

# Maintaining the Register of Political Parties Policy and Procedure

Version 1.0

Approval



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**Electoral Commissioner**

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## Version history

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## Review

This policy will be reviewed **every two years** from the approval date, or if the relevant regulatory frameworks change in a way that means this policy is no longer contemporary for the ECQ.

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## Purpose

To guide the Electoral Commission of Queensland (ECQ) in maintaining the Register of Political Parties (the Register), to ensure all statutory requirements are satisfied. This is also a public policy, to provide electors and Queensland electoral participants with transparency about how the Register is maintained.

## Rationale

Maintaining the Register is a key function of the ECQ under s7(1)(a) and Part 6 of the *Electoral Act 1992* (the Act). The Act prescribes how the Register will be maintained, including (amongst others) provisions about how political parties seeking registration may apply (section 71), how such an application will be assessed and decided (sections 72-76), how to amend the Register (section 77), and how to cancel a party's registration (section 78).

Some provisions relating to the application process are also contained in the Electoral Regulation 2013 (the Regulation).

## Guiding principles

The ECQ conducts transparent, fair, and democratic elections. The ECQ will maintain the Register in accordance with the following principles:

1. **Recognition of political parties.** Political parties play an important part in the election process, and their place in the electoral system should be recognised.
2. **Public confidence in elections must be preserved.** Election procedures should be open and subject to review to ensure public confidence in the integrity of the election system and election outcomes is maintained.
3. **Neutrality of election officials.** The conduct and administration of elections should not be influenced by political considerations. Persons responsible for conducting elections, including enabling activities, should be politically neutral in their dealing with all electoral participants.
4. **Prevention of electoral fraud.** All possible steps should be taken to eliminate electoral fraud.
5. **Right to query or dispute an election.** Both the Act and the *Local Government Electoral Act 2011* (the LGEA) provide a complete and exclusive process by which any election result may be disputed which is available to all candidates and electors (within the relevant district or division) who wish to query or dispute the conduct or outcome of an election.
6. **Right to review other decisions made by the ECQ.** Judicial and administrative review procedures are available to all candidates and electors (within the relevant district or division) who wish to query or review a decision made by the ECQ that affects them.

A Human Rights Impact Assessment, in accordance with section 58(5) of the *Human Rights Act 2019* (the HRA), was conducted to identify human rights that may be affected by the subject matter of this policy. This policy intersects with section 22 'Peaceful assembly and freedom of association' and section 23 'Taking part in public life' of the HRA. Although it places limits in some respect to those rights, it does so overall, to enhance public participation in public life and so is compatible with human rights.

## Part 1 – The Register

### 1. The Register

1.1. The following information is considered to constitute the Register:

- (a) The name of the registered political party,
- (b) The registered abbreviation of the registered political party (if applicable),
- (c) The name and address of the party's registered officer,
- (d) The constitution of the party, and
- (e) The names of the associated entities of the party.

1.2. The ECQ maintains the Register as text (in a table format) on its website, [www.ecq.qld.gov.au](http://www.ecq.qld.gov.au).<sup>1</sup>

1.3. The ECQ can take no action in respect of an application to register a political party or an application to amend the Register in any way (including cancellation of a registered political party) during the election period for a State election (including a by-election).<sup>2</sup>

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<sup>1</sup> Section 70(2) of the *Electoral Act 1992* allows the ECQ to keep the register in the form and way the ECQ considers appropriate. Section 388A of the *Electoral Act 1992* allows the ECQ to publish information and documents in the Register.

<sup>2</sup> Section 73(3) of the *Electoral Act 1992*

## Part 2 – Applying for registration

### 2. Determining eligibility to apply for registration

- 2.1. Before an application to register a political party is made, an organisation will need to consider its status and establish that it is both a “political party”, and a “registrable political party”.
- 2.2. An organisation is a political party if it has as one of its objectives the promotion of the election to the Legislative Assembly of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.<sup>3</sup>
- 2.3. A registrable political party means a political party that is established on the basis of a written constitution (however described), that sets out the aims of the party, and either:
- (a) is a parliamentary party, or
  - (b) has at least 500 members who are electors.<sup>4</sup>
- 2.4. A parliamentary party is a political party of which at least 1 member is a member of an Australian Parliament.<sup>5</sup>

### 3. Applying for registration

- 3.1. If a registrable political party wishes to become a registered political party under the Act, the secretary of the party must submit an application for registration on the ECQ’s approved form.<sup>6</sup>
- 3.2. The Act requires that certain information and documents be included in or with the application.<sup>7</sup> Appendix 1 of this Policy outlines the information and documents which must be provided, as well as additional information, regulations or administrative policies which the ECQ has adopted.
- 3.3. The ECQ prefers applications for registration to be submitted electronically, via email to [fad@ecq.qld.gov.au](mailto:fad@ecq.qld.gov.au). However, physical documents can be delivered via post or in person to the ECQ’s Head Office if necessary.

### 4. Publishing notice of application for registration

- 4.1. The Act requires the ECQ to publish a notice as soon as practicable after receiving an application for registration.<sup>8</sup> The ECQ will only publish the notice once it is determined (to the extent outlined in this paragraph) that the application is complete and meets the requirements of section 71 of the Act (refer to Appendix 1 of this Policy and Procedure).

