of nomination (12 noon on 22 September 2016) a person is nominated more than once to be a candidate in a particular electorate, or a person is nominated to be a candidate in more than one electorate, each such nomination is invalid and the person will not be listed as a candidate.

Can a nomination be rejected?

Yes. The Electoral Commissioner will reject a nomination if a nomination form has not been correctly completed in accordance with the Electoral Act.

A nomination will also be rejected if it is not accompanied by the required deposit in cash or banker's cheque.

The Electoral Commissioner must also reject a nomination where, in the Commissioner's opinion, the name under which the candidate is nominated is obscene, is frivolous or has been assumed for a political purpose.

If a nomination is rejected, the Commissioner will give the person whose nomination is rejected a written notice setting out the reasons for the rejection.

If nominations have not yet closed, a candidate whose nomination has been rejected may, in some circumstances, be renominated. If this later nomination is in order, the candidate's nomination will be accepted. For this reason, **it is advisable to submit all nominations before the last day for nominations to allow time for defective nominations to be corrected.**

Can a nomination be withdrawn?

Yes. A nomination can be withdrawn up until the time nominations close (12 noon on 21 September 2016). After that time a nomination cannot be withdrawn.

Any person nominated to be a candidate may withdraw his or her consent to the nomination by giving the Electoral Commissioner a written notice of withdrawal.

The registered officer of a party may also cancel a nomination made by the officer by giving the Electoral Commissioner a written notice of cancellation.

An official notice for this purpose can be obtained from Elections ACT.

If a nomination is withdrawn or cancelled, the deposit will be refunded.

Uncontested elections

If the number of candidates nominated in an electorate is no greater than the number of candidates to be elected in the electorate, an election will not be held in that electorate. At the declaration of the poll the Electoral Commissioner will declare each of those candidates elected.

Death of a candidate

Where a person nominated as a candidate dies before the hour of nomination (12 noon on 22 September 2016), that person will be taken not to have been nominated.

Where a person nominated as a candidate dies after the hour of nomination (12 noon on 22 September 2016) but before polling day, that person will be treated as a candidate and will appear on the relevant ballot papers. Any votes cast for that candidate will be counted to the next available preference (if any) indicated on each such ballot paper.

In either case, the deposit lodged will be returned to the person who paid the deposit or someone authorised in writing by that person, or if the candidate paid the deposit, it will be returned to the deceased's personal representative.

Declaration (announcement) of nominations

At the hour of nomination (12 noon on 22 September 2016) the Electoral Commissioner will publicly announce the names of all the candidates whose nominations have been accepted. This declaration is a public event and anyone, including the candidates and their supporters, can attend. Candidates and parties will be notified of the location.

The announcement of the names of the candidates is immediately followed by the draw for position of groups and candidates on the ballot paper.

How party groups and names will appear on the ballot paper

This section describes the way party groups and candidate names are arranged on the ballot paper.

Draw for positions on the ballot paper

As soon as the names of the candidates have been announced, the Electoral Commissioner will conduct a random draw for the position of the groups of party candidates on the ballot paper and for the order of candidates in each column. This occurs at the same place as the announcement of the candidate names and is also open for anyone to observe.

The draw for position of groups of party candidates is conducted by a double randomisation method.

The draw for the order of the candidates in each column is a single randomisation method. This draw establishes the starting positions of candidates in each column.

Candidates' names will be printed in each column using "Robson rotation". Candidates' names in each column are printed in different orders on consecutive ballot papers so that no candidate in a column has the advantage of appearing in the same position on every ballot paper.

Grouped party candidates

Where two or more candidates are nominated in the same electorate by a registered party, those candidates are grouped together on the ballot paper. Grouped party candidates will be identified on the ballot paper by the registered name or abbreviation of the party appearing at the top of the column.

As well as their party name, grouped party candidates will also be identified on the ballot paper by a letter—the left-hand group labelled "A", the next "B" and so on.

Ungrouped party candidates

Where only one party candidate is nominated for a particular party in an electorate, that candidate will be included in an "ungrouped" column. Ungrouped party candidates will be identified on the ballot paper by the registered name or abbreviation of the party.

Non-party candidates

Non-party candidates are listed in an "ungrouped" column on the ballot paper.

Ungrouped columns

All ungrouped party and non-party candidates will be included in one or more "ungrouped" columns on the right-hand side of the ballot paper.

What you must, can and cannot do as a candidate

This section describes what a candidate must and can do in an election and those things that a candidate is not permitted to do.

The most obvious role for a candidate in an election is to conduct their campaign to be elected. In doing so, there are some rules that apply, for example with advertising in both electronic and paper form. There are also limits on the amount of expenditure that may be incurred with respect to an ACT Legislative Assembly election. These rules are set out below.

Candidates are not permitted to take part in the official conduct of the election, including observing the voting process or observing the scrutiny (count) of votes.

However, candidates can appoint scrutineers to represent them during the voting process and at the scrutiny of votes.

Campaigning

Candidates can commence their campaign for election at any time. Candidates do not have to be formally nominated or have their nomination declared by the Electoral Commissioner before they start campaigning.

Campaigning can take a number of forms, including advertising in the press, on radio and television, through websites, through distribution of pamphlets, flyers and posters, emails, public relations exercises or meeting the public face to face. How a candidate conducts their campaign is entirely up to the candidate (or the party they represent) within the confines of the law.

However, there are legal requirements that must be met. Most campaign material, other than advertisements on radio and television, must be authorised in compliance with the Electoral Act. Radio and television advertising is regulated separately under the Commonwealth's *Broadcasting Services Act 1992*.

Authorising advertisements

All advertisements, whether in printed or electronic form (for requirements for radio and television – see below), that contain electoral matter (see the glossary at page 40 for the definition of electoral matter) must be authorised. **This includes advertisements placed on the internet.**

Requirements for authorisation are set out in detail in the fact-sheet on authorising electoral material, which is available at www.elections.act.gov.au/publications/act_electoral_commission_fact_sheets.

Particular items to note include:

- An authorisation included with electoral matter published (either in printed or electronic form) by or on behalf of a registered political party or a candidate for an election must cover three required elements. It must contain:
 - the name of the person authorising the material or its author;
 - a statement to the effect that the named person authorised, or is the author of, the matter; and
 - a statement to the effect that the matter is published for the party or candidate.

- An authorisation statement should appear on a party's or candidate's website in such a way that there is a clear connection between the electoral matter and the authorisation statement.
- An authorisation statement should appear on any emails that contain electoral matter, unless the email takes the form of a letter, in which case the name of the sender must be included.
- Media releases issued by an MLA do not need an authorisation statement provided they include an indication that he or she is an MLA.
- Media releases issued by candidates who are not MLAs should include an authorisation statement.

Penalties apply for non-compliance with the authorisation requirements.

Prohibition on canvassing within 100 metres of a polling place

Canvassing for votes of any kind is not permitted within 100 metres of a building in which there is a polling place, during the hours of polling.

