



WESTERN AUSTRALIAN
Electoral Commission

Candidates Guide – Legislative Council

2021 State General Election



OUR PURPOSE

To provide Western Australians with an electoral experience that they understand, trust and can access easily and efficiently.

OUR VALUES

Impartial

Our electoral outcomes will not be influenced by others

Professional

Our work will be at the highest standards for ethics, accuracy and efficiency

Respectful

Our relationships will be courteous, honest and fair with all

Innovative

Our systems and processes will adapt to customers' needs

Collaborative

As a team we will consult and test new ideas with customers



WESTERN AUSTRALIAN
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Foreword

This booklet is issued by the Western Australian Electoral Commission as a guide for candidates at the 2021 State general election. It contains a broad outline of Western Australia's electoral process, including the nomination process and rules regulating campaign activity.

As a prospective Member of Parliament, you should also familiarise yourself with the eligibility requirements set down in Western Australia's *Constitution Acts Amendment Act 1899*.

Western Australian legislation is available from the Department of Justice Parliamentary Counsel's Office at www.legislation.wa.gov.au

Additionally, with regards to the COVID-19 global pandemic, all candidates and political parties should be familiar with Government health advice provided in a separate publication titled *State General Election 2021 Covid-19 Management Plan* which can be accessed at www.waec.wa.gov.au

Candidates should note that the 2021 State general election will be conducted differently from past elections. Physical distancing and hygiene practices are likely to impact such activities as voting, counting and scrutineering. The extent of this impact will be determined by the status of the COVID-19 pandemic in Western Australia at the time of the election.



Robert Kennedy
Electoral Commissioner

September 2020

2021 WA State General Election Timeline

DAY OF ISSUE OF WRITS (First Wednesday of February) 6pm	39	FEB 3	Wed
Nominations & Applications for Early Votes (by post) open	38	FEB 4	Thurs
	37	FEB 5	Fri
	36	FEB 6	Sat
	35	FEB 7	Sun
	34	FEB 8	Mon
	33	FEB 9	Tues
	32	FEB 10	Wed
Close of Party Nominations (12pm) & Rolls Close (6pm)	31	FEB 11	Thurs
CLOSE OF NOMINATIONS (12pm) & Draw For Ballot Paper Positions	30	FEB 12	Fri
	29	FEB 13	Sat
	28	FEB 14	Sun
Voting Ticket Lodgement (12pm)	27	FEB 15	Mon
	26	FEB 16	Tues
	25	FEB 17	Wed
	24	FEB 18	Thurs
	23	FEB 19	Fri
	22	FEB 20	Sat
	21	FEB 21	Sun
Early Voting (by post) commences	20	FEB 22	Mon
	19	FEB 23	Tues
Early Voting (in person & technology assisted) commences	18	FEB 24	Wed
	17	FEB 25	Thurs
	16	FEB 26	Fri
Mobile Polling for Special Institutions, Hospitals and Remote Areas may commence	15	FEB 27	Sat
	14	FEB 28	Sun
Public Holiday – Labour Day	13	MAR 1	Mon
	12	MAR 2	Tues
	11	MAR 3	Wed
	10	MAR 4	Thu
	9	MAR 5	Fri
	8	MAR 6	Sat
	7	MAR 7	Sun
	6	MAR 8	Mon
	5	MAR 9	Tue
Scrutiny of Early Votes may commence (8am) Close of Written Applications for Early Votes (by post) (6pm)	4	MAR 10	Wed
	3	MAR 11	Thu
Close of Issue of Early Votes (in person) (6pm)	2	MAR 12	Fri
POLLING DAY (8 am to 6pm) (Second Saturday of March)	1	MAR 13	Sat
	2	MAR 14	Sun
	3	MAR 15	Mon
	4	MAR 16	Tue
	5	MAR 17	Wed
Close for Receipt of Early Votes (by post) (9am)	6	MAR 18	Thu
Last possible date for Return of Writ	53	MAY 4	Tues

The planned 2021 State General Election timeline is as shown above however S.64(1) of the Electoral Act 1907 and Government health advice may necessitate changes to these abovementioned dates. It is therefore current as of 10 June 2020.

1 What You Should Know Before You Nominate

This section describes the qualifications required to be a member of the Legislative Council (MLC) and the qualifications to nominate as a candidate for election as an MLC. It also provides guidance for public servants who nominate as candidates in State elections.

1.1 Qualifications to be a Member of the Legislative Council

Any person is qualified to be elected as a member if he or she:

- has reached the age of 18
- is not subject to any legal incapacity
- is an Australian citizen
- has resided in Western Australia for one year
- is an elector entitled to vote in a district.

1.2 Disqualifications to be a Member of the Legislative Council

A person cannot nominate as a candidate in an election if, prior to and until the hour of nomination, he or she is, either by the *Electoral Act 1907* or any other Act, disqualified from being elected at that election as a member of the House of Parliament for which the election is being held.

A booklet, *Eligibility for Membership of State Parliament*, summarising qualifications and disqualifications can be obtained separately from the Commission or downloaded from the election website (www.elections.wa.gov.au). The qualifications and disqualifications are also summarised in Appendix 2.

A person may not nominate for more than one region or district at an election. The penalty for nominating when a candidate is not qualified is \$1,000.

1.3 Public Employees Standing for Election

A member of the Judiciary or a Parliament of the Commonwealth or another State or Territory must resign his or her office in order to nominate. Holders of certain other senior positions must also resign in order to nominate.

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 authorise public sector employees to apply for and take leave and for public employers to grant leave for this period.

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 after results have been declared, should he or she not be elected.

It is recommended that public sector employees considering nominating as a candidate seek independent legal advice if at all unclear about their rights and obligations under their present employment.

2 Nominating as a candidate

This section describes the process for nominating as a candidate.

2.1 How and When is a Candidate Nominated?

A *RO19 Nomination Form and Receipt – Legislative Council* can be obtained by contacting any regional or district Returning Officer or online at www.elections.wa.gov.au.

Nominations may be received at any time between 6.00 pm on the day of the issue of the writ and 12.00 noon on the day that nominations close – Friday 12 February 2021.

Candidates can nominate in two ways:

- Candidates who are endorsed by a registered political party may have their nomination endorsed by the party secretary and complete form *RO28 Centralised Nomination Form – Legislative Council*. The party secretary of a registered political party can endorse candidates and groups by completing form *HO3 - Centralised Nominations Lodgement Form and Receipt - Legislative Council*. The registered political party can submit all their endorsed candidates and groups to the Electoral Commissioner up to noon Thursday 11 February 2021
- Candidates who are not endorsed by registered political parties can nominate themselves using form *RO19 Nomination Form and Receipt – Legislative Council* and *Form RO20 Supplementary Nomination Details for Candidates and Groups - Legislative Council* with the Region Returning Officer by noon Friday 12 February 2021.

2.2 Deposit

Nominations are not valid unless a deposit of \$250 is paid before the close of nominations. Payments can only be made in cash (including money order) or by bank cheque drawn by a financial institution made payable to the Electoral Commissioner.