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<sup>3</sup> Schedule 1 of the *Electoral Act 1992*

<sup>4</sup> Schedule 1 of the *Electoral Act 1992*

<sup>5</sup> Schedule 1 of the *Electoral Act 1992*

<sup>6</sup> Section 71(3) of the *Electoral Act 1992*

<sup>7</sup> Section 71(4) of the *Electoral Act 1992*, section 4 of the Electoral Regulation 2013

<sup>8</sup> Section 72(1) of the *Electoral Act 1992*

- 4.1.1. If the application does not meet the requirements of section 71 of the Act, it is not considered a complete application, and is therefore not deemed to have been received by the ECQ (until it is completed).<sup>9</sup>
- 4.1.2. For the purposes of assessing whether the requirements have been fulfilled, the ECQ will conduct a preliminary check of the membership list against the Queensland electoral roll and complete a preliminary assessment of the party's constitution to ensure it complies with section 76 of the Act.<sup>10</sup>
- 4.1.3. Preliminary membership check: If the applicant is not a Queensland parliamentary party, the ECQ will complete a comparison of the party's submitted membership list against the Queensland electoral roll to confirm that the stated party members are electors. A "match" will be automatically confirmed if the elector has the same first name and surname, has the same address or former address, and has the same date of birth.
- 4.1.3.1. The ECQ may exercise its discretion to accept a name as "matched" if it is not automatic under Paragraph 4.1.3.<sup>11</sup> If there is doubt about whether a member should be accepted as being "matched" against the Queensland electoral roll, the ECQ may exercise its discretion whether to accept the person, after taking reasonable steps to clarify whether the member should be accepted as matched.
- 4.1.3.2. Following the membership check, the ECQ will advise the party secretary how many members were matched against the roll (and thus verified as electors). If this number is less than 500, the ECQ will invite the party secretary to voluntarily withdraw their application for registration. Alternatively, the party secretary may submit the names and addresses of additional members who are electors, in which case the ECQ will repeat the process.
- 4.1.3.3. When advising the party secretary about the outcome of the membership check, the ECQ will not reveal the names of electors who were either accepted or rejected.<sup>12</sup> However, a general list of reasons may be provided (e.g. "six members were not accepted as their names did not appear on the Queensland electoral roll").
- 4.1.3.4. If the party secretary does not wish to withdraw the application, despite not having 500 members as electors, the ECQ will advise the party secretary that the ECQ cannot consider the application, as it does not comply with section 71 of the Act.

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<sup>9</sup> Section 48A of the *Acts Interpretation Act 1954*

<sup>10</sup> The membership will only be required for political parties which are not Queensland parliamentary parties. Queensland parliamentary parties are not required to have 500 electors as members.

<sup>11</sup> For example, it may be required to exercise discretion around married vs. maiden names, shortened vs. elongated names, etc.

<sup>12</sup> *Information Privacy Act 2009*.

4.1.4. Assessing the constitution: The ECQ will complete a preliminary check of the party's constitution to ensure it is compliant with section 76 of the Act (refer to Paragraph 10 and Appendix 2 of this Policy and Procedure).

4.1.4.1. If a party's constitution is not compliant, the ECQ will invite the party secretary to voluntarily withdraw the application for registration, or amend the party's constitution (in accordance with the provisions of that same constitution).

4.1.4.2. If the party does not wish to withdraw the application or amend its constitution, despite not having a compliant constitution, the ECQ will proceed with publishing the required notice (as per Paragraphs 4.2 and 4.3 of this Policy and Procedure).<sup>13</sup> A notice published due to this paragraph may indicate to the public that the ECQ intends on refusing the application received due to the non-compliant constitution.

4.2. Queensland Government Gazette notice: Following a successful membership check and constitutional assessment, the ECQ will arrange for a notice to be published in the Queensland Government Gazette (the Gazette) in the next ordinary issue.<sup>14</sup>

4.3. Website notice: Despite section 72(1)(b) of the Act, the ECQ is not required to publish a notice in a newspaper circulating generally in the State of Queensland. This is because the provision is overridden by Part 5A of the *Financial Accountability Act 2009* (the FAA).

4.3.1. Part 5A of the FAA mandates that government departments (such as the ECQ, as defined by the FAA) are not to fulfil a requirement to publish information in print, and instead prescribes that the same information must be published electronically. The ECQ will publish information on its website ([www.ecq.qld.gov.au](http://www.ecq.qld.gov.au)) to fulfil its obligation to publish the notice.<sup>15</sup>

4.4. Generally, the ECQ will publish the notice on the website on the same day the Gazette is published.

4.5. Particulars of the notice of application: The following information will be published in the notice:<sup>16</sup>

- (a) The proposed name of the political party,
- (b) The proposed abbreviation of the political party (if one is included in the application for registration),
- (c) The name and address of the proposed registered officer,

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<sup>13</sup> Section 71(4) of the *Electoral Act 1992* requires the application to be accompanied by a copy of the party's constitution. The constitution does not need to be compliant in order for the application to be a valid application, however under section 75(5) of the *Electoral Act 1992*, the ECQ must refuse to register such a political party application.

