



Informality issues including 'saving' informal votes and the McEwen petition (chapter 8)

KEY POINTS:

- The rate of informal voting at the 2007 election for both House of Representatives (3.95 per cent) and Senate (2.55 per cent) elections declined compared to the 2004 election (5.18 per cent and 3.75 per cent respectively). **(see page 34)**
 - o The committee has recommended that the Australian Electoral Commission increase efforts to improve electors' understanding of the federal voting systems and take appropriate measures to reduce the rate of informal voting, especially in electorates with a high percentage of electors from non-English speaking backgrounds (recommendation 34). **(see page 233)**
- Where an elector expresses a clear preference but makes a mistake when completing a House of Representatives ballot paper, the vote should be included in the count up to the point where the mistake is made.
 - o The committee has recommended that the savings provisions that existed in the Commonwealth Electoral Act between the 1984 and 1996 elections to include those ballot papers where there are non consecutive numbering errors in the count up to the point at which the numbering errors began, be reinstated (recommendation 35). **(see page 245)**
 - o The reinstatement of such a provision would need to be accompanied by an appropriate penalty provision to deter the advocacy of a vote other than in accordance with full preferential voting. **(see pages 243–245)**
- The closeness of the result in the division of McEwen and the resulting Court of Disputed Returns petition was a relatively rare event in the context of federal elections. The reversal of almost one-quarter of the AEO's decisions in respect of the 643 reserved ballot papers is of concern and may be seen as putting community confidence in election results at risk.
 - o The committee has recommended that the Australian Electoral Commission adopt all recommendations contained in a review it commissioned following the decision of the Court of Disputed Returns on the McEwen petition and that the Commonwealth Electoral Act be amended to clarify the inclusion of apparent 'non authentic' ballot papers in the count (recommendations 36 and 37). **(see page 259)**

BACKGROUND:

Overview

- At a national level, informal voting in House of Representatives elections declined for the first time since the 1993 election. Changes in informality have generally been consistent across the states and territories, although some jurisdictions, most notably, NSW and South Australia, have recorded higher informality for a number of elections. **(see page 221)**
- The overall number of informal House of Representatives ballot papers declined by over 95,000 at the 2007 election when compared to the 2004 election. The categories of informal voting that made the largest contribution to the decline were the number of '1 only' ballot papers (down by over 45,000), the number of blank ballot papers (down by over 26,000) and the number of ballot papers with marks and scribbles (down by almost 14,600). **(see page 222)**

Savings provisions

- Most informal votes at the 2007 election were those with a '1 only' (30 per cent), followed by blank ballot papers (20 per cent), non-sequential numbering (18 per cent), and marks and scribbles (15 per cent). **(see pages 221–222)**
- NSW has generally recorded the highest rate of informality at House of Representatives elections since the 1983 election. The 10 divisions with the highest overall informality in 2007 were all in western Sydney, with five of these divisions also having the highest 'poor English' ranking, indicating that they have the lowest levels of English proficiency out of all of the national divisions. **(see page 223)**
- The Australian Electoral Commission estimates that if 'Langer-style' ballot papers had been able to be counted at the 2007 election, up to 90,149 additional ballot papers would have been admitted across Australia, representing 17.79 per cent of total informal votes at the 2007 election. **(see page 240)**

McEwen petition

- After the reversal of the result in the division of McEwen following a recount, a petition was lodged with the Court of Disputed Returns. The decision of the court upheld the result, but increased the margin from 12 votes to 27 votes. In coming to this view, the court conducted a review of 643 'reserved' ballot papers that had been set aside during the recount when scrutineers challenged the decisions of the Divisional Returning Officer. As a result of the court's review of these ballot papers, the Court reversed 154 of the decisions made by the Australian Electoral Officer during the recount in respect of the 643 ballot papers on which it ruled. **(page 246)**
- Following the court's decision, the Australian Electoral Commission engaged recently retired senior public servant, Mr Alan Henderson PSM, to examine the implications of the decision. Mr Henderson's review made a number of recommendations relating to the material used by Commission officers and others to make decisions on formality and the Commission's recount policy. These recommendations have been endorsed by the committee. **(see pages 252–261)**

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