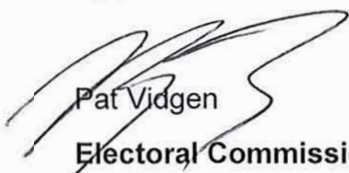# Procedures for Counting of Absentee Votes for State Elections and Referendums

Version 1.0

Approval

Pat Vidgen

Electoral Commissioner

_ / _ / 2020

Version history

Version	Notes	Author	Date of Change
1.0A	Draft in consultation	Principal Policy Officer	July 2019
1.0	Approval for use	Electoral Commissioner	January 2020

Review

These procedures will be reviewed **a year before every ordinary general election,** or if the relevant regulatory frameworks change in a way that means these procedures are no longer contemporary for the ECQ.

Purpose

To provide the Electoral Commission of Queensland (ECQ) staff with guidance on counting absentee votes in accordance with procedures made under section 130A of the *Electoral Act 1992* or under section 41A of the *Referendums Act 1997.* These procedures clarify circumstances in which absentee votes are counted at a polling booth when a vote is cast outside the electoral district for which the polling booth is established.

Scope

Elections

Part 7, Division 6 of the *Electoral Act 1992* sets out mandatory requirements to count votes in an election by the ECQ staff and returning officers for each electoral district in Queensland. An absentee vote is an ordinary vote made by an elector at a polling booth that is not located in the elector's electoral district. Section 127 provides authority for the counting of absentee votes at the polling booth where the vote was cast, provided the count is conducted in accordance with the procedures made under section 130A.

The procedures for counting of absentee votes must provide for:

- the circumstances in which absentee votes are counted at a polling booth under section 127
- preserving the secrecy of voting when counting absentee votes at the polling booth
- securing the delivery of absentee votes to the relevant returning officer for the absentee voter
- preserving the entitlements of scrutineers to be present when absentee votes are counted and their roles and responsibilities.

Section 130A(3) of the *Electoral Act 1992* stipulates the procedures for the counting of absentee votes take effect when approved by regulation tabled in the Legislative Assembly along with the regulation and then published on the ECQ's website.

Referendums

Part 4, Division 4 of the *Referendums Act 1997* sets out mandatory requirements to count votes in a referendum by the ECQ staff and returning officers for each electoral district in Queensland. An absentee vote is an ordinary vote made by an elector at a polling booth that is not located in the elector's electoral district. Section 38 provides authority for the counting of absentee votes at the polling booth where the vote was cast, provided the count is conducted in accordance with the procedures made under section 41A.

The procedures for counting of absentee votes must provide for:

- the circumstances in which absentee votes are counted at a polling booth under section 38
- preserving the secrecy of voting when counting absentee votes at the polling booth
- securing the delivery of absentee votes to the relevant returning officer for the absentee voter
- preserving the entitlements of scrutineers to be present when absentee votes are counted and their roles and responsibilities.

Section 41A(3) of the *Referendums Act 1997* stipulates these procedures for the counting of absentee votes take effect when approved by regulation tabled in the Legislative Assembly along with the regulation and then published on the ECQ's website.

Application

These procedures apply to all ECQ staff who perform functions relating to the counting of absentee vote obligations under the *Electoral Act 1992* or the *Referendums Act 1997*. These procedures apply to any polling booth which has been established by the ECQ to accept ordinary votes for more than one district.

Guiding principles

The ECQ is responsible for the conduct of free, honest, regular and fair elections under the *Electoral Act 1992*. The ECQ's impartiality, independence and coordination of voting builds on public confidence in the integrity and transparency of a strong electoral system in Queensland.

The guiding principles that underpin the procedures for the counting of absentee votes are:

- Accurate counting of votes. Once admitted to the scrutiny, each elector's vote must be counted accurately to the candidate of their choice and order of the elector's preferences.
- Preservation of the secret ballot. No person should be able to ascertain how or for whom an individual elector voted.
- Protection of the right to vote. All persons who have the right to vote must have that right preserved.
- All electors must have only one vote.
- Public confidence in elections must be preserved. Election procedures should be open and subject to review so that public confidence in the integrity of the electoral system and election outcomes can be maintained.
- Speedy results. Election results should be made available as soon as possible.

These procedures have been considered to ensure compatibility with the 23 protected rights under the *Human Rights Act 2019* and are deemed compatible.

Procedures

1. Counting of absentee votes in an election

These procedures enable ECQ to count the absentee ballot papers at the polling booth where the vote was cast or to parcel and send the absentee ballot papers to the returning officer for counting.