<sup>14</sup> Required by section 72(1)(a) of the *Electoral Act 1992*

<sup>15</sup> Section 88F *Financial Accountability Act 2009*

<sup>16</sup> Section 72(2) of the *Electoral Act 1992*



- (d) An invitation for any persons to submit to the ECQ a statement (within 1 month of the notice being published in the Gazette), if they believe:
  - (i) the application is not in accordance with section 71 of the Act, or
  - (ii) should be refused under section 75 of the Act, and
- (e) Confirm that any such statement must:
  - (i) set out in detail the grounds for their belief,
  - (ii) set out the address of the person, and
  - (iii) be signed by the person.

## 5. Verifying party membership

- 5.1. Once a notice is published in the Gazette, the ECQ will begin the process of contacting each individual party member who has been matched against the Queensland electoral roll. The ECQ will ask those members to confirm they are a member of the party. The purpose of this survey is to satisfy the ECQ that at least 500 electors are members of the party.
- 5.2. Online survey: Initially, the ECQ will contact members via email (assuming email addresses are provided) and ask members to respond to a single-question online survey. The question will ask directly whether they are a member of the applicant party. The online survey will generally remain open until such time as the public consultation period (as advertised in the Gazette) closes.
  - 5.2.1. Reminder emails: The ECQ will generally send reminders to those members who do not respond to the survey once a week at differing times during the survey period.
- 5.3. Postal survey: The ECQ will generally also contact members via post. The postal survey will ask members to respond to a question (substantially similar to that asked via the online survey) by marking a tick-box to confirm whether or not they are a member. Members will also need to sign the membership survey form. The ECQ will provide a reply-paid envelope to enable recipients to respond to the survey without incurring postage costs.
  - 5.3.1. Postal survey recipients: The postal survey will only be sent to members for which the party did not provide an email address, or members who have not responded to the online survey within two weeks of the online survey commencing.
  - 5.3.2. Timing of postal survey: Those members who do not have an email address will be sent the postal survey at the same time the online survey opens. Otherwise, postal surveys will be issued two weeks after the online survey opens.
  - 5.3.3. Duplicate responses: Members who respond to both the online survey and the postal survey will only have one response counted.
  - 5.3.4. Due date for postal surveys: The due date for postal survey responses will generally be the same date the online survey closes.

- 5.4. Surveys underway when an election is called: The prohibition in section 73(3) of the Act only applies to the ECQ. If a membership survey is underway when an election period commences (i.e. the day after the writ for an election is issued), party members may continue to respond to the survey. Any open surveys may remain open until the end of the election period (i.e. 6p.m. on polling day for that election).
- 5.5. Extensions to the due date: If, by the due date, the ECQ has not received 500 positive responses from members, consideration will be given to extending the due date for responses, upon the written request of the party's secretary. In deciding whether to grant the extension, and for how long, the ECQ will consider:
- (a) whether there is a reasonable prospect of the survey resulting in 500 positive responses, and how long that may take,
  - (b) how many responses are still to be received by the ECQ, including how many postal surveys are outstanding,
  - (c) whether a sufficient period of time has passed since the postal surveys were sent, to allow for their delivery and return (taking into account the service standards of Australia Post at the time, and the location of the elector members), and
  - (d) whether any previous extensions have already been granted.

## 6. Consideration of statements

- 6.1. During the public consultation period, the ECQ may receive a written statement from any person (henceforth referred to as the "Objector"), objecting to the registration of the party.
- 6.2. Requirements: If such a statement is received, the ECQ must first confirm whether it meets the requirements of section 72(3) of the Act. As the statement must be made available for public inspection and provided to the proposed registered officer of the party, the ECQ will not consent to emails or other electronic communications as complying with the requirements of section 72(3) of the Act.<sup>17</sup>
- 6.3. Providing the statement: The ECQ must provide a copy of the Objector's statement to the proposed registered officer of the party and invite that person to give the ECQ a reply to the statement within a reasonable period.<sup>18</sup> Generally, the ECQ will allow two weeks for a response to be provided, though a longer period may be permitted. In providing a copy of the Objector's statement, the ECQ will not endorse, or otherwise comment, on the statement.
- 6.4. Inspecting the statement: If the Objector's statement meets the requirements of section 72 of the Act, the ECQ will make the statement available for public inspection at its office.<sup>19</sup> The proposed registered officer's response will also be made available at the

<sup>17</sup> Section 14(2) of the *Electronic Transactions (Queensland) Act 2001* (the ETQ Act) allows the ECQ, as the person to whom the signature is required to be given (as part of the Statement), to refuse to consent to the requirement being met by using the method set in section 14(1) of the ETQ Act.

<sup>18</sup> Section 72(5) of the *Electoral Act 1992*

<sup>19</sup> Section 72(4) of the *Electoral Act 1992*

ECQ's head office.<sup>20</sup> Any person wishing to view the statements may request to do so at the ECQ's head office. The ECQ will not publish or promote the statements on its website or in another form.

6.5. Redacting the statements: The ECQ will not redact the signature or address of the Objector (unless they are a silent elector, as defined in the Act). This is because the Act expressly requires that it be included in the statement, and makes no provision for the redaction of information.

