

DETERMINATION

Scrutineering at an election

Electoral Act 2002, section 9(3)

Determination 001/2026

Keywords

Additional, challenge, declaration, observing, prescribed, quotas, scrutineer, venue

Preamble

Candidates may appoint scrutineers to represent their interests at state and local council elections in accordance with section 76 of the *Electoral Act 2002* (Vic) (Electoral Act) and regulations 31 and 64 of the Local Government (Electoral) Regulations 2020 (Vic) (LG Regulations), respectively.

Scrutineers have entitlements and obligations under legislation and conditions of entry. The Victorian Electoral Commission (VEC), election managers and election officials have certain powers in relation to regulating the number and conduct of scrutineers when they are present at an election venue. This includes the power to keep the peace, cause a scrutineer to be removed if they do not comply with their obligations and require a police officer to assist with removing a scrutineer.

This determination clarifies the VEC's regulatory approach to scrutineers at state and local council elections.

Audience

The main audiences for this determination include:

- candidates
- election managers and election officials
- registered political parties
- persons who are, or who will be, appointed as scrutineers.

Determination

I, Sven Bluemmel, Electoral Commissioner for the State of Victoria, make the following determination according to section 9(3) of the Electoral Act.

1. *Scrutineer rights for activities*

- 1.1. The Electoral Act, *Electoral Regulations 2022 (Vic)*, *Local Government Act 2020 (Vic)* (LG Act) and LG Regulations refer to certain electoral activities that scrutineers may observe and scrutinise ('prescribed activities'). Prescribed activities include those related to the issuing, counting and scrutiny of ballot material.
- 1.2. The VEC may allow scrutineers to observe and scrutinise activities or processes in addition to those prescribed in the Electoral Act, the LG Act and their associated regulations ('additional activities'). Additional activities include those related to the production, handling and transfer of ballot material.
- 1.3. During any prescribed activity or additional activity, scrutineers may ask questions or raise concerns about election procedures that they scrutinise or observe, including the conduct of election officials. The VEC will use its best endeavours to respond to questions or concerns raised by scrutineers.
- 1.4. For some prescribed activities, scrutineers also have prescribed rights. The VEC will provide guidance on how scrutineers can exercise those rights.
- 1.5. A scrutineer can challenge a decision or action of certain prescribed activities. A challenge will be ruled on by the election manager or an authorised election official during the activity.¹
- 1.6. Tables 1 and 2 of this determination outline the activities that scrutineers can challenge, subject to guidance published by the VEC on how scrutineers can challenge an activity.

Table 1. Prescribed activities and additional activities that may be observed and scrutinised, and whether they can be challenged by scrutineers at state elections. Activities are listed in chronological order of the election process.

Activities which may be observed and scrutinised at a state election	Challengeable	Prescribed or additional activity
Dispatching postal ballot packs	No	Additional
Exhibiting and sealing ballot boxes	No	Prescribed
Issuing ballot papers by an ordinary issuing officer	No	Prescribed

¹ An objection made under s 91(3) of the Electoral Act is not a challenge because the objection must be recorded by an election official and is not ruled on during the activity.

OFFICIAL

Activities which may be observed and scrutinised at a state election	Challengeable	Prescribed or additional activity
Issuing declaration votes by a declaration issuing officer	No	Prescribed
Recording preferences by an election official aiding an elector who requires assistance to vote	Yes	Prescribed
Recording preferences by an election official aiding an elector who is using telephone assisted voting, excluding the registration of an elector to use telephone assisted voting (see Item 2)	Yes	Prescribed
Receiving and admitting or rejecting declaration envelopes	No	Prescribed
Opening admitted declaration envelopes and extracting ballot papers	No	Prescribed
Opening and checking sealed ballot boxes or parcels of ballot papers	Yes	Prescribed
Extracting and sorting early and postal votes during the 'authorised period' within a 'restricted area' under section 110J of the Electoral Act	No	Prescribed
Recording preferences by an election official who is transposing braille ballot paper preferences onto a standard ballot paper for counting	Yes	Prescribed
Exchanging ballot papers between district and/or region elections	No	Additional
Amalgamating ballot papers prior to a preference distribution	No	Prescribed
Preparing batches of ballot papers for data entry	No	Additional
Statistical counts for information purposes only, such as a two-candidate-preferred count (or three-candidate preferred count) and two-party-preferred count	No	Additional
Counting, rechecking and distributing ballot papers, including checking ballot papers to determine formality	Yes	Prescribed
Counting and distributing ballot papers, including checking ballot papers to determine formality, during a recount	Yes	Prescribed

Table 2. Prescribed activities and additional activities that may be observed and scrutinised, and whether they can be challenged by scrutineers at local council elections, including Melbourne City Council elections. Activities are listed in chronological order of the election process.