A personal cheque or credit card payment is NOT acceptable.

The deposit is returned:

- if the total number of votes polled by the candidate (or the candidate's group) is more than 4% of the total votes polled by all the candidates; or
- on the death of a candidate either before polling day or on polling day before the close of the poll.

Deposits not returned are forfeited to the State.

2.3 How Candidate Names Appear on the Legislative Council Ballot Paper

The form in which a candidate's name is to appear on the ballot paper is specified on the nomination form. It must include the candidate's surname and may include one or more of the candidate's given names which may be stated as one of the following:

- the given name or names in full;
- an initial(s) standing for the given name(s); or
- a commonly accepted variation of the given name (including an abbreviation or truncation of the name or an alternative form of the name – eg. Pina instead of Giuseppina).

Be very clear when writing names such as van de Klashorst, de Bono or l'Estrange as to what is the exact form and punctuation of the surname.

Where two or more candidates' names are similar and are likely to cause confusion, the names of those candidates may be arranged with such description or addition as to distinguish them from one another by the Returning Officer.

A candidate's name must be written in the alphabet used for the English language.

2.4 Use of a Registered Political Party Name on a Ballot Paper

Only candidates endorsed by a registered political party may apply to have the name of that party printed underneath their name(s) on the ballot paper. The use of this political party name must be authorised by the secretary of the party or, in the case of a composite name of two registered political parties, by the secretaries of both parties, by endorsement on the form *HO3 Centralised Nominations Lodgement Form and Receipt – Legislative Council*.

Names are printed on ballot papers in the following format:

SMITH, Lee
Purple Party

2.5 Applications for the Word Independent to be used on a Ballot Paper

A candidate may apply to have the word 'Independent' printed on the ballot paper by completing the section on the form *RO20 Supplementary Nomination Details for Candidates and Groups – Legislative Council*.

This will be shown on the ballot papers as:

SMITH, Lee
Independent

A candidate may also opt to have no designation shown on the ballot paper.

This will be shown on the ballot paper as:

SMITH, Lee

3 What happens after you have nominated?

This section describes what happens after you have lodged your nomination form with the Electoral Commissioner or Returning Officer.

3.1 Can a Person be Nominated More Than Once?

No. If at the hour of nomination (12 noon on 12 February 2021) a person is nominated more than once to be a candidate in a particular electorate, or a person is nominated to be a candidate in more than one electorate, each such nomination is invalid and the nominee will be not be listed as a candidate.

3.2 Can a Nomination be Rejected?

No nomination paper shall be rejected by the Returning Officer because of any defect or error, if the Returning Officer is satisfied that the provisions of the Act have been substantially complied with.

3.3 Can a nomination be Withdrawn?

Yes. A candidate may withdraw a nomination up to the hour of close of nominations by notice in writing to the Returning Officer. A candidate included in a group may not withdraw his or her nomination except with the consent of the other candidates in that group. A candidate may not withdraw a nomination after the close of nominations.

Upon withdrawal of a nomination, the deposit is forfeited to the State.

3.4 Close of Nominations

The date and place for the close of nominations for each district and region will be published in *The West Australian* newspaper following the issue of the writ. Information is also available from the Returning Officer, the Commission, or the Commission's website at www.elections.wa.gov.au

The Returning Officer will be available at the place of declaration of nominations between 11.00 am and 12.00 noon on the day of close of nominations. At other times a suitable place and time to lodge a nomination can be negotiated by arrangement with the Returning Officer.

3.5 How Candidates are Grouped on the Ballot Paper

Two or more candidates may make a request to the Electoral Commissioner to be included as a group on the ballot paper.

The names of candidates who are in a grouping, but not endorsed by a registered political party, must be listed in the order in which they are to appear on the ballot paper and be accompanied by the signature of each candidate. The claim for the grouping should be made on form *RO20 Supplementary Nomination Details for Candidates and Group – Legislative Council*. This form is available from the Returning Officer or the Commission and on the Commission's website at www.elections.wa.gov.au and must be received by the Returning Officer before the close of nominations.

For candidates who are endorsed by a registered political party the secretary of the party is able to list the order candidates are to appear on the ballot paper. The claim for grouping should be made on form *HO3 Centralised Nominations Lodgement Form and Receipt – Legislative Council* and must be received by the Electoral Commissioner 24 hours before the close of nominations.

It is advisable to submit a claim for the grouping of candidates as early as possible so that it can be checked by the Returning Officer for compliance with the legislation. The claim for grouping may be withdrawn before the close of nominations. This must be done using form *RO21 Withdrawal of Claim for Grouping of Candidates – Legislative Council*.

A candidate who has been included in a group and who wishes to withdraw his or her nomination, cannot do so except with the consent of the other member(s) of the group.

If a nomination is withdrawn by any member of a group, the original claim for grouping is rendered invalid. A new claim for grouping must be made for the remaining members to stand as a group. This claim must be received by the Electoral Commissioner or Returning Officer **before** the close of nominations.

3.6 Draw for Position on Ballot Paper

A draw to determine the order of groups and candidates on the ballot paper is conducted by the Returning Officer at the designated place of declaration of nominations immediately after the close of nominations.

In the draw, the Returning Officer:

- places a slip for each group bearing the names of all candidate in that group, in separate hollow opaque spheres, places all spheres in a ballot box and closes it
- shakes and rotates the ballot box and permits any other person present to do likewise upon request
- opens the ballot box
- takes out and opens one of the spheres to remove the slip enclosed, then announces and records it
- repeats the procedure until all spheres have been removed.

The Returning Officer then repeats this process to determine the ballot paper order of ungrouped candidates.

The order of groups and candidates derived from this process becomes the order in which they appear on the ballot paper, with the first group drawn being the first listed group on the ballot paper.

Candidates and other interested persons are entitled to observe this process.

Candidate details will be published in The West Australian newspaper and an electronic version of candidates' names in ballot paper order will also be available from www.elections.wa.gov.au

3.7 Voting Tickets

A voting ticket is a statement of a particular order of candidate preferences, provided by a group or candidate in a Legislative Council election. Electors may cast an above the line ticket vote as an alternative to casting a candidate preference vote for every candidate listed below the line. The voter only has to place the numeral 1 (or a tick or a cross) in the party, group or candidate voting ticket square above the line on the ballot paper. The ballot paper is then counted according to the preference expressed on the voting ticket submitted by that candidate, group or party.

3.7.1 Authorisation to Lodge a Voting Ticket

Candidates or groups who wish to authorise another person to lodge a voting ticket on their behalf must complete a written authorisation for this person to do so. This authorisation is included in forms *RO20 Supplementary Nomination Details for Candidates and Groups* or *HO3 Centralised Nominations Lodgement Form and Receipt – Legislative Council*, the same form as the claim for grouping. Accurate contact details for the authorised agent are extremely important due to the limited time available between the close of nominations and the deadline for the lodgement of voting tickets.

