



2007 Election – Provisional Voting Rejections

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Commentary

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A funny thing happened to provisional votes at the 24 November election. It may have cost the ALP several seats. Or it may have prevented them from taking several seats they shouldn't have. Or perhaps 70—100 000 people who couldn't be bothered keeping their enrolment details up to date simply got what they deserved.

It's in the eye of the beholder.

What is a provisional vote? Broadly speaking, this is when an elector arrives at their local polling station on election-day, gives their name to the official but finds they aren't on the roll.

So they get a ballot paper, fill it in, and also write their name and address and electorate on an envelope, into which the ballot paper goes. In the next week or so the Australian Electoral Commission checks the voter's bona fides and if the AEC agrees they should indeed have been on the roll, their ballot paper is counted.

At the 2004 election, about twelve and a half million people voted across the country. Some 180 878 people went through the provisional vote process described above, and of those, 90 366 were rejected, and 90 512 accepted.

So almost exactly 50 per cent made it into the count in 2004.

At last month's election, nearly 13 million people voted in total, and there were (none of the 2007 figures is final) 168 767 provisional votes received by the AEC.

But only 24 212 were counted; the rest were rejected.

That is, the acceptance rate of provisional votes fell from 50 per cent in 2004 to 14 per cent in 2007. Why?

The Howard government made several changes to the electoral law in the last few years, two of which would largely account for this huge drop.

First is the Proof of Identity (POI) rules for provisional voters. Such voters must either produce such proof (for most people a driver's license) when tendering their provisional vote, or get the ID to an AEC office the week following the election. Some provisional voters would not have had the identification on them, and we can easily imagine that many of these would not have bothered, or would not be able to, provide it in the following week, especially as the election result was then known.

But POI would probably account for a small proportion of the numbers we are talking about. Most would be due to intra-electorate address changes. Under the old rules, if a person moved from one house to another in the same electoral district, and the AEC found out they had left Dwelling A, and so took them off the roll there, but didn't put them on at Dwelling B because the voter hadn't filled out a change of address form, they were still entitled to have their vote counted.

But that rule is no more, and such people were discarded in the preliminary scrutiny after last month's election.

The remaining 14 per cent—those who were accepted—were accidentally taken off by the AEC, could show they hadn't moved address, or were mistakenly thought to have died, perhaps.

(A person who moves from one electoral district to another, and drops off the electoral roll in the manner described above, cannot claim the right to vote on election-day. This is a long-standing rule that wasn't substantially altered by the recent electoral changes.)

Does all of this matter? From the point of view of the disenfranchised elector it does, although some argue that if you can't be bothered keeping your AEC details up to date you have no-one to blame but yourself.

There is also the fact that provisional voters are disproportionately left of centre. For example, the total national vote at the 2004 election split, after preferences, about 53 to 47 in the Coalition's favour. But provisional votes split about 53 to 47 to the ALP.

Last month, the nation voted about 53 to 47 in Labor's favour. Can we assume the "missing" provisional votes would have swung by the same amount, and so gone 59 to 41 in Labor's favour? If we do assume that, then they would have added about 0.1 per cent to Labor's national vote, and given them a few more seats.

Or maybe they wouldn't have swung by that much, and probably at least some of the "missing" provisionals should not have been counted anyway.

But even a conservative treatment of them delivers Labor the ultra-marginal McEwen and Bowman.

Electoral law is not black and white. The tension is between integrity of the roll and people's right to vote. Throw in partisan considerations—from both sides—and it's a heady mix.

The Coalition government has rammed through some long-held hobby horses since taking control of the Senate in 2005. The new Labor government will have its own, although passage through the Senate may be difficult.

It appears that some 70 000 fewer provisional votes were allowed into the count in 2007 compared with 2004. Furthermore, the uncharacteristic drop in the number of provisional votes actually received (they have in the past tended to increase from election to election) itself indicates that electoral officials' knowledge of the rules may have resulted in fewer people attempting to cast a provisional vote than would have under the old rules.

Any electoral system must guard against fraud. But the fact is—and all political parties know it—that the legitimate electors who are likely to lose their vote under tighter restrictions—renters, young folks, people who move around a lot, those without a drivers license—tend to vote left of centre in greater numbers than the rest of us.

This informs the parties' approach to electoral law.

The Australian Electoral Commission runs a first class operation on election-day. Beneath the calm, efficient exterior at the polling booth is a massive logistical exercise that remains the envy of much of the planet.

But on enrolment we have fallen behind world's best practice. In many countries address changes are automatic—you don't have to tell the officials, they change your details for you—and in others enrolment and detail changes are possible up until polling day.

It's time for Australian enrolment procedures to move into the 21st century. Then issues such as provisional voting would hardly arise.

The Audit believes it is important that the whole political nation is able to participate in elections and register their preferences, rather than being excluded on technical grounds such as failure to register a new address. Until we move to the widespread international practice of automatic enrolment and change of address, we should at least be as liberal as possible in accommodating citizens who turn up to vote assuming their change of address has been recorded.