Activities which may be observed and scrutinised at a local council election	Challengeable	Prescribed or additional activity
Dispatching postal ballot packs	No	Prescribed
Opening and emptying postal ballot receptacles (including a post office box)	No	Prescribed
Receipt and processing of declaration envelopes	No	Prescribed
Removing declaration flaps and opening declaration envelopes	No	Prescribed
Extracting ballot papers from declaration envelopes	No	Prescribed
Counting, rechecking and distributing ballot papers, including checking ballot papers for formality	Yes	Prescribed
Sorting ballot papers to identify obviously informal votes	No	Prescribed
Sorting ballot papers marked above-the-line for the Councillor election (Melbourne City Council only)	Yes	Prescribed
Counting and distributing ballot papers, including checking ballot papers to determine formality, during a recount	Yes	Prescribed
Performing a countback of votes to fill an extraordinary vacancy, including by computer	Yes	Prescribed

2. Scrutineering electronic assisted voting

- 2.1. The VEC does not allow scrutineers to observe the registration of eligible electors to use telephone assisted voting. During the registration process, electors are asked to provide personal information which exceeds that asked of a voter under section 90 of the Electoral Act.
- 2.2. Scrutineers may observe and scrutinise the use of telephone assisted voting by registered eligible electors who, if they have not voted before in the election, may authorise an election official to access and complete a ballot paper on their behalf.

3. Notification to candidates

- 3.1. The VEC will notify candidates of the prescribed activities and additional activities which may be observed, scrutinised and challenged by scrutineers, and of the rights of scrutineers during these activities.
- 3.2. Notification by the VEC may include guidance provided in the *Scrutineer handbook* or *Candidate handbook*, instructional products (including the *Election manual*), information bulletins and circulars, public advertisement (including the location and time of operation of each voting centre) or any other appropriate means. Notification may be made in person or in writing.

4. Processes relating to the appointment and allocation of scrutineers

Age requirement

- 4.1. A person must be at least 18 years of age to be appointed as a scrutineer.

Scrutineer quota

- 4.2. The scrutineer quota is the number of scrutineers that can be appointed for an additional activity. For prescribed activities, the number of scrutineers that can be appointed by a candidate is provided for in the legislation.
- 4.3. For the purpose of scrutineer quotas prescribed at section 76(3) of the Electoral Act and regulations 31(7) and 64(1) of the LG Regulations, an election manager or election official is “engaged in” or “involved in” an activity when they are participating in or otherwise directly involved in the conduct of an activity or process.
- 4.4. An election manager or election official remains “engaged in” or “involved in” an activity even when the election manager or election official is temporarily absent.
- 4.5. For additional activities, the scrutineer quota will be determined based on relevant considerations, including the size of the venue and planned numbers of election officials. From time to time, the VEC or an election manager or election official may vary a scrutineer quota or place reasonable limits on the number of scrutineers able to represent any one candidate for an activity or process in a venue in order to maintain fair access for scrutineers, to meet health and safety requirements, or other lawful obligations.
- 4.6. For the purposes of this determination, a venue includes a voting centre, counting centre or any other place where a scrutineer has an entitlement to attend to observe an activity or process related to an election.

5. Candidate as scrutineer

- 5.1. A candidate in an election conducted under the Electoral Act cannot be appointed as a scrutineer for any district or region at the election, except for the purpose of scrutineering a recount which does not involve the district or region for which that candidate has nominated.
- 5.2. A candidate in an election conducted under the LG Act or the *City of Melbourne Act 2001* (Vic) may be a scrutineer when permitted by the LG Regulations. A person cannot be appointed as a scrutineer for an election if they are a candidate at the election. If a Council is having multiple elections across different wards, a candidate for one ward cannot be appointed as a scrutineer in a separate ward for the same Council. This includes for any recounts being conducted for the same Council.
- 5.3. The VEC requires scrutineers to identify if they are a candidate in the election.

6. Retired candidate as scrutineer

- 6.1. A person who is retired or taken to be retired as a candidate in an election may be appointed by a candidate to be a scrutineer provided that the person is otherwise eligible to be appointed as a scrutineer.

7. Transitional and savings

- 7.1. Any decision, action, proceeding or matter made, taken or commenced under 004/2024 ('Scrutineering at an election'), dated 25 October 2024, is not affected by this determination.

Revocation of previous instrument

Determination 003/2024 ('Scrutineering at an election') made by the Electoral Commissioner on 25 October 2024 is revoked and replaced by this determination.

Start date of this determination

This determination comes into effect on 25 May 2026. It remains in effect until it is amended, revoked, superseded, or otherwise replaced.

Sven Bluemmel
Electoral Commissioner
Victorian Electoral Commission

25 May 2026

Document details

Determination name	Scrutineering at an election			
VEC Electra ref	EDRM155-681003259-484			
Sponsor	Assistant Commissioner, Electoral Integrity and Regulation			
Scheduled review date	1 June 2030			
Document history	Reference:	Effective date:	Supersedes:	Superseded by:
— Version 1.0	002/2022	16 September 2022	Not applicable	003/2024
— Version 2.0	003/2024	25 October 2024	002/2022	001/2026
— Version 3.0	001/2026	25 May 2026	003/2024	Not applicable

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