This completed authorisation must be lodged with either the Electoral Commissioner or the Returning Officer before the close of nominations. Individual candidates wishing to lodge their own voting ticket need not complete this authorisation, but should note that no other person can then lodge a voting ticket on their behalf.

3.7.2 Lodgement of Voting Ticket

Voting ticket preferences are to be marked on form *RO22 Voting Ticket Preferences*, which will be forwarded to all candidates or their agents as soon as possible on the evening of the day on which nominations close (ie. Friday 12 February 2021). Names of all candidates will be pre-printed in ballot paper order with a box beside each one.

The preference sequence must be numbered from 1 up to the total number of candidates on the ballot paper. There must be no repeated numbers and no gaps.

A voting ticket must show a preference for the candidate or group (in ballot paper order) for which the voting ticket has been lodged, over all the other candidates in the election.

The completed voting ticket must be lodged with the Electoral Commissioner within 24 hours of the close of nominations. Because the impact of the weekend, this equates to 12.00 noon, Monday 15 February 2021. It is advisable to submit all forms relating to voting tickets as early as possible as the 12.00 noon deadline is strictly applied.

3.8 Death of a Candidate

If a candidate dies after nomination day and before or on polling day (ie. before the hour of closing of the poll) the election is void. The deceased candidate's deposit shall be returned to his or her legal representative.

Should it become known that a candidate has died on polling day, the Returning Officer shall immediately:

- close the poll for the election in that region but keep the polling place(s) open for other elections being held (i.e. Legislative Assembly districts and other Legislative Council regions); and
- report the fact of the death and the time and close of the poll to the Electoral Commissioner.

If, after the close of the poll on polling day and before the counting of votes has been completed, a candidate dies, and on completion of the count of votes it is found that this candidate would have been elected, it would be treated as if the deceased candidate had vacated a seat in the Council immediately after being elected.

3.9 Uncontested Elections

If by the close of nominations only six candidates have nominated for a particular Legislative Council region, the Returning Officer declares those candidates as having been elected unopposed.

3.10 Candidate Details Publicly Available

Candidates should note that once nominations close, candidate contact details, as specified by the candidate on the nomination form, automatically become publically available.

The Commission will publish candidates' contact details on its website, and will provide the media and the public with candidates' contact details. The only exception being that the address details of a candidate who is a silent elector under section 51B of the *Electoral Act 1907* will not be made public.

3.11 Correct Pronunciation of Candidate Names for Technology Assisted Voting

For the 2021 State general election, the Commission is providing two forms of Technology Assisted Voting - Vote Assist and Telephone Assisted Voting (TAV) to eligible electors to cast a secret and unassisted vote. An eligible elector is defined as an elector who cannot vote without assistance because the elector has insufficient literacy skills or is sight impaired or otherwise incapacitated.

Telephone Assisted Voting (TAV) allows eligible electors to vote over the telephone (via a two stage process) by having the voting instructions and ballot paper information read to them and Commission staff recording their vote preferences, whilst ensuring elector anonymity.

Vote Assist allows electors who visit selected Vote Assist Polling Places to listen to pre-recorded voting instructions and ballot paper information, select their preferences using a special keypad and then have their completed ballot papers self-printed (face down and in private) prior to ballot box lodgement.

Prior to recording candidate names into the Vote Assist system following the close of nominations and as a guide for Telephone Assisted Voting telephone operators, the Commission will endeavour to contact candidates with names that could potentially be

pronounced incorrectly, to confirm the correct or preferred pronunciation. Every effort will be made to have names pronounced as requested by candidates or their representative for both forms of Technology Assisted Voting offered by the Commission.

3.12 Copies of the Electoral Roll to Candidates

Candidates may request electronic lists of electors enrolled for the districts in the region for which they are a candidate. Candidates who belong to a well-established and registered political party will typically obtain a copy of the rolls directly from their party administration. The data included on the electoral rolls is to be used for electoral purposes only.

To receive the electronic rolls for their districts within their region, candidates must first complete an application form/confidentiality agreement (Form RM27C). Depending on when they nominate, candidates can receive a copy of the latest electoral lists (available in 2 working days from the date the application is received) or the final rolls within 8 days of the close of enrolments.

If candidates receive roll information via their political party administrators the same confidentiality agreement conditions apply (Form RM27C).

Form RM27C is available from the Returning Officer, the Commission's Enrolment & Education Branch (switch: 9214 0400), or can be downloaded from the Commission's website at www.elections.wa.gov.au. It should be lodged directly with the Enrolment & Education Branch at enrolinfo@waec.wa.gov.au or by fax to (08) 9226 0577. Once a request has been processed, the electronic rolls are provided for download through a secure internet site.

4 What You Must, Can and Cannot do as a Candidate

This section describes what a candidate must and can do in an election, and those things that a candidate is not permitted to do.

The most obvious role for a candidate in an election is to conduct their campaign in an attempt to be elected. In doing so, there are some rules that apply, for example with advertising in both electronic and paper forms. There are requirements of how gifts (donations) and electoral expenditure must be recorded and reported.

Candidates are not permitted to take a direct role in certain operational aspects of the election, including observing electors casting their vote and scrutinising the count in their region.

However, candidates can appoint scrutineers to represent them during the voting process and at the scrutiny of votes.

4.1 Campaigning

Prospective candidates can commence their campaign for election at anytime. They do not have to formally nominate or have their nomination declared before they start campaigning.

Campaigning can take a number of forms, including advertising in the press, on radio and television, through websites, through the distribution of pamphlets, flyers and posters, email, social media, public relations exercises or meeting the public face to face. How a candidate conducts their campaign is entirely up to the candidate (or the party they represent) within the confines of the law.

However, there are legal requirements that must be met. The *Electoral Act 1907* requires that campaign material be authorised. The requirement to authorise radio and television advertising is regulated under the Commonwealth's *Broadcasting Services Act 1992*.

4.2 Election Material Must Be Correctly Authorised

Any publication of material, whether printed or electronic, that is intended to, calculated or likely to affect voting in an election must be authorised.

Any publication of any electoral advertisement, handbill, pamphlet or electoral notice (other than an advertisement in a newspaper announcing the holding of a meeting), must have at the end of it, the name and address of the person authorising it. It must be a physical address as opposed to a PO Box number.

If the material is printed, then it must include the name and place of business of the printer at the foot of the material, unless the advertisement is in a newspaper, in which case the printer is obvious and contactable.

If election material is produced and printed by the one person (eg. using a home computer and printer), then the legislative provisions are satisfied by adding 'authorised and printed by (name) (address)' at the end of it.

Certain small items of a candidate or party promotional nature are exempt from the requirement to carry the authorisation and addresses. These include:

- T-shirts, lapel buttons, lapel badges, pens, pencils or balloons
- business or visiting cards that promote the candidacy of any person in an election
- letters and cards that bear the name and address of the sender and which do not contain a representation or purported representation of a ballot paper for use in an election.

