

# Registering a Political Party in Western Australia GUIDELINES



WESTERN AUSTRALIAN Electoral Commission

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## Foreword

Under the provisions of Part IIIA of the Western Australian *Electoral Act 1907* (the Act), organisations and community groups are able to register as political parties. These guidelines have been prepared to assist organisations seeking to register as political parties to contest Western Australian parliamentary elections. They outline the essential legislative requirements of the Act and provide guidance on the registration of political parties. Following these guidelines will assist greatly in the smooth processing of applications for registration.

This is one of a series of publications prepared by the Western Australian Electoral Commission to assist parties, candidates and community members to better understand the requirements of the *Electoral Act 1907*.

These guidelines provide an overview only and should be used in conjunction with the *Electoral Act 1907* and the *Electoral (Political Finance) Regulations 1996*, which together fully explain and set out the legislative requirements for registered political parties.



Robert Kennedy

**ELECTORAL COMMISSIONER**



## Introduction

Legislation for the registration of political parties is contained in Part IIIA of the *Electoral Act 1907* (the Act). These guidelines provide information on the registration requirements of the Act for parties seeking to register for Western Australian parliamentary elections.

## What is a political party?

The Act defines a political party as one that specifies, as an object or activity in their constitution, the promotion of a candidate or candidates endorsed by it for the election to the Parliament of the State. To be eligible for registration a political party must have a party secretary, constitution and at least 500 members who are electors at the time the party applies for registration.

## What are the advantages of registering a party?

Party registration allows the use of a party name or abbreviation on the ballot paper. It also provides for the registered political party to have the nomination of their registered candidates dealt with centrally by the Western Australian Electoral Commission.

## If a party is registered in WA, is it also registered for other States and the Commonwealth?

No, party registration in WA is separate and distinct from any registration requirements under Federal or other State or Territory law.

## When should an application for party registration be lodged?

An application for party registration, or any application to change the name or abbreviation of an already registered party, may be made at any time. However, in order to contest a State general election, an application for registration must be made 12 months prior to the issue of writs for that election.

Approximately four months should be allowed to process an application for registration of a political party. Applications for registration will be determined in the order in which they are received.

**No action can be taken on any application once the writ for an election, including a by-election, is received by the Electoral Commissioner. Action will recommence after the last day for the return of the writ.**

## How does a political party register with the Electoral Commission?

An application for registration is to be submitted by the secretary of the party using the form “FD14 - *Application to Register a Political Party*”. The form sets out the name for the party, an abbreviation or acronym for use on ballot papers (optional), as well as the name and address of the secretary, and is available from the Commission or at [www.elections.wa.gov.au](http://www.elections.wa.gov.au). The application must also include the names

and addresses of at least 500 members who are electors, declarations of party membership that are signed and date by the members, a copy of the party's constitution and a \$2,000 application fee.

## Party membership details

A list of names and addresses of at least 500 party members who are electors is used to determine the party's eligibility for registration. It is recommended that the list of members who are electors be well in excess of the 500 required under the Act, as some members may not be on the electoral roll and therefore would not be accepted by the Electoral Commissioner.

The membership list will only be used for the purpose of ascertaining whether the party has 500 members who are electors. The membership list will be treated in confidence throughout the registration process.

The following details, at a minimum, are required to verify whether a member is an elector and assist in processing the application to register a political party:

- surname
- given and other names
- date of birth in dd/mm/yyyy format
- address, including number, street name, locality, and postcode and
- contact phone number.

It is preferable for these details to be submitted to the Western Australian Electoral Commission in an electronic spreadsheet. A template of such a spreadsheet is available on the Commission's website, [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

We recommend that you give each member a unique membership reference that links the form to the spreadsheet.

Lists which are illegible or do not show full names and address will delay the processing of the application and may jeopardise the party's registration if members cannot be identified on the electoral roll from the information provided. If the Electoral Commissioner is not satisfied that a person has been accepted for membership of the party in accordance with the party's constitution, that person will not be counted as a party member.

## Declarations of party membership

Signed declarations from each member included in the list of party members are to be included as part of the application. The declaration must be made on form "FD 15 - *Declaration of Party Membership*". It is preferable that the declarations are lodged electronically with the Commission (e.g. PDF), rather than in physical copy.