6.6. Finalising consideration: Once a response is received from the proposed registered officer, the ECQ will consider both the Objector's statement and the response as part of forming a decision about whether to register the political party.

## 7. Deciding to register a political party

7.1. The decision to register a political party can only be made by the Electoral Commissioner.

7.2. Once the Electoral Commissioner is satisfied that the application for registration complies with the requirements of section 71 (refer to Paragraph 4.1 of this Policy) and does not warrant rejection under section 75 of the Act, the political party must be registered.<sup>21</sup>

7.2.1. In determining whether they are so satisfied, the Electoral Commissioner must consider all statements and responses provided under section 72 of the Act (refer Paragraph 6 of this Policy and Procedure)

7.3. Effecting registration: Once the Electoral Commissioner has decided to register a political party, the registration will be given effect by updating the Register on the ECQ's website.<sup>22</sup>

7.4. Notice of registration: The registered officer of the party will be notified of the registration as soon as possible after the party's registration is effected. As part of this notice, the ECQ will provide the registered officer with a copy of the model procedures for preselection ballots.<sup>23</sup>

7.5. Advising the Objector: Any Objector will be issued a written notice of the outcome of the registration process at the same time as the registered officer of the party.<sup>24</sup> The notice will advise that the party has been registered, and set out why the Objector's reasons for making the statement were rejected.<sup>25</sup>

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<sup>20</sup> Section 72(6) of the *Electoral Act 1992*

<sup>21</sup> Section 73(1) of the *Electoral Act 1992*

<sup>22</sup> Section 73(2) of the *Electoral Act 1992*

<sup>23</sup> Required by section 166 of the *Electoral Act 1992*

<sup>24</sup> Section 73(6)(b) of the *Electoral Act 1992*

<sup>25</sup> Section 73(6)(b) of the *Electoral Act 1992*

7.6. Gazette notice: The ECQ is required to publish a notice in the Gazette as soon as possible after the registration of a party.<sup>26</sup> This notice will include:

- (a) The name of the now-registered political party,
- (b) The abbreviation of the now-registered political party (if applicable), and
- (c) The name and address of the registered officer.

## **8. Deciding to refuse to register a political party**

8.1. Only the Electoral Commissioner may decide to refuse an application for registration.

8.2. The Electoral Commissioner must decide to refuse an application for registration if the party's application name:

- (a) has more than 6 words, or
- (b) is obscene or offensive, or
- (c) is a party name, or
- (d) so nearly resembles a party name that it is likely to be confused with or mistaken for the party name, or
- (e) includes the word 'independent', or
- (f) would otherwise be likely to cause confusion if registered.

8.2.1. Party name: In deciding whether a proposed name is a party name, the ECQ will refer to the political party registers (however described) of other jurisdictions. However, the ECQ will allow a name to be registered if it is the same legal entity being registered in multiple jurisdictions.

8.3. The Electoral Commissioner must also decide to refuse an application for registration if the party's constitution is not a complying constitution (Refer Paragraph 10 of this Policy and Procedure).<sup>27</sup>

8.4. The Electoral Commissioner may decide to refuse an application for registration if they believe on reasonable grounds that information set out in, or documents required to accompany the application, are incorrect.<sup>28</sup>

8.4.1. Incorrect information or documents: If the Electoral Commissioner develops a belief that the information or documents provided with, or set out in, the application for registration are incorrect, the ECQ will advise the party of this belief, and invite submissions as to the accuracy of the information or document or that correct information be provided.

8.4.2. Failing a membership check: If a membership survey does not result in the ECQ receiving at least 500 positive responses (i.e. responses where an elector member

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<sup>26</sup> Section 73(6) of the *Electoral Act 1992*

<sup>27</sup> Section 75(5) of the *Electoral Act 1992*

<sup>28</sup> Section 75(2) of the *Electoral Act 1992*

confirms their membership of the party), the ECQ may refuse to register the party on the basis that the membership list contained incorrect information.

- 8.5. The Electoral Commissioner may also decide to refuse an application for registration if they believe on reasonable grounds that the name on the party's application (i.e. the political party's proposed registered name or abbreviation) is a public body name, or so nearly resembles a public body name that it is likely to be confused with or mistaken for the public body name.<sup>29</sup>
- 8.6. Notice of refusal: The proposed registered officer of the party will be notified of the refusal of registration after the decision is made. As part of this notice, the ECQ will provide the reasons for the decision, and outline the rights of review.<sup>30</sup>
- 8.7. Advising the Objector: Any Objector will be issued a written notice of the outcome of the registration process at the same time as the registered officer of the party.<sup>31</sup> The notice will advise that the party has not been registered, and set out the reasons for that decision.

## 9. Disposal of membership information

- 9.1. Once a registration process has been finalised, the ECQ will return any hard copies of membership lists to the political party.<sup>32</sup> In the event that an application for registration is refused, the ECQ will only return the documents once the timeframe for exercising a right of review has elapsed (in case the documents are required as part of the review process).
- 9.2. If any soft copies of membership lists exist, the ECQ will delete those records.<sup>33</sup> Other documents which may contain membership information (not in list-format), will also be disposed of. These may include:
- (a) responses to the membership verification survey,
  - (b) emails and other correspondence between the ECQ and the party's representatives,
  - (c) internal ECQ emails, and
  - (d) any other document created by the ECQ for the purposes of monitoring responses to the membership survey or otherwise administering the registration process.