A campaign website or social media site must be authorised, along with any advertising on the Internet (eg. banner ads). Comments posted to a social media site do not need to be authorised.

Penalties may be applied for non-compliance with the authorisation requirements.

4.3 Signage

The *Electoral Act 1907* imposes no limitations on the size or placement of electoral signage (apart from in the immediate vicinity of a polling place), however it is recommended that candidates make themselves familiar with relevant local government by-laws and ensure the placement of signage near road verges does not impact on traffic safety. WA's three key transport agencies - Main Roads, Department of Transport and Public Transport Authority also have powers in respect of the placement of signage near roads and intersections in the interest of public safety.

4.4 Misleading or Deceptive Publications Must Not be Produced

A person must not, during the relevant period in relation to an election, print, publish or distribute or cause, permit or authorise to be printed, published or distributed:

- any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the elector's vote (i.e. in the act of voting)
- an advertisement, handbill, pamphlet or notice that contains a representation of a ballot paper for use in that election that is likely to induce an elector to mark a ballot paper otherwise than in accordance with the directions on the ballot paper.

To 'publish' includes publish by radio, television digital or other electronic means. The 'relevant period' means the period commencing when the notice of the issue of the writ is published in the *Government Gazette* and ending at the latest time on polling day at which an elector can enter a polling place to cast a vote.

4.5 Prohibition on Canvassing or Polling within 100 metres of a Polling Place

It is unlawful to collect, canvass for, solicit or invite signatures or comments for the purpose of any petition, opinion poll or survey, or display or distribute any information for such a purpose within 100 metres of a polling place.

4.6 Rules Relating to Income Received and Expenditure Incurred

All candidates and Legislative Council groups should be aware that they, or their agent, have a requirement to disclose information about gifts (donations) received and certain electoral expenditure relating to the election contested. Even if no money is received or spent there is a requirement to indicate this to the Western Australian Electoral Commission after the election by lodging a 'NIL' return.

For candidates who receive over 4% of the total valid first preference votes they, or their agent, can apply for reimbursement of electoral expenditure.

For candidates endorsed by a political party your agent is automatically the party agent. For all other candidates you are personally responsible for keeping and maintaining records for any gifts (donations) or electoral expenditure unless you appoint an agent to do so on your behalf. The deadline for appointing an agent is before 6pm on Friday 12 March 2021.

The publication *Funding and Disclosure in Western Australia - Guidelines* outlines in greater detail the disclosure obligations of political parties, associated entities, candidates, groups and other persons and is available from Returning Officers or the Commission's website www.elections.wa.gov.au

4.6.1 Disclosure Period – for Returning Candidates

If a candidate has previously stood for election within the past five years the disclosure period for gifts and expenditure commences 31 days after polling in the most recent previous election at which the person was a candidate. The disclosure period ends 30 days after polling in the current election.

4.6.2 Disclosure Period – for New and Other Candidates

For new and other candidates the disclosure period extends from one year before the candidate is nominated in the current election to 30 days after polling day in the current election.

4.6.3 Disclosure Period – for Legislative Council Groups

For Legislative Council groups the disclosure period for all relevant expenditure extends from the time of claim for grouping to 30 days after polling day in the current election.

4.6.4 Gifts (Donations)

A gift can be defined as income that is provided for a political purpose and no consideration or payment is made by the recipient for the amount or service donated. A gift can be a monetary donation, discounted or free rent, discounted or free professional services like accounting, printing, legal fees etc.

Candidates, or their agents, must issue receipts for all gifts to donors. The details of donors who contribute \$2,500 or more, including donors who make a series of donations that equal or exceed \$2,500 must be disclosed. The receipt must include:

- a unique reference
- the date of the receipt
- the amount of money received
- the form, for example: cash, cheque, electronic transfer etc, in which the money was received
- the name and address of the donor
- the purpose of the donation (for example: candidate donation 2021 State election).

It is unlawful to accept gifts equal to or more than \$2,500 from unidentified donors.

4.6.5 Electoral Expenditure in Relation to an Election

Electoral expenditure, in relation to an election, means expenditure incurred (whether or not incurred during the election period) on—

- (a) the broadcasting, during the election period, of an advertisement relating to the election
- (b) the publishing in a journal, during the election period, of an advertisement relating to the election
- (c) the display, during the election period, at a theatre or other place of entertainment, of an advertisement relating to the election
- (d) the production of an advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c)
- (e) the production of any material (not being material referred to in paragraph (a), (b) or (c)) that is required to include the name and address of the person authorising the material and that is used during the election period

- (f) the production and distribution of electoral matter that is addressed to particular persons or organisations and is distributed during the election period
- (g) consultant's or advertising agent's fees in respect of —
 - (i) services provided during the election period, being services relating to the election, or
 - (ii) material relating to the election that is used during the election period
- (h) the carrying out, during the election period, of an opinion poll, or other research, relating to the election.

4.6.6 Reimbursement of Electoral Expenditure (Public Funding)

Candidates are not automatically entitled to a reimbursement of their electoral expenditure. Reimbursement of electoral expenditure can be made if the number of first preference valid votes received by the candidate, or group, is over 4% of the total number of formal votes cast at the election in the electorate.

If candidates meet the requirement, a claim must be submitted within 20 weeks of polling day. For candidates who are endorsed by a political party, the party agent may make the claim on their behalf.

The amount paid will be the lesser of the declared electoral expenditure or of the entitled amount. The entitled amount is the number of formal first preference votes multiplied by the public funding amount, which is \$1.96699 per eligible vote until 30 June 2021.

A claim for reimbursement of electoral expenditure must be accompanied by an audited statement proving the claim and supporting records are in compliance with the *Electoral Act 1907 and Electoral (Political Finance) Regulations 1996*.

The statement should indicate that the audit was conducted in accordance with the Australian auditing standards and be certified by a qualified member of a recognised accounting organisation; for example CPA Australia, the Institute of Chartered Accountants, or the National Institute of Accountants. The statement should be attached to the claim form.

Where a claim is not accompanied by an audit statement the candidate may be requested to provide copies of receipts or other evidence to substantiate the claim.

4.7 Appointing Scrutineers

Scrutineers are an important part of the election process and are appointed by candidates (or their official agent) to represent them during various stages of the election. Scrutineers provide a vital role as a safeguard of the integrity and transparency of elections to ensure that they are conducted according to the Electoral Act 1907.

Scrutineers may be appointed to observe the following stages of the election process:

- accompanying mobile polling teams
- observing the processing of declaration votes
- observing the operation of polling places during polling
- observing the scrutiny of ballot papers.

The appointment of scrutineers is made in writing to the Returning Officer or Polling Place Manager and must be signed by the candidate or their official agent. An appointment form is available from the Returning Officer or Polling Place Manager, or can be downloaded from the Commission's website. After being appointed, scrutineers are required to wear name tags (and a yellow vest at most locations), as provided by the Returning Officer or Polling Place Manager.