1.1. Counting absentee votes as ordinary votes: as soon as practicable after the end of ordinary voting hours on election day, the returning officer for an electoral district must ensure that all ECQ staff at the polling place follow these procedures for counting of absentee votes.

Polling booth with absentee voter ballot papers for other electoral districts

Open all ballot boxes including for absentee voting at the polling booth in the electoral district, which includes ballot papers for absentee votes and declaration envelopes

containing completed ballot papers. All ballot papers for the electoral district in which the polling booth is located are to be counted in accordance with the *Electoral Act 1992*.

Sort into separate parcels for each specific electoral district:

- all *formal ballot papers* and *informal ballot papers* (including ballot papers printed for electronically assisted votes) that are not in a declaration envelope; and

- all declaration envelopes.

For each parcel of ballot papers for each electoral district for which ordinary votes are not to be counted at the polling booth and each parcel of declaration envelopes:

- seal the parcel and write on it a description of its contents, including the total number of ordinary ballot papers or declaration vote envelopes that are contained in the parcel; and

- the ECQ staff member assigned to the electoral district signs the description for each of the separate parcels for the other electoral districts; and

- if a scrutineer wants to countersign the description – allow them to do so; and

- the ECQ staff member assigned or the polling booth supervisor, on authority of the returning officer for the electoral district, accounts for the parcels and onforwards them to their respective returning officer home electoral districts.

Returning officer that receives a parcel of absentee votes from other returning officers

The opening or breaking a seal on a parcel is only undertaken by an authorised person.[1]

The returning officer opens all sealed parcels of absentee voting ballot papers and declaration envelopes that were sent from returning officers in other electoral districts.

The returning officer notes the contents and reconciles the number of ballot papers contained in the parcel against the number of ballot papers described on the parcel.

The returning officer reconciles the number of declaration envelopes contained in the parcel against the number of declaration envelopes described on the parcel.

Ballot papers are to be counted by the returning officer in their electoral district. ECQ staff counting ordinary ballot papers must:

- arrange, and place in separate parcels under the names of the candidates for the electoral district, all formal ballot papers (including formal ballot papers printed for electronically assisted votes) on which a first preference vote is indicated for the same candidate; and

- count the first preference votes on formal ballot papers for each candidate; and

- count, and keep in a separate parcel, the informal ballot papers; and

- prepare and sign a statement, in the approved form, setting out –

---

[1] Under section 194 of the *Electoral Act 1992* it is an offence for a person to willfully open or break the seal of a parcel of ballot papers unless the person is authorised to do so under that Act or is ordered by a court.

- o   the number of first preference votes for each candidate; and

- o   the number of informal ballot papers; and

- advise the returning officer of the contents of the statement. [2]

Deciding whether to count absentee votes at the polling booth

After ordinary voting hours on polling day the ECQ may direct a returning officer or polling booth supervisor in an electoral district to count absentee votes for another electoral district.

The ECQ may only make a direction to count absentee votes for another election district in the following circumstances:

1. There must be a minimum number of 50 absentee votes for the other electoral district (in order to preserve the secrecy of the vote)

2. All candidates for the other electoral district must be advised of the times when, and places where, absentee votes for the electoral district will be counted to enable scrutineers to be present (in order to preserve the entitlement of scrutineers to be present for the count); and

3. There must have been a minimum of 3 ECQ staff working at the polling booth during voting hours (in order to preserve the secrecy of the vote).

Counting of absentee votes at the polling booth at which the vote was cast

For each parcel of ballot papers for each electoral district for which ordinary votes are to be counted at the polling booth, the ECQ staff must:

- arrange, and place in separate parcels under the names of the candidates for the electoral district, all formal ballot papers (including formal ballot papers printed for electronically assisted votes) on which a first preference vote is indicated for the same candidate; and

- count the first preference votes on formal ballot papers for each candidate; and

- count, and keep in a separate parcel, the informal ballot papers; and

- prepare and sign a statement, in the approved form, setting out –

- o   the number of first preference votes for each candidate; and

- o   the number of informal ballot papers; and

- advise the returning officer of the electoral district of the contents of the statement.

The returning officer of the electoral district must advise the ECQ of the outcome of completing the direction to count the absentee votes for the other electoral district.[3]

---

[2] Absentee vote counting complies with requirements in sections 127 and 128 of the *Electoral Act 1992*.
[3] Absentee vote counting complies with requirements in sections 127 and 128 of the *Electoral Act 1992*.

1.2. <u>Preservation of the secret ballot</u>: at a polling booth the ECQ provides for a secret ballot in which no person is able to ascertain how or for whom an individual elector voted.