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<sup>29</sup> Section 75(4) of the *Electoral Act 1992*

<sup>30</sup> Section 75(6) of the *Electoral Act 1992*

<sup>31</sup> Section 73(6)(b) of the *Electoral Act 1992*

<sup>32</sup> ECQ Retention and Disposal Schedule, Disposal Authorisation 2046 available at [https://www.forgov.qld.gov.au/\\_data/assets/pdf\\_file/0038/188885/electoral-commission-qld-retention-disposal-schedule.pdf](https://www.forgov.qld.gov.au/_data/assets/pdf_file/0038/188885/electoral-commission-qld-retention-disposal-schedule.pdf)

<sup>33</sup> ECQ Retention and Disposal Schedule, Disposal Authorisation 1271.

## Part 3 – Complying constitution and quarterly reports

### 10. Complying constitution

- 10.1. All political parties seeking to be registered under the Act must have a written constitution which complies with section 76 of the Act (refer to Appendix 2 of this Policy and Procedure). Once registered, political parties must also maintain a compliant constitution.
- 10.2. Requirement for free and democratic elections: The requirement under section 76(1)(f) of the Act (which mandates that preselection ballots must satisfy the general principles of free and democratic elections), will only be required if the rules under section 76(1)(e) of the Act require a preselection ballot to be held as part of the party's process for selecting a candidate for a State or local government election.
- 10.3. Definitions within the party's constitution: While the party's constitution may have the requisite rules, the constitution must also contain the same definitions of technical terms (e.g. "disqualifying electoral offence") as defined in the Act. A party may do this by simply referring to the Act for reference, or by using the same definitions. However, if using the latter method, the party must ensure it updates its constitution to keep definitions in-line with any amendments to the Act.

### 11. Quarterly reports

- 11.1. The registered officer of a registered political party must notify the ECQ whether an amendment has been made to the party's constitution since the last report date (these are commonly known as "Quarterly Reports").<sup>34</sup> These reports must be submitted within 7 days after each report date (being 31 March, 30 June, 30 September and 31 December each year).<sup>35</sup>
- 11.2. The ECQ issues reminders to registered officers before and on the due date for each quarterly report.
- 11.3. If an amendment has been made, the registered officer must also provide a copy of the amended constitution and a summary of the amendments.<sup>36</sup>
- 11.4. If an amended constitution is provided, the ECQ will complete an assessment of the entire document to ensure it remains fully compliant with section 76 of the Act. If compliance is confirmed, the new constitution will be published on the ECQ's website.
- 11.5. If an amended constitution is assessed and deemed not compliant, the ECQ will contact the registered officer and provide an opportunity to re-amend the constitution to rectify any issues (in accordance with the provisions of that same constitution). Generally, the party will have 7 days to do so.

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<sup>34</sup> Section 80 of the *Electoral Act 1992*

<sup>35</sup> Section 80 of the *Electoral Act 1992*

<sup>36</sup> Section 80(2) of the *Electoral Act 1992*

11.6. Failure by a party to re-amend their constitution to ensure it is compliant with section 76 of the Act, will likely result in the ECQ commencing the registration cancellation process (refer to Part 5 of this Policy and Procedure).

11.7. If a party repeatedly fails to comply with the Quarterly Report requirements, the ECQ will consider commencing the registration cancellation process (refer to Part 5 of this Policy and Procedure).<sup>37</sup>

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<sup>37</sup> Permitted by sections 78(2)(f) and 80 of the *Electoral Act 1992*



## Part 4 – Amending the Register

### 12. Applying to amend the Register

12.1. Applications to amend the information contained in the Register may be made by the party's registered officer.<sup>38</sup> If the application is to change the party's registered officer, the application must be made by the party's secretary.<sup>39</sup>

12.2. The ECQ has an approved form for these purposes, which can be accessed on the ECQ's website. The ECQ prefers applications to amend the Register to be submitted electronically, via email to [fad@ecq.qld.gov.au](mailto:fad@ecq.qld.gov.au). However, physical documents can be delivered via post or in person to the ECQ's head office if necessary.

12.3. Applications to amend the Register are treated as an application for registration (subject to necessary changes).<sup>40</sup> This Part outlines the process for amending the Register.

12.3.1. The ECQ will not conduct a membership survey or request an updated copy of the party's constitution merely because the registered officer or secretary applies to amend the Register.

### 13. Publishing notice of application to amend the Register

13.1. Gazette notice: If the application to amend the Register is to change the registered officer, registered officer's address, or the party's name or abbreviation, the ECQ will arrange for a notice to be published in the Gazette in the next available ordinary issue.<sup>41</sup> No notice is required if the Register is being amended because of a change in the party's constitution or a change in the party's associated entities.<sup>42</sup>

13.2. Website notice: Despite section 72(1)(b) of the Act, the ECQ is not required to publish a notice in a newspaper circulating generally in the State of Queensland.<sup>43</sup> The ECQ will instead publish information on its website ([www.ecq.qld.gov.au](http://www.ecq.qld.gov.au)) to fulfil its obligation to publish the notice. Generally, this website notice will be published on the same day as the Gazette.