A *Guide for Scrutineers* is also available from the Returning Officer or www.elections.wa.gov.au.

Scrutineers must never:

- interfere with or attempt to interfere with the free exercise of the franchise of any elector
- wilfully make a false statement in any objection to any claim or to any name on the roll
- disclose any knowledge officially acquired that concerns the vote of any elector
- fail to obey lawful directions of the Returning Officer or Polling Place Manager
- handle ballot papers or voting declaration made by electors
- remove any identification required by the Returning Officer or Polling Place Manager
- wear or display any badge or emblem of a candidate or political party while in a polling place.

Penalties are prescribed for these offences.

The number of scrutineers that can be appointed and their level of access at the 2021 State general election may be impacted by the COVID-19 pandemic.

5 The Voting Process

This section describes the various means by which an elector may cast a vote in an election, as well as details about the electoral roll.

5.1 Electoral Roll

The electoral roll contains the name and address of all WA residents who are eligible to vote at the State election, except for the address of those electors whose address has been suppressed for reasons of personal safety (i.e. known as silent electors).

The rolls for the election close at 6 pm on Thursday 11 February 2021.

For voting at the 2021 election, the roll will be in two formats. For most voters casting an ordinary vote in the district in which they are enrolled, their name will be marked off a printed paper electoral roll.

An electronic State roll using the Elector Recording System (ERS) will be used extensively in early voting centres and in polling places where absent votes are significant.

By connecting through wireless communication to a central copy of the electoral roll, ERS will:

- speed up the process of issuing absent votes
- identify electors who have already voted or been issued a postal vote
- reduce the risk of a voter being marked off the roll more than once
- reduce the manual tasks and time needed for reconciling and processing of rolls at the end of the election day
- reduce the amount of time required to process absent votes prior to them being included in the full distribution count process.

5.2 Ballot Papers

Two ballot papers are issued to every voter. The smaller, largely white Legislative Assembly ballot paper and the larger coloured Legislative Council ballot paper. Each of the six Legislative Council region ballot papers will be printed in a different colour. The colours will be illustrated on the Commission website.

5.3 Ordinary Voting

Ordinary voting is the most common type of voting and occurs on polling day when electors cast their vote at a polling place within the district in which they are enrolled.

Each elector must answer three questions prior to being issued with their ballot papers:

1. Have you already cast an early vote for this election or already voted today?
2. What is your full name?
3. Where do you live?

After the elector has answered the three compulsory questions and been marked off on the electoral roll, they are handed ballot papers and directed to a voting screen. In all but the very smallest polling places, the marked ballot papers are then placed in separate ballot boxes.

5.4 Absent Voting

An absent vote is given to an elector who is enrolled in another district and is temporarily out of that district. Absent ballot papers may be issued for any district in any polling place within the State.

The elector will be asked the compulsory questions to determine eligibility before being given the ballot papers for his or her enrolled district and region. The elector will then be asked to sign a declaration of eligibility to vote on a manual declaration form or if the polling place has an ERS issuing point, be marked off the electoral roll electronically.

The manual declaration is sent to the Commission attached to the envelope containing the ballot papers. It is used to confirm the elector's eligibility and mark the elector's name off the correct electoral roll at the Processing Centre.

5.5 Early Voting by Post

Early Voting (by post) is a vote cast by an elector by post after applying for a postal vote before the day of the election, typically because they are unable to attend a polling place on election day.

Electors can apply for a postal vote from Thursday 4 February 2021 until 6.00 pm Wednesday 10 March 2021. Electors must have the declaration on the postal vote witnessed before the close of polls and the postal vote must not be postmarked later than Sunday 14 March 2021. The postal vote must be received by the Commission no later than 9 am Thursday 18 March 2021.

5.6 Early Voting (in Person)

Early Voting (in person) is a vote cast by an elector in person at a designated early voting centre before the day of the election.

Early voting will be available from Wednesday 24 February 2021 until 6.00 pm Friday 12 March 2021. The locations at which early votes can be issued will be advertised on the Commission's website.

5.7 Technology Assisted Early Voting

The Commission is providing two forms of Technology Assisted Voting - Vote Assist and Telephone Assisted Voting (TAV) to eligible electors to cast a secret and unassisted vote. An eligible elector is defined as an elector who cannot vote without assistance because the elector has insufficient literacy skills or is sight impaired or otherwise incapacitated.

Telephone Assisted Voting (TAV) allows eligible electors to vote over the telephone (via a two stage process) by having the voting instructions and ballot paper information read to them and Commission staff recording their vote preferences, whilst ensuring elector anonymity.

Vote Assist allows electors who visit selected Vote Assist Polling Places to listen to pre-recorded voting instructions and ballot paper information, select their preferences using a special keypad and then have their completed ballot papers self-printed (face down and in private) prior to ballot box lodgement. Locations where Vote Assist will be available will be posted on the Commissions' website.

As a form of Early Voting, TAV (both Application and Vote Casting) opens at 9 am Wednesday 24 February 2021. TAV will be offered throughout the Early Voting period, up to and including election day, Saturday 13 March 2021. Application for TAV will close at 4 pm election day, with Vote Casting for TAV closing 6 pm election day. TAV daily operating hours throughout the Early Voting period will be posted on the Commission's website.

5.8 Mobile Polling at Special Institutions, Hospitals and in Remote Areas

Mobile polling has traditionally been conducted at special institutions (typically hospitals, nursing homes, remand centres and prisons) and in remote areas. A team of election officials conduct mobile polling in the 14 days prior to polling. Election officials may move around the venue issuing early votes to voters or establish a static voting area within the venue for a period of time.

The capacity to conduct mobile polling visits in aged care facilities, hospitals and the like during the 2021 State general election may be impacted by the COVID-19 pandemic.

Candidates may appoint scrutineers to accompany the mobile team. Returning Officers will advise candidates of arrangements for mobile polling.

How To Vote information for electors can usually be left at the general office of a special institution or hospital by candidates and political parties. During mobile polling at an institution, hospital or remote area, when accompanying polling officials with a mobile portable ballot box, scrutineers may distribute literature (including 'how to vote' cards) but may not otherwise influence, canvass, solicit or petition voters.

As a trial at the next State general election, remote mobile polling teams will be authorised to carry a file containing plastic sleeves in which a copy of each how to vote card or pamphlet relevant to the Mining & Pastoral region/districts can be placed by the Remote Polling Manager.

At each remote mobile polling venue, the file referred to will be placed in a location where it can be accessed by electors.

5.9 Provisional Declaration Voting

A provisional declaration vote may be issued to an elector in a polling place in the following situations:

- the elector claims to have lived in the district and enrolled, yet the elector's name cannot be found on the electoral roll
- the elector's entry on the electoral roll is already marked
- the elector's claim to vote is challenged by a scrutineer

- the elector's name has been objected to by an enrolment officer.

The elector will still be asked the compulsory questions before being given ballot papers to complete and place into an envelope.