The 100 metre ban on canvassing applies to the placement, display or handing out of posters, pamphlets or bunting that contains electoral matter, including handing out how to vote cards to voters. The ban also applies to personal canvassing by candidates or party workers, whether or not they are handing out any canvassing material.

The OIC of the polling place will determine where the 100 metre boundary is located. Unlike in elections for the Australian Parliament, campaign material, including how to vote cards, may not be provided to teams visiting hospitals, nursing homes, prisons and remand centres, where the teams are visiting for the purpose of taking votes. Nor may campaign material or how to vote cards be left with the administration offices or otherwise of any institution that will be visited by a voting team. The ward, room or other place where voting visitor teams are operating are, during the time they are there, deemed to be a polling place.

Activity and signs in public places

The Territory and Municipal Services (TAMS) Directorate administers the laws relating to the placement of signs in public places and activity on public unleased land in the ACT. TAMS has produced *The Code of Practice for Movable Signs in Public Places* and a pamphlet titled *Electoral advertising and the Code of Practice for Moveable Signs in Public Places*. The code applies, among other things, to election advertising signs and recognises the Electoral Act and the Referendum Act (for the ACT and the Commonwealth) by requiring that signs conform to the requirements of any relevant provisions of those Acts. There are a number of areas where signs may not be placed, including on median strips and designated areas such as the major arterial roads in and around Canberra.

Any matters or issues relating to the placement of political advertising posters and signs in public places will be referred to the TAMS Directorate.

A permit is required when undertaking an activity on public unleased land in the ACT, such as hosting a political stall at a shopping centre. For further information on using public unleased land refer to the TAMS Directorate.

www.tams.act.gov.au/city-services/public_land_use

Radio and television

Authorisations for TV and radio political advertising are regulated under the Commonwealth's *Broadcasting Services Act 1992*. The responsible authority is the Australian Communications and Media Authority. The relevant rules for TV and radio political advertising are set out on the Australian Communications and Media Authority's website at www.acma.gov.au/theACMA/About/The-ACMA-story/Regulating/political-matter-tv-content-regulation-i-acma.

Election advertising in the electronic media is subject to a "blackout" from midnight on the Wednesday before polling day until polling day. This is a requirement of the Broadcasting Services Act. The blackout does not relate to news broadcasts or to the printed media, or to advertising on the internet.

For further information contact the Australian Communications and Media Authority. For ACT elections, the blackout only applies to election advertisements related to an ACT election that are broadcast in or across the ACT.

Rules relating to gifts received and expenditure incurred

Changes to campaign finance laws since the 2012 election

Amendments to the Electoral Act which came into effect in March 2015 made a number of changes to the law governing electoral expenditure incurred during a capped expenditure period and gifts received in any financial year.

A full list of changes can be viewed at www.elections.act.gov.au/funding_and_disclosure/new_electoral_campaign_finance_laws_in_the_act2

Major changes include:

- **Election funding for parties and non-party candidates** has been increased: each group of party candidates and each ungrouped candidate that achieves at least 4% of the formal votes in their electorate will receive \$8 per vote in 2016.
- **A new expenditure limit** of \$40,000 per candidate for the 2016 election. The expenditure cap relates to expenditure on ACT election campaigns during the capped expenditure period, which for the 2016 election will start on 1 January 2016.
- **Changes to the timing for the regular reporting of gifts** so that:
 - In an election year, if the value of the gift or gifts received from a person reaches \$1,000 in the financial year between 1 April and 30 June, the declaration must be made to the Electoral Commissioner by 7 July; and
 - In an election year, if the value of the gift or gifts received from a person reaches \$1,000 in the financial year after 30 June and before the end of polling day, the declaration must be made to the Electoral Commissioner 7 days after the total amount received from the person reaches \$1,000.

Caps on electoral expenditure

There is a cap on electoral expenditure incurred during the capped expenditure period for an ACT Legislative Assembly election. The capped expenditure period for the 2016 election is from 1 January 2016 until the end of polling day (15 October 2016).

The expenditure cap for a:

- Party grouping is \$40,000 multiplied by the number of party candidates contesting the election, to a maximum of 5 in each electorate (that is, if contesting all electorates, the maximum is $\$40,000 \times 25 = \$1,000,000$);
- Associated entity is \$40,000;
- Non-party candidate or non-party MLA is \$40,000; and
- Third party campaigner is \$40,000.

A penalty applies for breaching the cap on electoral expenditure.

The electoral expenditure cap is indexed annually on 1 January, commencing on 1 January 2017.

Where a gift-in-kind, or the realised value of a gift-in-kind, is used for purposes related to ACT electoral expenditure, the amount of that expenditure is included in the calculation of the amount of electoral expenditure incurred for the purpose of determining whether the cap on electoral expenditure has been reached.

Electoral expenditure is incurred when the service or product to which the expenditure relates is provided or delivered.

For MLAs, any expenditure on items defined as electoral expenditure (see definition on page 39) paid for through use of the MLA Communications Allowance, as determined by the remuneration tribunal, is considered expenditure in relation to the cap on electoral expenditure.

For party MLAs, any electoral expenditure undertaken through use of the MLA Communications Allowance is to be included in the limit on electoral expenditure that applies to the relevant party grouping.

Disclosure of gifts received

When a party grouping, non-party MLA, associated entity, non-party candidate grouping or non-party prospective candidate grouping receives a gift, or sum of gifts, totalling \$1,000 or more, during the relevant period, their financial representative is required to submit a return to the ACT Electoral Commissioner detailing the name and address of the giver of the gift, the amount of the gift and its date of receipt.

The return must be submitted:

- In an election year, if the value of the gift or gifts received from a person reaches \$1,000 in the relevant period between 1 April and 30 June, the declaration must be made to the Electoral Commissioner by 7 July;
- In an election year, if the value of the gift or gifts received from a person reaches \$1,000 in the relevant period after 30 June and before the end of polling day, the declaration must be made to the Electoral Commissioner 7 days after the total amount received from the person reaches \$1,000; and

- In a non-election year, or in the first quarter (1 January until 31 March) of an election year, if the value of the gift or gifts received from a person reaches \$1,000 in the relevant period, the declaration must be made to the Electoral Commissioner within 30 days of the end of the financial quarter in which the total amount received from the person reached \$1,000.

The **relevant period** for this purpose is a financial year for a party grouping, a non-party MLA and an associated entity. For a non-party candidate grouping or non-party prospective candidate grouping it is the period beginning on the 31st day after the previous election, if the candidate contested that election, or the earlier of the date:

- The candidate publicly announced he or she would be a candidate; or
- The date the candidate is nominated as a candidate; and

ending on the 30th day after the relevant election.

A non-party prospective candidate grouping is taken to be a non-party candidate grouping once the candidate is declared to be a candidate following the close of nominations.

A reference to receipt of gifts includes the receipt of gifts-in-kind.

All disclosures received by the ACT Electoral Commissioner are made public as soon as practicable after they are received.

Anonymous gifts

A party, MLA, associated entity or candidate is not permitted to accept anonymous gifts of \$1,000 or more.