An elector must fold the ballot paper to conceal their vote and place it in the ballot box. All ECQ staff that perform duties at the polling place in relation to an election must not –

- ascertain or discover how an elector voted at the election unless the person is authorised to do so under the *Electoral Act 1992*; or

- disclose any information as to how an elector voted at the election unless they are authorised to do so under the *Electoral Act 1992* or ordered by a court to do so.

Section 193 of the *Electoral Act 1992* makes it an offence and section 113 of the *Criminal Code* makes it a misdemeanour for ECQ staff to disclose information as to how an elector voted at an election unless the person is authorised by law to do so or ordered by a court to do so. Six months' or two years imprisonment respectively applies for infraction of the law, on conviction, in respect to ECQ staff who fail to preserve the secrecy of the ballot.

If ECQ is reasonably satisfied there has been a breach of voter secrecy action will be taken including referral to the Queensland Police Service to detect, investigate, prosecute or punish a criminal offence or a breach of a law or impose a penalty or disciplinary sanction.

1.3. <u>Role and responsibilities of scrutineers</u>: the ECQ acknowledges the key role and responsibilities of scrutineers during the election process. In elections, scrutineers are appointed under section 104 of the *Electoral Act 1992* by candidates in an election.

Scrutineers may observe any aspect of the electoral process where ballot papers are handled by the ECQ staff.

In absentee voting, scrutineers are entitled to:

- observe the questioning of electors to verify eligibility to vote by ECQ staff

- object to the right of a person to vote at the election. The ECQ staff member must record all such objections. Such a person is still permitted to vote

- record details of electors who vote at the election, and take the record out of the polling place

- observe the assembly and despatch of absentee voter ballot paper parcels

- observe the delivery and processing of absentee voter ballot paper parcels

- observe the counting and/or recounting of ballot papers in the election

- object to the ECQ staff's treatment of a ballot paper as informal

- object to the ECQ staff's treatment of a ballot paper as formal

If a scrutineer objects to a ballot paper as informal or formal the ECQ staff must mark on the back of the ballot paper their decision to treat it as formal or informal.

Scrutineers sign an undertaking to not divulge the way in which a voter has marked a ballot paper if they observe or gain the knowledge as to how a voter voted in the election.

Each scrutineer must carry adequate identification to show the person is a scrutineer.

2. Counting of absentee votes in a referendum

These procedures enable ECQ to count the absentee referendum papers at the polling booth where the vote was cast or to parcel and send the absentee referendum papers to the returning officer for counting.

2.1. <u>Counting absentee votes as ordinary votes</u>: as soon as practicable after the end of ordinary voting hours on election day, the returning officer for an electoral district must ensure that all ECQ staff at the polling place follow these procedures for counting of absentee votes.

Polling booth with absentee voter referendum papers for other electoral districts

Open ballot boxes for absentee voting at the polling booth at the electoral district, which includes referendum papers for absentee votes and from declaration envelopes.

Identify referendum papers and keep them in separate parcels for each electoral district:

- all formal referendum papers and informal referendum papers (including referendum papers printed for electronically assisted votes) that are not in a declaration envelope; and

- all declaration envelopes.

For each separate parcel of absentee voting referendum papers or declaration envelopes:

- seal the parcel and write on it a description of its contents, including the number of absentee voting referendum papers and declaration envelopes that are contained in the parcel; and

- the ECQ staff member assigned to the electoral district signs the description for each of the separate parcels for the other electoral districts; and

- if a scrutineer wants to countersign the description – allow them to do so; and

- the ECQ staff member assigned or the polling booth supervisor, on authority of the returning officer for the electoral district, accounts for the parcels and onforwards them to their respective returning officer home electoral districts.

Returning officer that receives a parcel of absentee votes from other returning officers

The opening or breaking a seal on a parcel is only undertaken by an authorised person.[4]

The returning officer opens all sealed parcels of absentee voting referendum papers and declaration envelopes that were sent from returning officers in other electoral districts.

The returning officer notes the contents and reconciles the number of referendum papers in the parcel against the number of referendum papers and declaration envelopes in the description.

Referendum papers are to be counted at the polling booth in their electoral district.

---

[4] Under section 85 of the *Referendums Act 1997* it is an offence for a person to willfully open or break the seal of a parcel unless the person is authorised to do so under that Act or is ordered by a court.

ECQ staff counting of ordinary referendum papers must:

- arrange, count and keep in separate parcels:
    - all yes votes; and
    - all no votes; and
    - all informal referendum papers.
- prepare and sign a statement, in the approved form, setting out –
    - the number of yes votes; and
    - the number of no votes; and
    - the number of informal referendum papers.
- advise the returning officer of the contents of the statement.