The elector will be asked to sign a declaration of eligibility. All electors who complete a provisional vote should also complete a new electoral enrolment form.

All provisional declarations are checked at the Processing Centre before the final count of votes by the Returning Officer.

6 Counting the Votes

This section describes the processes for the counting of votes. Counting of votes is undertaken over a number of stages, from the initial count at the polling places, the check of declaration and postal votes at the Processing Centre to fresh and further scrutinies of ballot papers, and the final distribution of preferences.

6.1 At Polling Places

Counting of ordinary votes commences soon after the poll closes at 6.00 pm on polling day and the last electors present have cast their vote. Legislative Assembly ballot papers are always counted before Legislative Council ballot papers.

Legislative Assembly ballot papers are firstly removed from the ballot boxes by the Polling Place Manager and then sorted into the order of first preference for each candidate (i.e. ballot papers are sorted and then counted based on which candidate has the number 1 vote). Ballot papers which are possibly informal are put to one side for checking by the Polling Place Manager.

Polling Place Managers also complete an indicative two candidate preferred count or notional distribution of preferences. This involves the distribution of preferences from candidates who will probably be excluded under the preferential system. The Electoral Commissioner selects the two candidates in each district that he believes are likely to receive the highest number of first preference votes. The preferences of the other candidates are distributed to the two selected candidates. When the results of all the polling places in the district are aggregated, it provides an indicative and unofficial, but typically fairly accurate, means of predicting the likely result on election night.

After the Legislative Assembly votes have been counted, the Legislative Council ballot papers are sorted into ticket (those marked above the line) and candidate preference votes (those marked below the line) and those that are obviously informal.

Only the above the line ticket votes are counted, recorded and then sent through to Returning Officers for posting to the results website. Polling Place Managers simply record the number of ballot papers where electors have voted below the line, as well as the number of obvious informal papers. No further counting of Legislative Council votes occurs at the polling place.

After each of the three counts described above, the results are recorded and phoned or faxed through to the Returning Officer for each district. Each Returning Officer enters the figures into the election management system portal for posting to the results section of the Commission's website at www.elections.wa.gov.au.

Absent and provisional envelopes are counted and packaged then sent to the Commission's Processing Centre as soon as practicable after election night to be checked and the votes counted in the days following polling day.

6.2 Results to be Available Online

As results become available they will be progressively published online at www.elections.wa.gov.au. It should be noted that the count on polling day provides an indicative result only, as all ballot papers are rechecked and counted by the Returning Officer after the close off for the receipt of declaration votes at 9.00am Thursday 18 March 2021.

Results will be available at polling place level. Results and party summaries will be updated every few minutes up to the close of counting on election night. Updates will also be available progressively as the counting of declaration votes proceeds after polling day.

6.3 Processing Centre

The following activities will be undertaken at the Processing Centre:

- checking of declaration certificates from 8 am Wednesday 10 March 2021
- preliminary counting of all declaration votes into first preferences and indicative two candidate preferred
- sorting and data entry of Legislative Council ballot papers marked above the line
- sorting, packing and transporting Legislative Council ballot papers marked below the line to the offsite scanning contractor.

After the close of polling at 6.00pm on Saturday 13 March 2021, verified Legislative Assembly early votes received up to that point will be counted at the Processing Centre. The counting of Legislative Council early votes will typically commence on Monday 15 March 2021.

6.4 Determination of the Poll

Regional Returning Officers will contact all candidates in their region to notify them of the operations at the Processing Centre. Returning Officers will be able to declare the final results once all votes have been entered into CountWA, the electronic vote counting system. This is likely to be from about two weeks following polling day.

Candidates may appoint scrutineers to represent them at the count. After the count has occurred the Returning Officer declares the poll and returns a statement, endorsed with the names of the elected members of the Legislative Council, to the Electoral Commissioner.

6.5 Count Checking and Re-counts

A Returning Officer may, at the request of a candidate or scrutineer or of their own volition, recount a particular bundle or group of ballot papers at any time prior to the poll being declared.

If there is an equal number of votes for the last vacancy the Returning Officer will place a slips bearing each of the candidates' names into separate identical hollow opaque spheres, place them in a ballot box and close it, shake and rotate the box, open the box take out and open one of the spheres to remove the slip enclosed. The name of the candidate on that slip shall be excluded and the other candidate shall be elected.

7 Complaints and Disputes

This section describes the process for lodging a complaint or disputing the result of an election, and provides a brief list of electoral offences.

Candidate complaints or queries should be directed to the Returning Officer in the first instance.

If you are not satisfied with the response from the Returning Officer you may seek a review of the matter. You should put your concerns in writing addressed to the Electoral Commissioner or follow the links on the election website www.elections.wa.gov.au. If your concern relates to electoral material, you will need to supply original examples of those documents with your complaint.

Complaints lodged with the Commission will be responded to or acknowledged within 24 hours or by the next business day.

8 Electoral Offences

See the *Electoral Act 1907* for a detailed description of all electoral offences.

The following is a brief list of particular activities that party workers, candidates, scrutineers and the public are not permitted to engage in:

- incorrectly authorising electoral material
- permit or authorise any matter or thing that is likely to mislead or deceive the casting of the elector's vote
- personating any person to secure a ballot paper to which the Personator is not entitled
- fraudulently destroying or defacing any nomination or ballot paper
- forging or uttering, knowing the same to be forged, any nomination or ballot paper
- fraudulently putting any ballot or other paper into the ballot box
- fraudulently taking any ballot paper out of any polling place
- supplying ballot papers without authority
- unlawfully destroying, taking, opening or otherwise interfering with ballot boxes or ballot papers

- voting more than once at the same election
- wilfully defacing, mutilating, destroying or removing any notice, list or other document affixed by any Returning Officer or by his or her authority.

Penalties are prescribed for these offences.

9 Disputing the Result of an Election

The validity of an election may only be disputed by petition to the Supreme Court sitting as the Court of Disputed Returns after the determination of the poll by the Returning Officer and within 40 days after the return of the writ.

A petition disputing an election or return shall:

- set out the facts relied on to potentially invalidate the election or return
- be in the format required by the *Electoral Act 1907*
- be signed by a candidate at the election in dispute
- be filed in the central office of the Supreme Court within 40 days after the return of the writ
- include a deposit of \$100 lodged with the Principal Registrar of the Supreme Court as a security for costs.

Any candidates wishing to apply to the Court of Disputed Returns should consult their own legal advisers.