A party, MLA, associated entity or candidate is not permitted to keep more than \$25,000 received as anonymous gifts of less than \$1000 in a financial year.

A penalty applies for breaching the caps on anonymous gifts. The cap on anonymous gifts is not indexed.

Party candidates

It is important that party candidates be aware that any anonymous gifts received and electoral expenditure incurred by a party candidate are treated as anonymous gifts received and expenditure incurred by the party and therefore are counted towards the cap on anonymous gifts and the cap on expenditure incurred by the party under the umbrella of the party grouping.

Appointing scrutineers

Scrutineers observe, on behalf of candidates, the polling and scrutiny conducted by electoral officials. Scrutineers have legal rights and obligations under the Electoral Act.

Candidates may not, in any way, take part in the conduct of an election. For this reason, candidates may not be appointed as scrutineers.

Candidates may appoint scrutineers to represent them at every polling place on polling day, at each pre-poll voting centre in the ACT during the 3 weeks before polling day and during mobile polling operations.

Candidates may also appoint scrutineers to represent them at every scrutiny centre at which votes are being counted or a "preliminary scrutiny" of declaration votes is taking place. Preliminary scrutines, at which the decision is made to accept or reject a declaration vote for further scrutiny, can be conducted from the Monday prior to polling day up to the completion of counting after polling day.

Scrutineers are not entitled to be present at interstate pre-poll voting centres (where all votes cast are declaration votes).

Candidates must appoint scrutineers by supplying a written notice to the Electoral Commissioner. Appointment forms will be made available for this purpose.

Each scrutineer must sign an undertaking in the approved form (attached to the appointment form) that he or she will not attempt to influence the vote of an elector and that he or she will not disclose any knowledge acquired concerning the vote of any elector.

Limitations on numbers of scrutineers appointed

At a polling place on polling day or a pre-poll voting centre in the ACT, the number of scrutineers representing a particular candidate cannot exceed the number of officers responsible for issuing ballot papers at that place.

During mobile polling, the number of scrutineers representing a particular candidate cannot exceed the number of officers on the mobile polling team.

At a scrutiny centre, the number of scrutineers representing a particular candidate cannot exceed the number of officers at that place.

Scrutineers information handbook

More detailed information concerning the rights, duties, powers and functions of scrutineers during polling and the scrutiny are contained in the *Scrutineers information handbook*. This handbook also explains the method of voting, matters relating to formality and informality of ballot papers and the scrutiny process. Copies of the handbook are available from the Elections ACT website www.elections.act.gov.au and from its office. See page 3 for contact details.

The voting process

This section describes the voting process, including the electoral roll, paper and electronic voting, pre-poll voting, postal voting, voting on polling day and assisted voting.

Electoral roll

The electoral roll contains the name and address of all ACT residents who are eligible to vote at an ACT Legislative Assembly election, except for the address of those electors whose address has been suppressed for reasons of personal safety.

The rolls for the election close at 8 pm on 16 September 2016.

For the 2016 election the roll used in polling places will be in an electronic form, loaded onto laptop computers. As each voter receives their ballot paper their name will be “marked” on the electronic roll and, within a few minutes, will be marked on the roll on every other laptop in all polling places across the ACT.

Ballot papers

Ballot papers for each of the 5 electorates will be available at every polling place. Voters will be given one ballot paper according to the electorate in which they are enrolled. Ballot papers are colour-coded according to electorate.

At each of the pre-poll voting centres and on polling day at those same locations, there will be electronic voting available. Paper ballots will also be available for those who wish to vote in the traditional manner. See below for a description of electronic voting.

Each voter, after having their name marked, will be provided with a ballot paper for their electorate. They are then required to go to a voting compartment and mark their ballot paper in private.

Electronic voting

The 2016 election will be the fifth ACT Legislative Assembly election at which electronic voting will be used.

Electronic voting will be available at all pre-poll voting centres during the pre-poll voting period. Those same locations will open as ordinary polling places on polling day, with electronic voting available.

Where an elector chooses to vote in electronic form, the elector will be provided with a unique barcode printed on a card. This barcode card is to be used with an electronic voting computer to validate the person’s right to vote and to identify the elector’s electorate. When the barcode is scanned by the barcode reader, an electronic ballot paper will appear on screen. The elector can indicate preferences by using the supplied key pad.

When the elector has completed marking preferences, a confirmation screen will be displayed listing the candidates the voter has shown preferences for. The elector is given the option of confirming the vote or returning to the ballot paper and changing the vote. The elector confirms the vote by scanning the barcode a second time. This second scan is the electronic equivalent of placing a ballot paper in a ballot box – after this point corrections cannot be made.

After casting an electronic vote, the elector must deposit the barcode in a ballot box. Once a barcode has been used to cast a vote, it cannot be used to vote again.

More information about electronic voting is available on the Commission's website at **www.elections.act.gov.au**.

Ordinary voting

Ordinary voting is the most common type of voting where the name of the voter is found on the electoral roll and he or she is handed a ballot paper and directed to a voting screen where the voter marks the ballot paper before placing it in a ballot box.

Voters choosing to vote electronically also record an ordinary vote. See above for a description of electronic voting.

An ordinary vote can be taken at a pre-poll voting centre in the ACT or at a polling place on polling day.

Declaration voting

Where a voter's name cannot be found on the electoral roll or their name is shown to have been marked on the roll as having already voted, the voter may have a declaration vote. The voter is asked to fill in and sign a declaration on an envelope into which their completed ballot paper is placed. These votes are checked by electoral staff after polling day to determine whether the person voting is entitled to vote.

Pre-poll voting

Pre-poll voting is available to any elector who will not be able to go to a polling place on polling day. There will be 6 pre-poll voting centres across the ACT, at Belconnen, Civic, Gungahlin, Inner North Canberra, Tuggeranong and Woden. These centres will be open from 9 am to 5 pm each business day from 27 September until 13 October 2016 (note that 26 September and 3 October are public holidays when the centres will not be open). Pre-poll voting will be open from 9 am to 8 pm on 14 October 2016.

Pre-poll votes can be issued as ordinary or declaration votes.

Postal voting

Where a voter is unable to vote at a polling place on polling day or at a pre-poll voting centre, they may apply for a postal vote. Applications for a postal vote can be made on-line at the Elections ACT website, by phone, email, or on an application form. No signature is required on a postal vote application form.

All applicants, whether on the roll or not, will be sent a postal voting pack containing one ballot paper for the electorate in which they are enrolled (if not enrolled they will be sent the ballot paper for the electorate for which they claim to be enrolled), a postal vote certificate envelope, voting instructions and a return business reply paid outer envelope.

The voter is asked to complete the declaration on the certificate envelope and sign it, complete their ballot paper and place it in the certificate envelope and seal it, then place the certificate in the reply paid envelope and return it to Elections ACT.

Completed postal ballots, in their envelopes, must be posted before polling day and received by Elections ACT no later than the Friday after polling day.

Assisted voting

Where a voter is unable to vote without assistance they may nominate a person to assist them to vote. This may be a friend or a relative, or a scrutineer.