Counting of declaration envelopes must:

- if the referendum paper is accepted, the ECQ staff member must take it out of the envelope and, without unfolding it or allowing another person to unfold it, put it in – if the envelope was received by the returning officer and not sent to the ECQ then the ballot paper is placed in a sealed ballot box; and
- when sufficient number of declaration envelopes and the referendum papers have been placed in a sealed ballot box, the seal on the ballot box is broken to enable the counting of the referendum papers; and
- arrange, count and keep in separate parcels:
    - all yes votes; and
    - all no votes; and
    - all informal referendum papers.
- prepare and sign a statement, in the approved form, setting out –
    - the number of yes votes; and
    - the number of no votes; and
    - the number of informal referendum papers.
- advise the returning officer of the contents of the statement.

Deciding whether to count referendum paper absentee votes at the polling booth

After ordinary voting hours on polling day the ECQ may direct a returning officer or polling booth supervisor in an electoral district to count absentee votes for another electoral district.

The ECQ may only make a direction to count referendum paper absentee votes for another election district in the following circumstances:

1. There must be a minimum number of 50 referendum paper absentee votes for the other electoral district (in order to preserve the secrecy of the vote)

2. The member of the Legislative Assembly for the other electoral district must be advised of the times when, and places where, absentee votes for the electoral district will be counted to enable scrutineers to be present (in order to preserve the entitlement of scrutineers to be present for the count); and

3. There must have been a minimum of 3 ECQ staff working at the polling booth during voting hours (in order to preserve the secrecy of the vote).

Counting of referendum paper absentee votes at the polling booth at which the vote was cast

For each parcel of referendum papers for each electoral district for which ordinary votes are to be counted at the polling booth, the ECQ staff must:

- arrange, count and keep in separate parcels:
    - all yes votes; and
    - all no votes; and
    - all informal referendum papers.
- prepare and sign a statement, in the approved form, setting out –
    - the number of yes votes; and
    - the number of no votes; and
    - the number of informal referendum papers.
- advise the returning officer of the contents of the statement.

The returning officer of the electoral district must advise the ECQ of the outcome of completing the direction to count the absentee votes for the other electoral district.[5]

2.2. <u>Preservation of the secret ballot</u>: at a polling booth the ECQ provides secret ballot in which an elector's choices in an election or a referendum are anonymous and forestall any attempt to influence the elector by undue influence and to achieve political privacy.

An elector must fold the referendum paper to conceal their vote and place it in the ballot box. All ECQ staff performing duties at the polling place at the referendum must not –

- ascertain or discover how an elector voted at the referendum unless the person is authorised to do so under the *Referendums Act 1997*; or

- disclose any information as to how an elector voted at the referendum unless they are authorised to do so under the *Referendums Act 1997* or ordered by a court to do so.

Section 84 of the *Referendums Act 1997* makes it an offence and section 113 of the *Criminal Code* makes it a misdemeanour for ECQ staff to disclose information as to how an elector voted unless the person is authorised by law to do so or ordered by a court to

---

[5] Absentee vote counting complies with requirements in sections 38 and 39 of the *Referendums Act 1997*.

do so. Six months' or two years imprisonment respectively applies for infraction of the law, on conviction, in respect to ECQ staff who fail to preserve the secrecy of the ballot.

If ECQ is reasonably satisfied there has been a breach of voter secrecy action will be taken including referral to the Queensland Police Service to detect, investigate, prosecute or punish a criminal offence or a breach of a law or impose a penalty or disciplinary sanction.

2.3. <u>Role and responsibilities of scrutineers</u>: the ECQ acknowledges the key role and responsibilities of scrutineers in a referendum. In referendums scrutineers are appointed under section 19 of the *Referendums Act 1997* by a member of the Legislative Assembly.

Scrutineers may observe any aspect of the electoral process where referendum papers are handled by the ECQ staff.

In absentee voting scrutineers are entitled to:

- observe the questioning of electors to verify eligibility to vote by ECQ staff

- object to the right of a person to vote at the election. The ECQ staff member must record all such objections. Such a person is still permitted to vote

- record details of electors who vote at the referendum, and take the record out of the polling place

- observe the assembly and despatch of absentee voter referendum paper parcels

- observe the delivery and processing of absentee voter referendum paper parcels

- observe the counting or recounting of referendum papers in the election

- object to the ECQ staff's treatment of a referendum paper as informal

- object to the ECQ staff's treatment of a referendum paper as formal

If a scrutineer objects to a referendum paper as informal or formal the ECQ staff must mark on the back of the paper their decision to treat it as formal or informal.

Scrutineers sign an undertaking to not divulge the way in which a voter has marked a referendum paper if they observe or gain the knowledge as to how a voter had voted.

