

Eligibility for Membership of State Parliament

2026 Secret Harbour State By-election

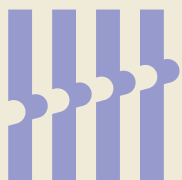


WESTERN AUSTRALIAN
Electoral Commission

Our Purpose and Values

The WA Electoral Commission's purpose is to provide all Western Australians with accessible, efficient and high quality electoral and enrolment services.

The Commission is guided by its four core Values:



Make It Count

We strive for excellence in everything we do, because the work we do matters. We're curious, always looking for opportunities to learn, grow and be open to new ideas and ways of working.



Check Every Box

We are accountable and take responsibility for our choices and actions. We are empowered to succeed and take pride in delivering quality outcomes.



Focus On Fairness

We are committed to doing what is right, not what is easy. We act with integrity and sound judgement, fostering trust through fair, impartial, and transparent decision-making.



Achieve Together

We're united in our shared purpose. Strengthened by diversity, we collaborate through open and respectful communication, welcoming every voice.

The Western Australian Electoral Commission acknowledges the Traditional Owners of the lands on which our electoral activities take place. We pay our respects to Elders past, present and emerging.

Table of contents

1 About this Guide.....	4
2 Qualifications for membership of State Parliament	4
3 Disqualifications for membership of State Parliament.....	4
4 Public employees standing for election	6

1 About this Guide

The following summary is designed to assist you in determining whether you may need to seek advice on your eligibility for nomination or membership of the Legislative Assembly.

The qualifications and disqualifications for membership of State Parliament are to be found in the following Western Australian legislation:

- *Electoral Act 1907* (E)
- *Electoral Regulations 1996* (ER)
- *Constitution Acts Amendment Act 1899* (CAA)
- *Public Sector Management Act 1994* (PSM)

Certain other Acts under which candidates may be employed may stipulate the need to stand down or resign from a position prior to either nominating as a candidate or taking up a seat in the Legislative Assembly.

Additional information is available on our website, elections.wa.gov.au, including:

- *2026 Secret Harbour By-election Candidates Guide*
- *2026 Secret Harbour By-election Expected Behaviours Brochure*
- *2026 Secret Harbour By-election Funding and Disclosure in Western Australia Guide*
- *2026 Secret Harbour By-election How-to-vote Card Registration Guide*
- *2026 Secret Harbour By-election Formality of Ballot Papers Guide*
- *2026 Secret Harbour By-election Election Campaign Workers and Scrutineers Guide*.

Refer to Appendix 1 of the *2026 Secret Harbour By-election Candidates Guide* for a glossary of terms.

2 Qualifications for membership of State Parliament

To be eligible to take up a seat in the Legislative Assembly, the following qualifications apply, *Electoral Act 1907*, section 76A:

- the candidate must have resided in Western Australia for one year
- the candidate must be 18 years or older
- the candidate must not be subject to any legal incapacity
- the candidate must be an Australian citizen
- the candidate is an elector entitled to vote in a district.

3 Disqualifications for membership of State Parliament

If any of the following circumstances are applicable, a person will be disqualified from taking up a seat in the Legislative Assembly:

- a person is an undischarged bankrupt, or a debtor against whose estate there is a subsisting receiving order in bankruptcy, *Constitution Acts Amendment Act 1899*, section 32(1)(a)
- has been convicted of treason, and has not been granted a pardon for the offence, *Electoral Act 1907*, section 18(1)(b)
- a person has been convicted on indictment of an offence for which the indictable penalty was or included imprisonment for life or imprisonment for more than 5 years, *Constitution Acts Amendment Act 1899*, section 32(1)(b)
- a person is serving or is yet to serve a sentence or sentences of detention (imposed under the *Young Offenders Act (1994)* or imprisonment, of one year or longer, *Electoral Act 1907*, section 18(1)(c)
- a person is serving or is yet to serve indefinite imprisonment imposed under Part 14 of the *Sentencing Act 1995*, *Electoral Act 1907*, section 18(1)(ca)
- a person is subject to an order under repealed sections 19(6a)(a), 282(c)(iii) or (d)(ii), 653, 661, 662 or 693(4) of *The Criminal Code*, *Electoral Act 1907*, section 18(1)(cc)
- a person is, or is taken to be, a mentally impaired accused as defined in the *Criminal Law (Mentally Impaired Accused) Act 1996*, *Electoral Act 1907*, section 18(1)(cd)
- a person is a holder of any office specified in Part 1 of Schedule V of the *Constitution Acts Amendment Act 1899*, *Constitution Acts Amendment Act 1899*, section 34(1)(a)
- a person is a member of the Commonwealth Parliament, a Territory Parliament or another State Parliament, *Constitution Acts Amendment Act 1899*, section 34(1)(b)
- a person is a member of the other House of Western Australia's Parliament, *Constitution Acts Amendment Act 1899*, section 34(2)
- a person holds an office or place in the service of the Crown in right of the Commonwealth or another State of the Commonwealth or in the service of the government of, or any department or agency of the government of, the Commonwealth or a Territory or another State of the Commonwealth and that office or place has not been exempted under section 36 of the *Constitution Acts Amendment Act 1899*, *Constitution Acts Amendment Act 1899*, section 36(1)(a)
- a person holds an office as a member of any commission, council, board, committee, authority, trust or other body, and was appointed as such a member by the Crown in right of the Commonwealth or another State of the Commonwealth, or by the government of, or any department or agency of the government of, the Commonwealth or a Territory or another State of the Commonwealth and that office or place has not been exempted under section 36 of the *Constitution Acts Amendment Act 1899*, *Constitution Acts Amendment Act 1899*, section 36(1)(b)
- a person is a holder of any office or place specified in Part 2 of Schedule V of the *Constitution Acts Amendment Act 1899* (not being an office also specified in Part 1 of Schedule V of the *Act*) and does not vacate the office or place upon his or her election to State Parliament (includes State police, teachers, public servants and various others), *Constitution Acts Amendment Act 1899*, sections 37(1)(a), 37(3)
- a person is a member of any commission, council, board, committee, authority, trust or other body specified in Part 3 of Schedule V and does not vacate the office or

place upon his or her election to State Parliament, *Constitution Acts Amendment Act 1899*, sections 37(1)(b), 37(3)

- a person is the subject of a lack of capacity notice or becomes of unsound mind, *Electoral Act 1907*, section 18(1)(a) and *Constitution Acts Amendment Act 1899*, section 38(e)
- a person is the holder of a temporary visa entry permit for the purposes of the *Migration Act 1958 (Cth)*, or is an unlawful non-citizen under that Act, *Electoral Act 1907*, section 18(d).

4 Public employees standing for election

- State public sector employees may nominate but must take leave of absence for the election period commencing on the first working day after nomination. The *Electoral Regulations 1996* authorise public employees to apply for and take leave and for public employers to grant leave for this period, *Electoral Regulations 1996*, 28
- A State employee may be required to resign, by other legislation, before nominating for election. Subject to some conditions, a State employee may be entitled to re-enter public sector employment should he or she not be elected, *Public Sector Management Act 1994*, sections 103, 104
- It is recommended that public sector employees considering nominating as a candidate seek independent legal advice if they are unclear about their rights and obligations under their present employment.

This Guide provides general information only. It is not, nor is it intended to be, a substitute or replacement for the legislation. It is your obligation to comply with the legislation. We can provide general guidance on matters, but are not able to offer legal advice. If you are in doubt as to your obligations, please seek your own independent legal advice.

Western Australian Electoral Commission

Level 2, 66 St Georges Terrace, PERTH WA 6000
GPO Box F316, PERTH WA 6841

Phone (08) 9214 0400 or 13 63 06

Email waec@waec.wa.gov.au

Web elections.wa.gov.au

Translating & Interpreting Service (TIS)

13 14 50 and then ask for (08) 9214 0400

National Relay Service (NRS)

Voice Relay 1300 555 727

SMS Relay 0423 677 767



WESTERN AUSTRALIAN
Electoral Commission