Where the voter does not nominate a person to assist them, an officer may assist. However, in any case where an officer assists an elector, they must be accompanied by a scrutineer, or if there is no scrutineer present, another officer.

Assistance can be in any of the following forms:

- Acting as an interpreter;
- Completing or assisting the voter to complete a declaration vote;
- Explaining the ballot paper and the requirements for marking the ballot paper;
- Marking, or assisting the voter to mark, the ballot paper at the voter's direction;
- Folding the ballot paper and putting it in the ballot box or declaration envelope.

Where a voter is unable to enter a polling place, the OIC of the polling place may take a ballot paper to the voter provided the OIC allows any scrutineers present to be present when the voter marks their ballot paper. The OIC must return and place the completed ballot paper in the ballot box or declaration envelope as required, in the presence of any scrutineers who were present when the voter voted.

Counting the votes

This section describes the processes for counting the votes (the scrutiny). The counting of the votes is undertaken over a number of stages. The initial count performed in polling places after the polls have closed; the preliminary scrutiny where declaration and postal votes are checked before being admitted or rejected; and the central scrutiny, where the paper ballot papers are scanned and read by a computer process.

At polling places

After the last voter present within each polling place at the closing time of 6 pm on polling day has cast their vote, polling officials will empty the ballot boxes of ordinary votes, sort the ballots to the first preference by candidate and informal. The ballots for each candidate and informal are then counted. When satisfied that the figures are accurate, the OIC will transmit the result of the count for publication on the Commission's webpage.

Declaration ballot papers remain in their declaration envelopes and are transported unopened to the central scrutiny for checking after polling day. All counted ballot papers are also returned to the central scrutiny for the official count to continue.

Candidates may appoint scrutineers to represent them at the counting of ballot papers in polling places.

Website displays

Once the OIC of a polling place is confident of the accuracy of their first preference count, the result of count from within each polling place will be transmitted for display on the Commission's result website. It should be noted that these polling day counts provide an indicative result only and all paper ballots are rechecked and recounted by Commission staff after polling day.

Soon after the close of polling, the count of electronic votes, taken since the start of pre-poll voting, will be input to the electronic counting system and the progressive distribution of preferences will be made available on the Commission's results website.

The central scrutiny

The central scrutiny is conducted in three parts:

- Scrutiny of all declaration votes, including postal votes;
- Computerised scrutiny of paper ballots; and
- Electronic count and distribution of preferences on all formal ballot papers.

Declaration (including postal) vote scrutiny

Before declaration vote envelopes are opened, the details of the voter are checked to ensure they are eligible to vote. Most declaration votes are issued because the voter's name could not be found on the roll in the polling place. Some may also have been issued because the voter's name has already been marked as having voted on the roll but the voter claims not to have voted previously.

Postal votes must be posted by the voter or given to Elections ACT on or before polling day and must be received no later than the Friday after polling day. The date of signing the vote is used to determine whether it has been posted in time.

A declaration vote ballot paper will be accepted for further scrutiny if the OIC is satisfied that the elector is enrolled for the electorate (or entitled to be enrolled and is not enrolled because of official error), his or her signature on the declaration vote certificate is genuine and properly witnessed (except in the case of postal votes) and the vote contained in the envelope was recorded prior to the close of the poll.

Where it is decided that the voter is entitled to have their vote admitted to the count, the elector's declaration is physically separated from the ballot envelope before the envelope is opened and the ballot paper extracted. Without unfolding it, the ballot paper is placed into a ballot box. This process is conducted using batches of ballot envelopes, so that it is not possible to identify a particular person's ballot paper and how they voted.

When there are sufficient numbers of ballot papers in the ballot box, the ballot box will be emptied and, as with the count of ordinary ballot papers at polling places, the ballot papers will be checked for formality, sorted to candidates with the first preference and then counted.

If it is determined that the voter is not entitled to have their vote admitted to the count, the declaration envelope is not opened and is set aside as a rejected vote.

Candidates may appoint scrutineers to represent them at the declaration vote scrutines.

Computerised scrutiny

Ballot papers received from polling places and the declaration vote scrutines are assembled at the central scrutiny centre.

After the initial count of first preference votes (from polling places and declaration vote scrutines) all formal paper ballots will be scanned into a computer system at the central scrutiny centre. The scanned images will be "read" by intelligent character recognition (ICR) software and the hand written numbers interpreted.

The aim of the system is to achieve 100% accuracy through the use of a range of strategies designed to eliminate errors in the count. Two key principles are adopted. The first involves ensuring that every interpretation of a number is to be confirmed at least twice. In the simplest case, that of a ballot paper showing a correct sequence of numbers correctly interpreted by the ICR scanning software, these numbers will be interpreted once by the software and once by a human operator.

In those cases where an operator changes a number or interprets a number differently from the ICR software, a second operator is required to verify the changed number. If that second operator disagrees with a change made by the first operator, a third operator will be required to agree with changes made by the second operator and so on until at least two operators are in agreement with the final interpretation.

The second key principle is that any ballot papers that appear to fail one or more of a series of business rules is to be verified and corrected if necessary by at least one human operator at a senior level. This approach gives special attention to ballot papers that appear to have a number missing or duplicated, or that appear to be informal, or that appear to contain writing in ballot squares that are not numbers. Ballot papers that appear to contain only a single preference and no other preferences are also subject to special attention (even though such a ballot paper would be formal) to ensure that the scanning software is not incorrectly interpreting random marks as a number 1. The scanning software also identifies any ballot papers that have a declaration stamp on them where they are placed in an ordinary ballot box, as such a ballot paper will be classed as informal regardless of the preference numbering.

As a further quality control measure, all challenged or doubtful preference interpretations are referred to the Electoral Commissioner or the Deputy Electoral Commissioner before committal to the counting database. Where it is difficult to interpret the voter's intention using the black and white scanned image of a ballot paper on screen, the original ballot paper is retrieved and used to make a final ruling.

The Electoral Commissioner or the Deputy Electoral Commissioner also personally recheck every ballot paper set aside as informal by polling place staff on election night. This process serves to make a final ruling on all identified informal ballot papers, leading in some cases to ballot papers initially ruled as informal being ruled as formal and incorporated in the count through the scanning system. Scrutineers representing candidates are always present during this process.

Candidates are entitled, indeed encouraged, to appoint scrutineers to observe the central scrutiny process.

Once all ballot papers have been scanned and passed through the checks, the preference data is transferred to the electronic voting and counting system to count the votes and distribute the preferences according to the Hare-Clark rules.

Progressive results

Progressive results of the computer tally and distribution of preferences will be released daily from polling night until the conclusion of the count. Candidates should be aware that while these progressive results will serve as an indication of the likely winning candidates, the final result may be different from interim results.

Recounts

Recounts usually occur when the result of an election is very close and there is an indication that the original count was in error, either at the discretion of the Electoral Commissioner or as directed by the Electoral Commission. A recount can be held at any time before the official declaration of an election result.