Each scrutineer must carry adequate identification to show the person is a scrutineer.

Appendix 1 — Definitions

Definitions

Term	Definition	Reference (if applic.)
Absentee vote	Absentee vote means an ordinary vote made by an elector at a polling booth that is not located in the elector's electoral district.	*Electoral Act 1992*, section 130A(4)
Ballot paper	Ballot paper means a paper – (a) on which is shown the issue to be submitted to the electors at a referendum; and (b) on which the elector is to record the elector's vote on the issue.	*Referendums Act 1997*, Schedule 3
Declaration envelope	Declaration envelope means – (a) a declaration envelope under section 121; and (b) another envelope on which there is a declaration to be made by an elector for the EA's purpose.	*Electoral Act 1992*, sections 2 and 121
Declaration vote	Declaration vote means a vote that is not an ordinary vote.	Refer to the definition of an 'ordinary vote'
ECQ staff	ECQ staff are appointed and employed under the *Public Service Act 2008* or the *Electoral Act 1992* for the conduct of elections and referendums.	
Election	Election means an election of a member(s) of the Legislative Assembly under the EA.	*Referendums Act 1997*, Schedule 3
Elector	Elector is a person entitled to vote under the EA.	*Electoral Act 1992, section 2* *Referendums Act 1997, section 21*
Electoral district	There are 93 electoral districts for Queensland. A person is enrolled to vote in an electoral district.	*Electoral Act 1992, sections 34, 64 and 106A* *Referendums Act 1997, Schedule 3*
Formal ballot paper	If a ballot paper has effect to indicate a vote, it is a formal ballot paper.	*Electoral Act 1992*, section 123(4) *Referendums Act 1997*, section 34 (3)
Home electoral district	Home electoral district refers to the elector's absentee vote made for their own electoral district.	

Term	Definition	Reference (if applic.)
Informal ballot paper	If a ballot paper does not have effect to indicate a vote, it is an informal ballot paper.	*Electoral Act 1992, section 123(5)* *Referendums Act 1997, section 34 (4)*
Issuing officer	Issuing officer means a member of the ECQ staff who is responsible for issuing ballot papers or declaration under the EA or the *Referendums Act 1997* to electors at an election or referendum.	*Electoral Act 1992*, section 2
Member	Member is a member of the Legislative Assembly.	*Referendums Act 1997*, Schedule 3
No vote	No vote means a vote on a formal ballot paper not approving of the Bill or question submitted to electors.	*Referendums Act 1997*, Schedule 3
Ordinary vote	Ordinary vote means a vote that is not a declaration vote.	*Electoral Act 1992*, section 2
Polling booth	Polling booth means an ordinary polling booth, a mobile polling booth or a pre-poll voting office.	*Electoral Act 1992*, section 2
Polling booth supervisor	A polling booth supervisor works in a polling booth on polling day. A polling booth supervisor manages the polling booth and is directly responsible to the returning officer and through them to the ECQ.	
Referendum	Referendum means the taking of the vote of electors on a Bill or question the subject of a writ.	*Referendums Act 1997*, Schedule 3
Referendum paper	Referendum paper means a ballot paper, declaration envelope or other document issued by the ECQ for the *Referendums Act 1997*.	*Referendums Act 1997*, Schedule 3
Returning Officer	A Returning Officer is appointed by the ECQ to conduct an election within an assigned electorate and they manage vital electoral activities within timeframes and all legislative requirements.	*Electoral Act 1992*, section 31
Scrutineer (election)	Scrutineer is an adult appointed by a candidate to observe the polling and counting procedures on the candidate's behalf during an election.	*Electoral Act 1992*, section 104
Scrutineer (referendum)	Scrutineer is an adult appointed by a member to observe the polling and counting procedures on the member's behalf during a referendum.	*Referendums Act 1997*, section 19
Scrutiny	The process following close of polling to determine the acceptability of ordinary and declaration votes for the count and the result of the election.	

Term	Definition	Reference (if applic.)
Secret ballot	A vote made in such a way that no other person will know how the elector has voted.	
Yes vote	Yes, vote means a vote on a formal ballot paper approving of a Bill or question submitted to electors.	*Referendums Act 1997*, Schedule 3

Appendix 2 — Regulatory Framework

Regulatory framework

- *Electoral Act 1992* sections 104, 126 (c), 127 (1) (b), 128 (1), 129 and 130A
- Electoral Regulation 2013
- *Human Rights Act 2019*
- *Referendums Act 1997* sections 19, 37 (c), 38 (1) (b), 39 (1), 40 and 41A
- Referendums Regulation 2016