Appendix One: Glossary

Absent Elector	An elector who votes outside their enrolled district on Election Day.
Absent Declaration Vote	If an elector goes to a polling place where no printed roll is held for the district he or she is enrolled for, the elector may be given an absent vote. The elector either completes a declaration form or is marked off an electronic roll at those polling places with ERS facilities.
Absolute Majority	The number of votes exceeding half of the total formal votes cast in an election.
Candidate	A person who nominates for election to Parliament.
Canvassing	The process of attempting to persuade electors to vote in a particular way.
Casual Vacancy	A Parliamentary vacancy usually caused by retirement, death or resignation of a member for that district or region.
Certified List	See Electoral Roll.
Close of Rolls	The date and time after which no further enrolments can be accepted for inclusion on the electoral roll. The rolls close at 6.00pm 11 February 2021 for the 2021 State general election.
Compulsory Enrolment	All eligible electors are required by law to enrol. Fines of up to \$50 can be imposed for non-compliance.
Compulsory Voting	The law requires all eligible electors to vote unless they have a valid and sufficient reason for not doing so.
Declaration of the Poll	Official announcement of the result of voting at an election or referendum by a Returning Officer.
Declaration Vote	Means one of the following methods of casting vote: Postal Vote Early Vote Absent Vote Provisional Vote Technology Assisted Vote
Declared Institution	An institution such as a hospital, residential care facility or prison, which is gazetted as a declared institution and visited by polling officials for the purpose of taking votes from patients, residents or inmates.

Distribution	The review and redrawing of electoral boundaries. In Western Australia it is conducted two years after every general election by the independent Electoral Distribution Commissioners in accordance with the provisions of the Electoral Act 1907.
District	<p>A district is an electorate for the Legislative Assembly.</p> <p>There are 59 districts, each electing one Member of Parliament.</p>
Early Vote	A vote cast before polling day by an elector who will be unable to attend a polling place on polling day. The term includes an early vote at a designated location, declared institution (mobile) vote and remote area vote, and a vote using technology assisted voting.
Elector	A person whose name appears on the electoral roll of eligible voters for an election.
Electoral Commissioner	The independent officer, appointed by the Governor, with the responsibility for the proper conduct of Parliamentary and other statutory elections.
Electoral Roll	The list of names and addresses of electors entitled to vote in an election or referendum. Used to mark the names of electors, is electronically scannable and is also referred to as the Certified List. May also be an electronic list accessed by a computer.
Electorate	An electoral district or region.
Enrolment	The act of having a person's name added to the list of electors entitled to vote.
Franchise	The right to vote at elections. The franchise in Western Australian elections is available to Australian citizens who are 18 years of age or over.
General Election	An election for all the seats in a House of Parliament.
How-To-Vote Card	A card or pamphlet handed out at an election showing how a party or candidate would prefer the elector to vote.
Informal Vote	A ballot paper which is either left blank, does not show preferences in accordance with instructions and/or the law, or where the voter's full intention is unclear, is informal. A ballot paper will also be informal if the voter can be identified through some marking which has been made on it. These ballot papers neither contribute to the election of a candidate nor are they included in calculating the quota/absolute majority required to be successful.
Issuing Officer	A person engaged by the Returning Officer on behalf of the Electoral Commission to issue ballot papers.

Issuing Point	A place for the Issuing Officer to issuing ballot papers.
Legislative Assembly	In Western Australia this is the Lower House of Parliament. The party or coalition of parties that achieves a majority of seats in this House forms government.
Legislative Council	In Western Australia this is the Upper House of Parliament. It is sometimes referred to as the 'House of Review'.
Mobile Polling	Polling which is carried out in remote areas, hospitals and declared special institutions. The electors serviced by this form of polling would usually be severely inconvenienced in attending a polling place due to remoteness or physical incapacity on polling day.
Nomination	The process by which a person applies to become a candidate for election.
Notional Distribution of Preferences	See Two Candidate Preferred Count
Ordinary Vote	An elector visits a polling place in the district for which he or she is enrolled, has his or her name recorded on the electoral roll and casts a vote.
Political Party	A political party is a body or organisation with a constitution or rules and common political objectives. It has its own office bearers and an active membership.
Poll	An election or referendum.
Polling	The process of electors recording their votes.
Polling Officials	Staff appointed to work in polling places on polling day. The staff are selected and appointed by Returning Officers.
Polling Place	A location where electors can vote on polling day.
Preferential Voting System	<p>The term "preferential voting" means voters indicate an order of preference for candidates on the ballot paper, i.e. who they want as their 1st choice, 2nd choice and so on.</p> <p>The elector must show a preference for all candidates listed on the ballot paper.</p> <p>In Western Australia, preferential voting systems are majority systems where candidates must receive an absolute majority, 50% plus 1 of the total formal votes cast, to be elected.</p>
Primary Vote	The primary vote for a candidate is the number of first preferences received on formal ballot papers in a count.

Proportional Representation	A voting system used in multi-member electorates which is designed to ensure that the number of successful candidates from each party and independents reflects as closely as possible the votes received as a proportion of all the total valid votes cast in an election. To be successful, a candidate is required to receive enough votes to reach a quota (not an absolute majority) which is based on the number of formal votes and the number of candidates to be elected. The Legislative Council of the Parliament of Western Australia is elected using a proportional representation system.
Provisional Vote	<p>A provisional vote is issued in certain circumstances. These include an elector whose name cannot be identified on the roll (and who claims to have enrolled); whose name has been marked off in error; or whose eligibility has been objected to by a scrutineer.</p> <p>The elector signs a declaration regarding their electoral information; receives the ballot papers for the district and/or region that they have claimed enrolment for and casts a provisional vote. The ballot papers are placed in an envelope attached to the declaration. The declaration is subsequently checked against the roll to determine the elector's eligibility, and, if the voter is found to be eligible to vote, the ballot paper(s) are included in the count.</p>
Re-count	A further count of votes in a close election, conducted at the discretion of the Returning Officer.
Registered Parties	Those political parties which are officially registered by the Commission and can use their name on the ballot paper.
Remote Area	An area classified as such because it is considered too remote to justify an ordinary polling place. The Commission requests the Returning Officer to arrange mobile polling in these areas.
Returning Officer	An electoral officer who is appointed by the Electoral Commissioner to be responsible for the conduct of elections in an electoral district or region.
Roll	See Electoral Roll.
Scrutineer	A person appointed by a candidate to observe the polling and counting procedures on the candidate's behalf during an election.
Scrutiny	The process following the close of polling to determine the formality of ordinary and declaration votes for the count and the result of the election.
Silent Elector	A person whose address details are omitted from the roll for security reasons.