A candidate may request a recount in writing to the Electoral Commissioner, setting out the reasons for the request. The Commissioner will only conduct a recount if he or she thinks it necessary. If the Commissioner refuses to conduct a recount on the request of a candidate, that candidate may appeal to the full Electoral Commission for a review of that decision. The Electoral Commissioner is not permitted to take part in the review.

Before recounting any ballot papers, the Commissioner will notify each candidate of the date, time and place fixed for the recount.

An electoral officer conducting a recount has the same powers as if the recount was the original scrutiny and may reverse any decision made in an earlier scrutiny.

Declaration of the official result

Once the final result of the count is complete, the Electoral Commissioner will make a formal declaration of the result of the election. This usually takes place a few days after the final count is concluded. The delay allows any candidate who would be ineligible to be an MLA because of their current position, to resign from that position. For example, a candidate who is to be declared elected may hold an office or appointment under a law of the ACT, such as a public servant. The delay enables the candidate to resign their position, enabling them to take up the role of an MLA once declared elected.

What you must do after polling day

This section describes what each candidate must do after the election is concluded to meet the requirements of the Electoral Act. The main thing that a candidate must do is satisfy the financial disclosure requirements.

Election funding

Public funding is available to parties and independent candidates contesting an election. For the 15 October 2016 election, public funding will be provided at \$8 per first preference vote to those parties and independent candidates receiving at least 4% of the formal votes cast. No person is obliged to accept public funding.

More information on election funding is available from Elections ACT.

Election returns of gifts and expenditure

The reporting agent of a non-party candidate (with respect to the candidate and his or her associated entities) is required to lodge election expenditure returns with the Electoral Commissioner within 60 days after polling day. The return must list expenditure on specific items where the expenditure is incurred during the capped expenditure period.

Non-party candidates must also lodge a return listing the total amount of gifts received during the disclosure period. If the sum of the gifts received from a person or organisation is \$1,000 or more, the return must also list the name, address and ABN (if applicable) of the giver, the amount received and the date of receipt. The value of a gift-in-kind must be declared, including descriptions of how the gift was valued and the gift itself, and whether the gift-in-kind was used for electoral expenditure and the amount used.

A non-party candidate is not required to disclose gifts made in a private capacity to the candidate for his or her personal use, that the candidate has not used, and will not use, solely or substantially for a purpose related to an election. Even if no electoral expenditure was incurred and no gifts were received during the disclosure period, the non-party candidate must still submit a nil return.

The disclosure period for this purpose is the period beginning on the 31st day after the previous election, if the candidate contested that election, or the earlier of the date the candidate publicly announced he or she would be a candidate and the date the candidate is nominated as a candidate and ending on the 30th day after the relevant election.

Non-party candidate election returns are due to be lodged with the Electoral Commissioner within 60 days after polling day. For the 2016 election, candidate returns are due by 14 December 2016 and will be made public at the beginning of February 2017.

Relevant details for party candidates are included in the return lodged by the party, as part of the party grouping return.

The requirements for disclosure are detailed in the handbook *Election funding, expenditure and financial disclosure – 2016 election* which can be downloaded from the Elections ACT website, or obtained from the Elections ACT office (see page 3).

More information on disclosure requirements is available from Elections ACT.

Disputing an election and other legal matters

This section describes the process for disputing the result of an election and seeking an injunction during the course of an election. Candidates and parties should consult their legal advisors if considering disputing an election or seeking an injunction with respect to an election.

Disputing the result of an election

The validity of an election may only be disputed by application to the Supreme Court sitting as the Court of Disputed Elections after the result of the election is declared.

If any of the following matters in relation to an election is called into question, the validity of the election is to be taken to be in dispute:

- The acceptance or rejection of a nomination of a candidate by the Commissioner;
- The eligibility of a person to be nominated as a candidate, to be elected or to be an MLA;
- Any matter connected with the printing or endorsement of ballot papers;
- Any matter connected with the issue, or scrutiny, of ballot papers by an officer;
- Any matter connected with electronic voting; or
- Any matter connected with the admission or rejection of declaration votes by an officer at the preliminary scrutiny.

The following persons are entitled to dispute the validity of an election:

- A candidate in the election;
- An elector entitled to vote at the election; or
- The Electoral Commissioner.

Procedures for disputing an election are set out in detail in Part 16 of the Electoral Act and in the rules of the Supreme Court. Any person contemplating a challenge should consult his or her own legal advisers.

Injunctions

Where a person has apparently breached or proposes to breach a law of the Territory in relation to elections, a candidate or the Electoral Commissioner may apply to the Supreme Court for an injunction restraining that person from engaging in such unlawful conduct or requiring that person to do a particular act or thing, as the case requires.

Any candidate wishing to apply to the Supreme Court for an injunction should consult his or her own legal advisers.

Electoral offences

The following electoral offences relate to the responsibilities of candidates and to election campaigning generally. Candidates and parties should seek their own legal advice if they consider the Electoral Act has been breached.

Definition of “electoral matter”

Several offences relate to the treatment of published “electoral matter” (either in printed or electronic form). “Electoral matter” is defined as matter that is intended or likely to affect voting in an election. 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 performance of the Government, the Opposition, a previous Government or a previous Opposition;
- The performance of an MLA or former MLA;
- The performance of a political party, a candidate or a group of candidates in the election; or
- An issue submitted to, or otherwise before, the electors in connection with an election.

However, a publication of the Legislative Assembly, including a committee of the Assembly, is not electoral matter.

Value of a penalty unit

The maximum fines that may be imposed for the offences listed in this section are given in penalty units. Under the ACT’s *Legislation Act 2001*, as at 1 July 2015, the value of a penalty unit is:

- \$150 if the person charged is an individual; or
- \$750 if the person charged is a corporation.

Offences related to postal voting and other forms of declaration voting

Witnessing electoral papers

A person shall not witness the signature of an electoral paper unless:

- The paper is signed by the signatory;
- He or she has seen the signatory sign the paper;
- He or she is satisfied as to:
 - the identity of the signatory; and
 - the truth of any statements made in the paper by the signatory; and
- He or she is able to sign his or her own name.

Penalty: 10 penalty units.

For the purposes of the above, a witness may satisfy himself or herself on the basis of:

- Personal knowledge of the signatory;
- Inquiries made of the signatory; or
- Any other reasonable means.

A candidate may not be a witness for the purposes of postal voting or assisted voting.

Soliciting applications for postal votes

A person shall not do anything for the purpose of inducing someone else to complete an application form for postal voting papers and to return the completed form to an address other than an address authorised by the Electoral Commissioner.

Penalty: 30 penalty units.

A person shall not do anything to induce someone else to complete an application form for postal voting papers that is not a form approved for the purpose by the Electoral Commissioner.

Penalty: 30 penalty units.

Transmission of applications for postal votes

A person who accepts for transmission to the Commissioner a completed application for declaration voting papers for postal voting shall transmit the application to the Commissioner as soon as practicable.

Penalty: 10 penalty units.