13.3. Contents of the notice of application: The following information will be published in the notice:<sup>44</sup>

- (a) The information which is currently in the Register,
- (b) The proposed information which the applicant is seeking to be added to the Register,

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<sup>38</sup> Section 77(3)(a) of the *Electoral Act 1992*

<sup>39</sup> Section 77(3)(b) of the *Electoral Act 1992*

<sup>40</sup> Section 77(4) of the *Electoral Act 1992*

<sup>41</sup> Section 72(1)(a) of the *Electoral Act 1992*

<sup>42</sup> Section 72(2)(a) of the *Electoral Act 1992*

<sup>43</sup> Refer Paragraph 4.3.1 of this Policy and Procedure for explanation of the applicability of the *Financial Accountability Act 2009*.

<sup>44</sup> Section 72(2) of the *Electoral Act 1992*



- (c) An invitation for any persons to submit to the ECQ a statement (within 1 month of the notice being published in the Gazette), if they believe:
  - (i) the application is not in accordance with section 71 of the Act, or
  - (ii) should be refused under section 75 of the Act, and
- (d) Confirm that any such statement must:
  - (i) set out in detail the grounds for their belief,
  - (ii) set out the address of the person, and
  - (iii) be signed by the person.

## 14. Consideration of statements

14.1. During the public consultation period, the ECQ may receive a written statement from any person, objecting to the amendment of the Register. All requirements outlined in Paragraph 6 of this Policy and Procedure apply to statements made in objection to the amendment of the Register.

## 15. Deciding to amend the Register

15.1. The decision to amend the Register must be made by the Electoral Commissioner.

15.2. Once the Electoral Commissioner is satisfied that the application to amend the Register complies with the requirements of section 77 of the Act and does not warrant rejection under section 75 of the Act (refer to Paragraph 8 of this Policy and Procedure), the amendment must be approved.<sup>45</sup>

15.2.1. In determining whether they are so satisfied, the Electoral Commissioner must consider all statements and responses provided under section 72 of the Act (refer Paragraph 6 of this Policy and Procedure)

15.3. Effecting amendment: Once the Electoral Commissioner has decided to amend the Register, the amendment will be given effect by updating Register on the ECQ's website.

15.4. Notice of amendment: The registered officer or secretary of the party will be notified of the amendment as soon as possible after the amendment is effected.

15.5. Advising the Objector: Any Objector will be issued a written notice of the outcome of the amendment process at the same time as the registered officer of the party.<sup>46</sup> The notice will advise that the Register has been amended and set out why the Objector's reasons for making the statement were rejected.<sup>47</sup>

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<sup>45</sup> Section 73(1) of the *Electoral Act 1992*

<sup>46</sup> Section 73(6)(b) of the *Electoral Act 1992*

<sup>47</sup> Section 73(6)(b) of the *Electoral Act 1992*

15.6. Gazette notice: The ECQ is required to publish a notice in the Gazette as soon as possible after the amendment of the Register.<sup>48</sup> This notice will include the new information entered into the Register.

## 16. Deciding to refuse to amend the Register

16.1. The decision to refuse to amend the Register must be made by the Electoral Commissioner.

16.2. The Electoral Commissioner may refuse to amend the Register if permitted or required by section 75 of the Act (refer to Paragraph 8 of this Policy and Procedure).

16.3. Notice of refusal: The registered officer or secretary will be notified of the refusal of amendment after the decision is made. As part of this notice, the ECQ will provide the reasons for the decision, and outline the rights of the person to have the refusal decision reviewed.<sup>49</sup>

16.4. Advising the Objector: Any Objector will be issued a written notice of the outcome of the amendment process at the same time as the registered officer of the party.<sup>50</sup> The notice will advise that the Register has not been amended, and set out the reasons for that decision.

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<sup>48</sup> Section 73(6) of the *Electoral Act 1992*

<sup>49</sup> Section 75(6) of the *Electoral Act 1992*

<sup>50</sup> Section 73(6)(b) of the *Electoral Act 1992*

## Part 5 – Cancelling a party’s registration

### 17. Reasons for cancelling a party’s registration

17.1. A registered officer may apply in writing to the ECQ to voluntarily cancel the registration of a political party.<sup>51</sup> No reason need be given for seeking to cancel the registration, however the party should comply with any outstanding disclosure obligations it has before beginning the cancellation process.

17.2. The ECQ also has the power to cancel a registration if it is satisfied on reasonable grounds that any of the following apply:<sup>52</sup>

- (a) The party no longer exists,
- (b) The party is not a Queensland parliamentary party and does not have at least 500 members who are electors,
- (c) The candidates at the next 2 general elections held after the registration of the party did not include at least 1 candidate endorsed by the party,
- (d) The registration was obtained by fraud or misrepresentation,
- (e) The party’s constitution is not a complying constitution, or
- (f) The party’s registered officer has failed to comply with section 80(1) or (2), including, for example, by giving false or misleading information under the provision.