## What should a party's constitution include?

The detailed structure and content of the constitution are not specified in the Act. However, a useful starting point for an organisation considering registration and required to develop a constitution is the publication by the Department of Mines, Industry Regulation and Safety, "A Guide for Incorporated Associations in Western Australia". This guide provides a basic introduction to various aspects of managing an association such as governance, membership, office bearers and their appointment, meetings and finance and accounts.

As required by the Act, one stated purpose or object of the party that must appear in the constitution is 'the promotion of the election to Parliament of a candidate or candidates endorsed by the party'. A party name would typically head the constitution and the rules with respect to such names are stated in the Act and later in this guide.

As to membership, the Act is specific in that to be eligible for registration a party must have a least 500 members who are electors and this will be tested by the Western Australian Electoral Commission. Information in the constitution with respect to membership would be a necessary element and clear instruction as to the categories, fees and lists will assist in the functioning of the party.

As to governance, it would be useful to include details on the appointment or election of office bearers and their terms along with information on the party's decision-making processes.

Critically, the constitution should identify those persons responsible for conducting the financial affairs of the party, the keeping of accounts and the recordkeeping requirements. This aspect of the party's operation will be subject to scrutiny by the Electoral Commissioner.

## What is a secretary and who can fill that position?

The secretary of the party is the person holding the office of secretary, or chief administrative officer, and is responsible for the day-to-day operation of the party.

The secretary is ordinarily appointed by the party and is the person who, on behalf of the party, endorses candidates in an election. The secretary is also responsible for lodging annual party registration returns with the Commission.

The Electoral Commissioner is to be informed of any changes to the political party's secretary either in writing or via the use of form "FD16 - *Appointment of Party Secretary*", available at [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

## What is a party agent and who can fill that position?

A party agent is responsible for lodging disclosure returns and claims for electoral funding. To be eligible for appointment the nominated person must:

- be over the age of 18
- be appointed in writing by the party
- declare their eligibility and consent to the position and

- not have been convicted of an offence under the disclosure provisions of the Act.

A party agent must be appointed once a political party is registered. The Electoral Commissioner must be informed of the appointment, or any changes to the appointment, of the party agent by the use of form “FD1 - *Notice of Appointment of an Agent by a Political Party*”.

## What is the Registration fee?

A non-refundable fee of \$2,000 is payable upon lodgement of an application. The fee can be paid via EFT, making sure to include the party name in the payment description. Contact the Senior Electoral Liaison Officer at the Commission for other payment options.

Commonwealth Bank	BSB	066 – 040
WA Electoral Commission	ACC	17800001

## What can a party be called?

A party may select its own name, noting that the Electoral Commissioner is to refuse to register a political party if the party’s application name –

- has more than 4 words
- is obscene or offensive
- is the name, or an abbreviation or acronym of the name, of an existing party
- so nearly resembles the name, or an abbreviation or acronym of the name, of an existing party that it is likely to be confused with or mistaken for the name, abbreviation or acronym
- includes the word “royal” or the word “independent”
- includes a word of which a letter, other than the first letter, is a capital letter
- is a public body name
- so nearly resembles a public body name that it is likely to be confused with or mistaken for the public body name
- would otherwise be likely to cause confusion if registered.

## What happens after the application is lodged?

### Notice of application

When the Electoral Commissioner is satisfied that the party may be eligible for registration, the Electoral Commissioner will place a notice of the application for party registration in the WA *Government Gazette* and a newspaper circulating generally in the State. The notice will:

- set out the name, and abbreviation or acronym if provided, of the party
- set out the name and address of the person nominated to be the secretary of the party and
- invite any elector who believes that the application is not in accordance with the Act to lodge a statement with the Electoral Commissioner within one month of the notice.

The Electoral Commissioner will inform the secretary of the party of the above in writing.

### **Objections**

Any elector who believes a party is not eligible to be entered into the register of political parties may lodge a written submission objecting to the registration of that party.

An objection must set out the name, address and signature of the elector and the grounds under section 62G(3)(b) of the Act for the objection.

Objections must be lodged with the Electoral Commissioner within one month after the day of publication of the *Government Gazette* notice. Objections will be made available for public inspection during office hours at the Western Australian Electoral Commission.

The Electoral Commissioner, unless the objection is considered frivolous, will provide the applicant with a copy of the statement of objection as well as a notice inviting the applicant to reply to the statement within a reasonable period.

Any reply will also be made available for public inspection during office hours at the Western Australian Electoral Commission.

### **Variation of application**

If the Electoral Commissioner is of the opinion that the application may have to be refused, but that the application might be varied to avoid refusal, the party secretary will receive written notice of that opinion.