Interference with declaration voting

Except at the request of the elector, a person shall not, without reasonable excuse:

- Communicate with an elector while he or she is casting a declaration vote;
- Interfere with an elector's casting of a declaration vote;
- Do anything to find out how an elector voted by declaration vote; or
- Enable any other person to find out how an elector voted by declaration vote.

Penalty: 30 penalty units.

Soliciting completed declaration votes

A person shall not, without reasonable excuse, do anything for the purpose of inducing an elector to give to the person completed declaration voting papers for postal voting.

Penalty: 30 penalty units.

Transmission of completed declaration votes

A person who accepts for transmission to the Commissioner completed declaration voting papers for postal voting shall transmit them to the Commissioner as soon as practicable.

Penalty: 10 penalty units.

Opening envelopes containing declaration votes

Unless authorised under the Electoral Act, a person shall not, without reasonable excuse, open an envelope which appears to contain a completed declaration or postal vote.

Penalty: 5 penalty units.

Protection of rights

Bribery

A person shall not offer, solicit or accept an electoral bribe.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

For the purposes of the above offence:

- "Bribe" does not include a declaration of public policy or a promise of public action;
- "Electoral bribe" means a bribe for the purpose of:
 - influencing the vote of an elector;
 - influencing the candidature of a person in an election;
 - otherwise influencing the course or result of an election;
 - inducing a person not to apply, or to withdraw an application, to be a candidate for a casual vacancy; or
 - inducing a person not to apply, or to withdraw an application, to dispute the validity of an election.

There are also a range of generic bribery offences contained in the ACT's *Criminal Code 2002*. For further detail, see Part 3.7 of the Criminal Code.

Influencing votes of hospital and nursing home patients

The proprietor of a hospital or nursing home, or an employee or agent of such a proprietor, shall not, without reasonable excuse, do anything for the purpose of influencing the vote of a patient or resident of the hospital or nursing home.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Violence and intimidation

A person shall not, by violence or intimidation, hinder or interfere with the free exercise of a right under the Electoral Act or the free performance of a duty under the Electoral Act.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Campaigning offences

For the purposes of the following campaigning offences:

- “Disseminate”, in relation to electoral matter (whether in printed or electronic form), means print, publish, distribute, produce or broadcast;
- “News publication” means a newspaper or periodical and includes an electronic publication of a similar kind; and
- “Reportage or commentary”, in relation to a news publication, means everything in the newspaper or periodical except advertisements and letters to the editor.
- “Social media” means internet-based or mobile broadcasting-based technology or applications through which individuals can create and share content generated by the individual.

Dissemination of unauthorised electoral matter

A person commits an offence if the person disseminates electoral matter and the matter does not include:

- The name of the person who authorised the matter or its author; and
- A statement to the effect that the named person authorised, or is the author of, the matter; and
- If the matter is published for a registered party, a candidate for election or a person who has publicly indicated that he or she intends to be a candidate for election – a statement to the effect that the matter is published for the party, candidate or person.

Penalty: 10 penalty units.

The requirement to authorise electoral matter does not apply to the dissemination of electoral matter contained in reportage or commentary in a particular news publication if the publication includes a statement to the effect that a person named in the statement has authorised publication of all electoral matter contained in reportage or commentary in the publication.

Further, the requirement to authorise electoral matter does not apply to the dissemination of electoral matter contained in a letter to the editor in a particular news publication of a newspaper or periodical if:

- The author's name and the place where the author lives are stated at the end of the letter; and
- The publication includes a statement to the effect that a person named in the statement has authorised publication of all electoral matter contained in letters to the editor in the publication.

For the purposes of the first dot-point above, it is sufficient to identify where the author lives by reference to:

- The suburb or town of, or nearest to, the author's residence; and
- If the residence is outside the ACT - the State, other Territory or other country of that residence.

The requirement to authorise electoral matter does not apply to electoral matter on any of the following items, unless the item includes a representation of a ballot paper:

- A letter from an MLA that includes the name of the MLA and an indication that he or she is an MLA;
- A press release published by or for an MLA that includes the name of the MLA and an indication that he or she is an MLA;
- A report under the *Annual Reports (Government Agencies) Act 2004* ;
- A publication of a government agency that includes:
 - the name of the agency; and
 - the City of Canberra Arms; and
 - the words "Australian Capital Territory", "Australian Capital Territory Legislative Assembly", "ACT Legislative Assembly", "Australian Capital Territory Government" or "ACT Government";
- A business or visiting card that promotes the candidacy of a person in an election;
- A letter or card on which the name of the sender appears;
- A T-shirt;
- A badge or button;
- A pen or pencil;
- A balloon; or
- An item prescribed by regulation.

The requirement to authorise electoral matter does not apply to the dissemination of electoral matter by an individual if:

- The electoral matter is disseminated on or through social media; and
- The electoral matter forms part of the expression of the individual's personal political views; and
- The individual is not paid to express those views.

"Advertorials"

An electoral "advertorial" is an advertisement in a news publication that appears to be reportage or commentary and includes electoral matter.

Where an electoral advertorial is published, the proprietor of the news publication must ensure the word "advertisement" is included, in legible form, as a headline to the advertisement on each page on which the advertisement appears.

Penalty: 10 penalty units.

Misleading or deceptive electoral matter

A person shall not disseminate, or authorise to be disseminated, electoral matter that is likely to mislead or deceive an elector about the casting of a vote.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

It is a defence to a prosecution for this offence if it is established that the defendant did not know and could not reasonably be expected to have known, that the electoral matter was likely to mislead or deceive an elector about the casting of a vote.

Inducement to illegal voting—representations of ballot papers

A person shall not disseminate, or authorise to be disseminated, electoral matter including a representation of a ballot paper, or part of a ballot paper, likely to induce an elector to mark his or her vote otherwise than in accordance with the directions on the ballot paper.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Graffiti

A person shall not, without reasonable excuse, mark any electoral matter directly on any building, footpath, hoarding, roadway, vehicle, vessel or any public or private place (whether on land or water or in the air) without the consent of:

- In the case of a place—the lessee or lawful occupier of the place; or
- In the case of an object—the owner or lawful possessor of the object.

Penalty: 10 penalty units.

Prohibition of canvassing within 100 metres of a polling place

A person shall not, within a polling place, or within 100 metres of the building or enclosure containing a polling place:

- Do anything for the purpose of influencing the vote of an elector as the elector is approaching, or while the elector is at, the polling place;
- Do anything for the purpose of inducing an elector not to vote as the elector is approaching, or while the elector is at, the polling place; or
- Exhibit an electoral notice other than a notice authorised by the Commissioner for display there.

Penalty: 5 penalty units.

Where a building used as a polling place is situated on grounds within an enclosure, the Commissioner may, by notice in the ACT Legislation Register, specify that those grounds are part of the polling place for the purposes of defining the 100 metre limit.

For the purposes of this offence, “polling place” means:

- A place where declaration voting is taking place;
- A polling place on polling day; or
- A place where mobile polling is taking place.