17.3. Only the Electoral Commissioner can decide to commence the registration cancellation process.

17.4. Without limiting the instances in which the ECQ may commence the registration cancellation process (as outlined below), the following (non-comprehensive) administrative policies are generally applicable:

17.4.1. The ECQ will generally conduct a membership verification of each registered political party (which is not a Queensland parliamentary party) within 2 years prior to the next State general election. In doing this, the ECQ ensures that registered political parties are eligible to participate in the upcoming election. The membership verification will be completed in accordance with Paragraph 4.1.3 (including sub-paragraphs) and Paragraph 5 of this Policy and Procedure.

17.4.2. If a registered political party loses its Queensland parliamentary party status, the ECQ will invite the party’s registered officer to submit a list of at least 500 electors who are members. The ECQ will verify this membership list in accordance with Paragraph 4.1.3 (including sub-paragraphs) and Paragraph 5 of this Policy and Procedure. Alternatively, the party’s registered officer may choose to voluntarily cancel the party’s registration under section 78(1) of the Act.

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<sup>51</sup> Section 78(1) of the *Electoral Act 1992*

<sup>52</sup> Section 78(2) of the *Electoral Act 1992*

- 17.4.3. If a registered political party does not endorse a candidate in 2 successive State general elections immediately following the registration, the ECQ will invite submissions from the party's registered officer about why it should maintain its registration (noting that it is not fulfilling one of its stated objectives, as per the party's constitution). Any response provided by the registered officer will be considered by the Electoral Commissioner before deciding whether to proceed with the registration cancellation process.
- 17.4.4. If a registered officer frequently fails to comply with section 80 of the Act (the Quarterly Report requirement, as outlined in Paragraph 11 of this Policy and Procedure), the ECQ will invite submissions from the party's registered officer about why the party should maintain its registration, and what (if any) changes will be put in place to ensure future compliance. Any response provided by the registered officer will be considered by the Electoral Commissioner before deciding whether to proceed with the registration cancellation process.
- 17.4.5. If the ECQ has invited a registered officer to make submissions or provide additional information or documents to demonstrate why the party should maintain its registration, the ECQ will advise the date by which a response is required. If the registered officer fails to respond by that date (subject to any extensions granted from time-to-time), the Electoral Commissioner may decide to commence the registration cancellation process without further warning to the registered officer.
- 17.5. Any party membership information obtained throughout the above processes will be destroyed once it is decided that a party should maintain its registration. If it is decided that the registration cancellation process should commence, the information and/or documents will be destroyed at the end of the registration cancellation process. Refer to Paragraph 9 of this Policy and Procedure for further information.

## 18. Publishing notice of proposal to cancel a party's registration

- 18.1. Gazette notice: Once a decision has been made to commence a registration cancellation process, the ECQ will arrange for a notice to be published in the Gazette in the next ordinary issue.<sup>53</sup>
- 18.2. Website notice: Despite section 78(3)(b)(ii) of the Act, the ECQ is not required to publish a notice in a newspaper circulating generally in the State of Queensland.<sup>54</sup> The ECQ will instead publish information on its website ([www.ecq.qld.gov.au](http://www.ecq.qld.gov.au)) to fulfil its obligation to publish the notice. Generally, this website notice will be published on the same day as the Gazette.
- 18.3. Contents of the notice of proposed cancellation: The following information will be published in the notice:<sup>55</sup>

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<sup>53</sup> Section 78(3)(b)(i) of the *Electoral Act 1992*

<sup>54</sup> Refer Paragraph 4.3.1 of this Policy and Procedure for explanation of the applicability of the *Financial Accountability Act 2009*.

<sup>55</sup> Section 78(3) of the *Electoral Act 1992*

- (a) The fact that the ECQ proposes to cancel the registration of the party,
- (b) The reason the ECQ has decided to commence the registration cancellation process, including which head of power in section 78 is relevant, and
- (c) An invitation for any persons to submit to the ECQ a statement (within 14 days of the notice being published in the Gazette), objecting to the proposed cancellation of the party's registration.

## 19. Consideration of statements

19.1. During the public consultation period, the ECQ may receive a written statement from any person objecting to the cancellation of a party's registration.

19.2. The Act does not provide any detail about how a statement made in objection to a proposed cancellation of a party is to be handled, other than the ECQ must consider any statement before taking further action in relation to the cancellation.<sup>56</sup>

19.2.1. The ECQ will not publish a copy of the statement or make it available for public inspection (as there is no head of power to do so). The ECQ will seek a response from the registered officer of the party and may do so by providing a copy of the statement, with the name, address and any other personal details of the statement-maker redacted. Alternatively, the ECQ may provide the registered officer with a summary of the statement.

19.3. Finalising consideration: Once a response is received from the proposed registered officer, the ECQ will consider both the statement and the response as part of forming a decision about whether to cancel the party's registration.

19.4. Advising the statement-maker: The person who made the statement will be advised of the outcome of the cancellation process at the same time as the registered officer of the party.

## 20. Deciding to cancel a party's registration

20.1. The decision to cancel the registration of a political party can only be made by the Electoral Commissioner.

20.2. Effecting cancellation: Once the Electoral Commissioner has decided to cancel the registration of a political party, the cancellation will be given effect by removing the party's details from the Register. The ECQ will maintain historic party registration details and documents internally. This process will happen before the Gazette is published.