Ticket Voting	<p>This type of voting applies to the Legislative Council only.</p> <p>Voters may number one box to indicate that their vote follows the order of preferences chosen (ticket) by a group or political party.</p>
Technology Assisted Voting	<p>Vote Assist and Telephone Assisted Voting (TAV) may be used by eligible electors to cast a secret vote. An eligible elector is defined as an elector who cannot vote without assistance because the elector has insufficient literacy skills or is sight impaired or otherwise incapacitated.</p>
Telephone Assisted voting (TAV)	<p>Allows eligible electors to vote over the telephone (via a two stage process) by having the voting instructions and ballot paper information read to them and Commission staff recording their vote preferences, whilst ensuring elector anonymity.</p>
Two-Candidate Preferred Count	<p>An indicative sort and count of votes following the first preference count of Legislative Assembly ballot papers at polling places on election night. Sometimes referred to as a notional distribution of preferences, it anticipates the flow of preferences to the two candidates selected by the Electoral Commissioner as the likely highest first preference vote getters. The ballot papers of other candidates are examined and each ballot paper is allocated to whichever of the two selected candidates has the lowest preference number opposite their name.</p>
Vote	<p>The indication of a choice of a parliamentary representative by completion of a ballot paper.</p>
Vote Assist	<p>Vote Assist allows electors who visit selected Vote Assist Polling Places to listen to pre-recorded voting instructions and ballot paper information, select their preferences using a special keypad and then have their completed ballot papers self-printed (face down and in private) prior to ballot box lodgement.</p>
Writ	<p>The legal instrument authorising an election to be held and which also sets key elements of the election timetable.</p>

Appendix Two: Eligibility for Membership of State Parliament

This summary of qualifications and disqualifications is designed to assist you in determining whether you may need to seek advice on your eligibility for nomination or membership of either the Legislative Assembly or the Legislative Council.

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

Electoral Act 1907 (E), *Electoral Regulations 1996 (ER)*, *Constitution Acts Amendment Act 1899 (CAA)* and the *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 either House of State Parliament.

Qualifications for Membership of State Parliament

To be eligible to take up a seat in the Legislative Assembly or Legislative Council, the following qualifications apply, E, s 76A:

- the candidate must have resided in Western Australia for one year
- the candidate must be 18 years or more
- the candidate must not be subject to any legal incapacity
- the candidate is an Australian citizen
- the candidate must be an elector entitled to vote at an election of a member of the Legislative Assembly.

Disqualifications for Membership of State Parliament

If any one of the following circumstances exists, a person will be disqualified from taking up a seat in either House of State Parliament:

- a person is an undischarged bankrupt, or a debtor against whose estate there is a subsisting receiving order in bankruptcy, CAA, s 32(1)(a)
- has been attainted of treason, E, s 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, CAA, s 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 E, s 18(1)(c)
- a person is serving or is yet to serve indefinite imprisonment imposed under *Part 14 of the Sentencing Act 1995*, E, s 18(1)(ca)
- a person is subject to an order under section 279(5)(b) of *The Criminal Code*, E, s 18(1)(cb)
- a person is subject to an order under sections repealed section 19(6a)(a), 282(c)(iii) (d)(ii), 653, 661, 662 or 693(4) of *The Criminal Code* E, s 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*, E, s 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*, CAA, s 34(1)(a)
- a person is a member of the Commonwealth Parliament, a Territory Parliament or another State Parliament, CAA, s 34(1)(b)
- a person is a member of the other House of Western Australia's Parliament, CAA, s 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*, CAA, s 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*, CAA, s 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), CAA, s 37(1)(a), s (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, CAA, s 37(1)(b), s (3)
- a person is of unsound mind, E, s.18(1)(a) and CAA, s 38(e)
- a person is the holder of a temporary entry permit for the purposes of the *Migration Act 1958*, of the Parliament of the Commonwealth as amended from time to time, or is a prohibited immigrant under that Act, E, s 18(1)(d).

Note: Holders of dual citizenship are not disqualified if they are otherwise qualified.

Appendix Three: Proportional Representation

Proportional representation is a voting system used in multi-member electorates such as the Western Australian Parliament's Legislative Council regions. It is designed to ensure that the mix of successful candidates in a multi-member electorate reflects as closely as possible the proportional break-up of all the valid votes cast in an election. To be successful, a candidate is required to receive enough votes to reach a quota (not an absolute majority) which is based on the number of formal votes and the number of candidates to be elected. The method of proportional representation used in the Legislative Council elections is the Weighted Inclusive Gregory System.

In very general terms, under the notion of proportional representation, if a party or group of candidates receives 50% of the formal vote, that party or group will gain 50% of the seats in the parliament. Thus if a political party received 50% of the vote in the North Metropolitan region, it could expect to gain 3 of the 6 seats allocated to this region.

The quota required is calculated using the following formula:

$$\frac{\text{Number of formal votes per region}}{\text{Number of MLCs to be elected per region} + 1} + 1 = \text{quota required}$$

For example, at the 2017 State general election for the North Metropolitan region the formula gave the following result:

$$\frac{346,985}{6 + 1} + 1 = 49,570$$

In this case a candidate needed at least 49,570 votes to be elected.

Note: The fraction (346,985 / 7) is rounded down before the 1 is added to obtain the quota required - i.e. 49,570.

Surplus Votes

Candidates, who receive a number of votes equal to or greater than the quota, are elected immediately. Any votes of these elected candidates, which are surplus to the quota, are transferred to the remaining candidates at a reduced value known as a transfer value.

The transfer value is calculated as follows:

$$\frac{\text{Candidate's number of surplus votes}}{\text{Total number of votes the candidate received}} = \text{transfer value}$$

Excluding Candidates

If at any stage there are no candidates with a surplus of votes and not all Council seats have been filled, the candidate with the fewest votes is excluded from the count.

The excluded candidate's ballot papers are distributed to the remaining candidates at the same vote value as they were received. In some counts this will mean ballot papers are transferred at the value of 1 while others will have various transfer values.

This process of distributing surplus votes from elected candidates and excluding the candidate with the fewest votes is continued until all vacancies are filled.

Appendix Four: Material Available to Candidates

Once printed in the lead up to an election, prospective candidates may request free of charge a copy of this Guidelines document. It is however, also available for review and download from the Commission's website at www.elections.wa.gov.au.

At the time of nominating or as soon as possible thereafter, candidates will receive a candidate pack containing the following:

- Legislative Council – Candidates Guide (this document)
- Scrutineers Guide
- Funding and Disclosure in Western Australia Guidelines
- Electronic electoral roll (in print format and manipulable format) for the districts in the region that the candidate is contesting.

To receive the electronic electoral roll candidates must complete an application form/confidentiality agreement (Form RM27C). Depending on when they nominate, candidates can receive a copy of the latest electoral roll for their region (available in 2 working days from the date the application is received) or the final roll within 8 days of the close of enrolments. Candidates who belong to a well-established and registered political party will typically obtain a copy of the roll directly from their party administration.

Form RM27C is available from the Returning Officer, the Commission's Enrolment & Education Branch (switch: 9214 0400), or can be downloaded from the Commission's website at www.elections.wa.gov.au. It should be lodged directly with the Enrolment & Education Branch at enrolinfo@waec.wa.gov.au or by fax to (08) 9226 0577. Once a request has been processed, the electronic roll is provided for download through a secure internet site.

Western Australian Electoral Commission

Level 2, 111 St Georges Terrace
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GPO Box F316
Perth WA 6841

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EMAIL waec@waec.wa.gov.au
WEBSITE www.elections.wa.gov.au
FAX (08) 9226 0577

**Translating & Interpreting Service
(TIS)**

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

National Relay Service (NRS)

Speak & Listen number 1300 555 727
SMS Relay number 0423 677 767