An officer may, if directed by the Commissioner, remove or obliterate a notice which is exhibited in breach of this offence. A person shall not obstruct an officer exercising or attempting to exercise this function.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Badges and emblems

An officer or scrutineer shall not wear or display a badge or emblem associated with a candidate or political party in a polling place or pre-poll voting centre, or during mobile polling.

Penalty: 10 penalty units.

How-to-vote material in polling places

A person shall not, except for the purposes of lawfully assisting another person to vote, exhibit or leave any printed electoral matter in a polling place, pre-poll voting centre or place where mobile polling is being conducted.

Penalty: 5 penalty units.

Voting fraud

A person shall not supply a ballot paper unless authorised to do so.

Penalty: 50 penalty units.

A person shall not obtain a ballot paper by fraudulent means.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

A person, other than an elector, shall not mark a ballot paper, unless expressly authorised under the Electoral Act.

Penalty: 50 penalty units.

A person shall not fraudulently take a ballot paper out of a polling place, pre-poll voting centre or scrutiny centre.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

A person shall not fraudulently put a ballot paper, or any other paper, in a ballot box.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

A person shall not, without reasonable excuse, interfere with a ballot box, or a ballot paper, unless authorised to do so.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Identification of voters and votes

Except as authorised under the Electoral Act, a scrutineer (or a person who has been, but is no longer, a scrutineer) shall not, directly or indirectly, disclose any information acquired in the performance of his or her functions which would be likely to enable it to be known how an identified voter has voted.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Electoral papers

For the purposes of the following offences, “electoral paper” means any document, form or notice provided for, or required under, the Electoral Act.

Electoral papers—forgery

There are a range of generic forgery offences contained in the ACT’s *Criminal Code 2002*. These offences would include, for example, the offence of forging an electoral paper. (For further detail, see Part 3.6 of the Criminal Code.)

Penalty (for forgery): 1000 penalty units or imprisonment for 10 years, or both.

Electoral papers—unauthorised possession

A person shall not, without reasonable excuse, except for the purposes of the Electoral Act:

- Possess an electoral paper; or
- Possess an instrument designed or adapted particularly for producing an electoral paper, or an official mark on an electoral paper.

Penalty: 30 penalty units.

Electoral papers—false or misleading statements

There are a range of generic offences related to the making of false and misleading statements contained in the ACT’s *Criminal Code 2002*. These offences would include, for example, the offence of making a false and misleading statement in an electoral paper. (For further detail, see Part 3.4 of the Criminal Code.)

Penalty (for making a false and misleading statement): 100 penalty units or imprisonment for 1 year, or both.

Electoral papers—defacement etc.

A person shall not fraudulently deface, remove, mutilate or destroy an electoral paper.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Ballot Paper – Photographs

A person commits an offence if the person takes a photograph of a ballot paper used by the person or another elector for voting in an election and the photograph shows, or would be likely to show, how the person or elector voted in the election if the person knows the identity of the elector or it would be possible for the person or someone else to find out the identity of the elector.

The definition of photograph includes a video recording.

Penalty: 10 penalty units.

Electronic voting offences

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for or in connection with electronic voting.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for counting votes electronically.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Control of behaviour at voting centres

A person shall not, without reasonable excuse, disrupt an activity at a voting centre.

Penalty: 10 penalty units.

A person at a voting centre shall not, without reasonable excuse, disobey a lawful direction given by the Officer In Charge (OIC) of the centre.

Penalty: 10 penalty units.

A person shall not, without reasonable excuse, enter or remain at a voting centre without the permission, express or implied, of the OIC.

Penalty: 10 penalty units.

The above offence does not apply:

- To an officer;
- To a scrutineer who is entitled to be on the premises; or
- If the voting centre is a polling place—to a voter who enters the place for the purpose of voting and remains no longer than is necessary and reasonable for that purpose.

A person who contravenes this section may be removed from the premises by a police officer or by an authorised officer.

For the purposes of the above offences, “voting centre” means a pre-poll voting centre, a polling place or a scrutiny centre.

Improper influence—members of Electoral Commission etc.

A person shall not do anything improper for the purpose of influencing a member of:

- The Electoral Commission;
- An augmented Commission; or
- A Redistribution Committee.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

Campaign finance offences

Exceeding the expenditure cap

If electoral expenditure by:

- A party grouping;
- A non-party MLA;
- A non-party candidate grouping; or
- A third party campaigner

exceeds the relevant expenditure limit for that entity, the party, non-party MLA, non-party candidate or third party campaigner, as applicable, is liable to pay to the Territory an amount equal to twice the amount by which the expenditure exceeds the limit. Gifts-in-kind in the form of electoral expenditure incurred on behalf of an entity are included under the entity's expenditure cap.

Limit on payments within parties

A party may not use payments received of more than \$10,000 in a financial year from a related party, for the purposes of incurring ACT electoral expenditure. If a party contravenes this provision, an amount equal to twice the amount by which the spending exceeds \$10,000 is payable to the Territory. However, if the party returns the amount by which the spending exceeds \$10 000 within 30 days after the amount is spent, no amount is payable to the Territory.

Use of administrative funding for electoral expenditure

A party, or a non-party MLA, must not use administrative funding for electoral expenditure in relation to an ACT, federal, state or local government election. If a party or non-party MLA contravenes this provision, the party or non-party MLA, respectively, must pay to the Territory an amount of twice the amount used.

Exceeding the limit on the total amount of anonymous gifts that may be received

A party, MLA, non-party candidate or associated entity is not permitted to accept anonymous gifts of \$1000 or more. If the receiver contravenes this provision the financial representative of the receiver must pay to the Territory an amount equal to the amount of the gift.

A party, MLA, non-party candidate or associated entity is not permitted to keep more than \$25,000 received as anonymous gifts of less than \$1000.

For non-party candidate groupings, this restriction applies to their relevant disclosure period. Otherwise, this restriction applies per financial year.

If this provision is breached, the party, MLA, non-party candidate or associated entity, respectively must pay to the Territory an amount by which the total of the gifts exceeds \$25,000.

Failing to provide a return to the Commissioner, or providing a return that is incomplete or knowingly false or misleading

A person who is required to provide the Commissioner with a return under the Electoral Act and fails to do so within the stated time, is guilty of an offence.

Penalty: if the return is required with respect to a party, 50 penalty units; and for any other return, 20 penalty units.

A person who provides a return that contains particulars that are known by the person furnishing the return to be false or misleading in a material particular is guilty of an offence.

Penalty: 50 penalty units, 6 months imprisonment or both.

Where an informer provides information to a person who is required to provide a return and the informer provides information that is known by the informer to be false or misleading in a material particular is guilty of an offence.

Penalty: 50 penalty units, 6 months imprisonment or both.

A person commits an offence if the person fails to keep records as required for the purpose of preparing returns under the Electoral Act.

Penalty: 20 penalty units.

A person commits an offence if the person gives the Commissioner a return that is incomplete.

Penalty: 20 penalty units.

Glossary

ACT Electoral Commission

The 3-member statutory body comprising a Chairperson, the ACT Electoral Commissioner and a third member. Also described as the Commission.