The Electoral Commissioner will reconsider the application if a written response is received within one month varying the information in the initial application or requesting the Electoral Commissioner to proceed with the original application.

### **Refusal of application**

Where the Electoral Commissioner is not satisfied that the party is eligible for registration, the Electoral Commissioner will advise in writing that the application has been refused, the reasons for the refusal and the process for seeking a judicial review of this decision.

The Electoral Commissioner may refuse an application for the registration of a political party if:

- the Electoral Commissioner believes on reasonable grounds that information set out in, or documents required to accompany, the application are incorrect
- the name that the party is applying to use does not conform to the requirements of the Act as described under “What can a party be called?” in this publication

### **Registration of party**

After taking into consideration any objections and the applicants’ response to them, and where the Electoral Commissioner is satisfied that the party is eligible for registration, the Electoral Commissioner will enter the party details into the Register of Political Parties.

Advice that the party has been registered will be provided to the party secretary, any elector who made a statement in objection to the registration and by notice in the *WA Government Gazette*.

## How can I amend the registration details of a party?

A registered political party may apply to the Electoral Commissioner to change certain details that appear in the Register of Political Parties. It may:

- change the party name
- change the abbreviation of the name or
- add an abbreviation if there is not already one in the Register.

To apply to amend registered details the party must submit the application form, and any other information requested by the Commission. The same criteria apply to the name or abbreviation as if it were an application for a new registration.

The application process is also similar to a new registration in that notice of the application is given and objections can be lodged before a determination is made.

## What are the requirements for continued registration?

The secretary of a registered party must lodge a return for continued registration unless the party has been registered for less than six months. The return must be lodged between 1 June and 30 June each year, include a declaration confirming continued eligibility. Failure to lodge this annual return will result in the registration of the party being cancelled.

## How can a party's registration be cancelled?

The Electoral Commissioner may cancel a party's registration at the written request of the party secretary or if satisfied on reasonable grounds that:

- registration was obtained by fraud or misrepresentation
- the party did not endorse at least one candidate to contest the last conjoint election
- a return required to be lodged under Part VI (Funding and Disclosure) of the Act by an agent of that political party has been outstanding for more than 12 months
- the party is not a parliamentary party and is no longer an eligible political party
- the party no longer exists

The Electoral Commissioner must cancel the party's registration if the secretary fails to lodge an annual return for party registration.

Before cancelling the registration of a party, the Electoral Commissioner will advise the secretary of the party of the intention to cancel the registration and set out the steps open to the party.

A notice of proposed cancellation will be published in the *Government Gazette* and a newspaper circulating generally in the State.

Written objections lodged within 14 days of the notice appearing in the *Government Gazette* will be considered before a final decision is made.

Once the Electoral Commissioner has made the decision to cancel the registration of a party the Electoral Commissioner will advise the secretary of the party in writing and cause a notice of the cancellation to be published in the *Government Gazette*.

## Can a decision be reviewed?

Any person affected by a decision made by the Electoral Commissioner to register a party, refuse to register a party, cancel the registration of a party, or modify the details of a party in the Register of Political Parties, may apply for a review of the decision to the Supreme Court of Western Australia. The application must be in writing, set out the grounds on which review is sought and be made within one month after the decision comes to the notice of the person seeking review.

The Supreme Court, constituted by one Judge, will review the decision of the Electoral Commissioner, and notify the person seeking the review of the outcome.

## Is it possible to look at the register?

The Register of Political Parties is available on the Western Australian Electoral Commission website at [www.elections.wa.gov.au](http://www.elections.wa.gov.au). The Register is also available for public inspection, by appointment, during office hours at the Western Australian Electoral Commission, Level 2 111 St Georges Tce, Perth WA.

## Other information

### Financial Disclosure and Election Funding

For information on the provisions of Western Australia's funding and disclosure legislation, please see the Western Australian Electoral Commission's *Funding and Disclosure in Western Australia Guidelines*.

### Nominations

For information on nominating candidates see the Western Australian Electoral Commission's *Candidate Guide Legislative Assembly and Legislative Council*.

### Where can I get a copy of the *Electoral Act 1907*?

The *Electoral Act 1907* is available from the Western Australian Legislation website at [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au)

Further information may be obtained by contacting the Senior Electoral Liaison Officer at the Western Australian Electoral Commission using the contact details overleaf.

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