ACT Electoral Commissioner

The person, also described as the Commissioner, who is appointed as a statutory office holder, to carry-out electoral administration for the ACT. The Commissioner and the staff employed to assist the Commissioner are collectively known as Elections ACT.

advertisements relating to an election

An advertisement relates to an election or referendum if it contains electoral or referendum matter, whether or not consideration (payment) was given for the publication or broadcasting of the advertisement.

anonymous gifts

Anonymous gifts are gifts where the defined particulars of a donor are not known to the person receiving the gift on behalf of a registered political party, MLA, candidate or associated entity at the time the gift is made.

A registered political party, MLA, candidate or associated entity is not permitted to accept anonymous donations of \$1,000 or more. If such a donation is received, it is payable by the recipient to the Territory. If it is not paid to the Territory, it may be recovered as a debt to the Territory.

associated entity

An entity that:

- Is controlled by one or more parties or MLAs; or
- Operates, completely or to a significant extent, for the benefit of one or more parties or MLAs.

authorisation statement

Electoral matter (whether in printed or electronic form) that is printed, published, distributed, produced or broadcast must (with some exceptions) include an authorisation statement. Further details on authorisation of electoral matter can be found in the Elections ACT Factsheet "authorising electoral material" on its website **www.elections.act.gov.au** under publications.

capped expenditure period

For the 2016 election, is the period from 1 January 2016 until the end of polling day (15 October 2016).

Commission

ACT Electoral Commission.

disclosure period

The disclosure period for a candidate is the period beginning on the 31st day after the previous election, if the candidate contested that election, or if not, the earlier of the date:

- Candidate publicly announced he or she would be a candidate; election;
- The date the candidate was endorsed or pre-selected; or
- The date the candidate is nominated as a candidate

and ending on the 30th day after the relevant election.

Elections ACT

The office of the ACT Electoral Commissioner and the staff assisting the Commissioner.

Electoral Act

Electoral Act 1992 of the Australian Capital Territory.

electoral expenditure

Electoral expenditure incurred in relation to the election falls within the following categories:

- Broadcasting electoral advertisements (including production costs);
- Publishing electoral advertisements in a news publication, including printed and electronic newspapers or periodicals (including production costs);
- Displaying electoral advertisements at a theatre or other place of entertainment (including production costs);
- Production of printed or electronic electoral matter requiring authorisation (for example, how-to-vote cards, posters, pamphlets and internet advertising);
- Producing, broadcasting, publishing or distributing electoral matter, other than material included in any of the above (such as direct mailing, including printing and postage, business cards promoting candidacy, T-shirts, badges and buttons, pens, pencils and balloons);
- Consultant's or advertising agent's fees in respect of services provided or material used relating to the election; and
- Opinion polling and other electoral research undertaken to support the production of electoral matter included in any of the above.

electoral matter

Electoral matter is matter that is intended to affect or is likely to affect voting in an election for the ACT Legislative Assembly. It is taken to be intended or likely to affect voting if it contains an express or implicit reference to, or comment on:

- The election;
- The performance of the Government, the Opposition, a previous Government or a previous Opposition of the ACT Legislative Assembly;
- The performance of an MLA or former MLA;
- The performance of a political party, candidate or a group of candidates in an election; or
- An issue submitted to, or otherwise before, the electors in connection with an election.

However, a publication of the Legislative Assembly is not electoral matter.

financial representative

A financial representative is:

- For a party grouping – the reporting agent of the party;
- For a non-party MLA – the MLA;
- For a non-party candidate grouping – the candidate;
- For a non-party prospective candidate grouping – the prospective candidate;
- For an associated entity – the entity's financial controller; or
- For a third party campaigner:
 - if the third party campaigner is an individual – the third party campaigner; or
 - in any other case – the managing director (however described) of the third party campaigner.

fundraising contribution

Fundraising contribution means a payment made by a person or organisation as a contribution, entry fee or other payment to entitle the person or another person to participate in or gain a benefit from a fundraising event and includes an amount paid for:

- A ticket in a raffle; and
- An item at a fundraising auction; and
- A meal or beverage; and
- Attending a conference, seminar or similar function.

A fundraising contribution of \$250 or less is not considered a gift. If a fundraising contribution is more than \$250, the amount over \$250 is considered to be a gift.

fundraising event

Fundraising event means an event, however described, where any part of the funds raised are retained by a political party, an MLA, an associated entity, a candidate, or a third party campaigner.

gift

Gift means each of the following:

- A disposition of property made by a person or organisation to someone else, without consideration in money or money's worth or with inadequate consideration;
- The provision of a service, other than volunteer labour, for no consideration or inadequate consideration;
- The part of an annual subscription paid to a party for membership of the party that is more than \$250; and
- The part of a fundraising contribution that is more than \$250.

A gift does not include:

- A disposition of property under a will;
- A gift that is given to an individual in a private capacity for the individual's private use and the individual does not use the gift solely or substantially for a purpose related to an election;
- Affiliation fees paid to a party;
- Compulsory levies paid to a party by a party's elected representatives;
- The part of an annual membership fee or fundraising contribution that is less than \$250;
- Administrative expenditure funding paid by the ACT Electoral Commission; or
- Election funding paid by an electoral commission.

MLA

A Member of the ACT Legislative Assembly.

non-party candidate grouping

A non-party candidate grouping, for a candidate who is not a party candidate, means:

- The candidate; and
- Any other person who has incurred electoral expenditure with the authority of the candidate to support the candidate in contesting the election.

party grouping

Party grouping for a registered political party means:

- the party;
- an MLA for the party;
- a candidate for the party; and
- a prospective candidate for the party

pre-election period

The pre-election period commences 36 days before polling day and ends on polling day.

prospective candidate

A prospective candidate means a person who is yet to be declared as a candidate for an election by the Electoral Commissioner, but has:

- Won preselection, or endorsement, to be a candidate for the party for an election;
- Publicly announced that he or she intends to be a candidate for the election; or
- Been nominated with the Electoral Commissioner to be a candidate for the election.

registered officer

The person identified in the register of political parties, who has the authority to nominate and verify the endorsed candidates of the party.

The registered officer cannot be replaced except by a formal written application made under the Electoral Act.

A deputy registered officer may be appointed who also has authority to nominate and verify the endorsed candidates of the party.

registered political party

A political party registered with the Commission under the Electoral Act. Political parties not registered with the Commission are treated as third parties for electoral purposes.

The Commission's *"How to Register a Political Party for ACT Legislative Assembly Elections"* brochure, which sets out the requirements for registration, is available from the Elections ACT website or from its office.

third party campaigner

Third party campaigner means a person or organisation that incurs more than \$1,000 in electoral expenditure in a capped expenditure period for an election, but does not include:

- A party, MLA, candidate, party grouping, non-party candidate grouping or non-party prospective candidate grouping;
- A broadcaster;
- A publisher of a news publication (except a publication published for, or for the benefit of, a party, MLA, candidate, party grouping, non-party candidate grouping or non-party prospective candidate grouping);
- An Australian government body; or
- The Legislative Assembly.