20.3. Notice to the registered officer: The ECQ is required to notify the registered officer of the party before the cancellation takes effect.<sup>57</sup> This notice will advise the date of the party's cancellation and highlight that record-keeping requirements continue to apply for any records created while the party was registered.

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<sup>56</sup> Section 78(4) of the *Electoral Act 1992*

<sup>57</sup> Section 78(5)(a) of the *Electoral Act 1992*

20.4. Gazette notice: The ECQ is required to publish a notice in the Gazette about the cancellation.<sup>58</sup> While the Act does not contain a timeframe for this to occur, the ECQ will generally aim to publish the notice in the next ordinary Gazette after the cancellation occurs. The notice will include:

- (a) A statement outlining the reason for the party's cancellation,
- (b) The name of the registered political party being cancelled, and
- (c) The date of cancellation.

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<sup>58</sup> Section 78(5)(b) of the *Electoral Act 1992*

## Part 6 – Other party positions

### 21. Status and appointment of other positions

- 21.1. Status of other party positions: Once registered, a party may appoint a Deputy Registered Officer and an agent. While the ECQ will publish the names and addresses of the persons appointed to these positions, they are not part of the formal Register. This is on the basis that appointments for these positions may only be made after the party registration has been effected.
- 21.2. Deputy registered officer: A person may be appointed as a deputy registered officer of a party by the registered officer.<sup>59</sup> A party's deputy registered officer may fulfil requirements which the Act assigns to the registered officer (e.g. signing a nomination form). As the registered officer does not become a registered officer until after the party is registered, the appointment document must be completed after the party is registered.
- 21.3. Agent: A registered political party must appoint an agent for the party.<sup>60</sup> This will typically be done by the registered officer of the party, after the party has been registered, however any party official may appoint the agent (with the party's authority) after registration has been effected.

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<sup>59</sup> Section 74 of the *Electoral Act 1992*

<sup>60</sup> Section 206 of the *Electoral Act 1992*

## Delegations

1. The Director, Funding, Disclosure and Compliance (FDC) (or a higher position responsible for oversight of FDC, such as the Assistant Electoral Commissioner, or Electoral Commissioner) may approve decisions regarding whether an elector has been verified against the Queensland electoral roll (as referenced in Paragraph 4 of this Policy and Procedure).
2. The Director, FDC (or a higher position responsible for oversight of FDC, such as the Assistant Electoral Commissioner, or Electoral Commissioner) may approve an extension to a membership survey, for the purposes of verifying a party has at least 500 elector members. Such a decision must be made after considering the factors listed in Paragraph 5.5 of this Policy and Procedure.
3. The Director, FDC (or a higher position responsible for oversight of FDC, such as the Assistant Electoral Commissioner, or Electoral Commissioner) may approve a reasonable period, or an extension to a pre-set period, for the proposed registered officer of a political party to respond to a statement of objection against the registration of a party.
4. The Electoral Commissioner may approve public notices for publishing in the Gazette or on the ECQ's website regarding the Register. The Assistant Electoral Commissioner may also approve public notices, but only when the Electoral Commissioner is unavailable to approve notices before the publishing approval deadline.
5. Only the Electoral Commissioner may decide to register a political party.
6. Only the Electoral Commissioner may decide to refuse to register a political party.
7. Only the Electoral Commissioner may decide to approve the amendment of the Register.
8. Only the Electoral Commissioner may decide to refuse an amendment of the Register.
9. Only the Electoral Commissioner may decide to begin the cancellation process against a registered political party.
10. Only the Electoral Commissioner may decide to cancel the registration of a political party.
11. No decisions can be made under this Policy and Procedure during an election period.



## Appendix 1 — Information and documents for an application to register a political party

Legislative Provisions	Information / Document Required	Regulations or ECQ Administrative Policy
Section 71(4)(a) of the Act	The name of the political party	<p>The ECQ must refuse to register a political party if the proposed name does not comply with the requirements of section 75(3) of the Act. The ECQ may also refuse to register a political party if the party's proposed name is a public body name or so nearly resembles a public body name that is likely to be confused or mistaken for the public body name.</p> <p>Refer to Paragraph 8.2 of this Policy and Procedure for further information about naming requirements.</p>
Section 71(4)(b) of the Act	If the party wishes to register an abbreviation – the abbreviation	<p>As per section 102(1)(g) of the Act and section 55(1)(e) of the LGEA, if a party registers an abbreviation, then the abbreviation will appear on the ballot paper adjacent to all candidates endorsed by the party in an election. If no abbreviation is registered, then the full registered party name will appear instead.</p> <p>The rules relating to the political party's name also apply to any proposed abbreviation.</p>
Section 71(4)(c) of the Act	The name and address of the person who is to be the registered officer of the party for the purposes of the Act	The address may be a PO Box, or other business address used by the party, so long as the person who is to be the registered officer can be contacted at that address by the ECQ or members of the public.
Section 71(4)(d) of the Act	If the application is for a Queensland parliamentary party – set out the name of 1 member of the party who is a member of the Legislative Assembly	The ECQ will verify this name with the Legislative Assembly, and if necessary, contact the Member to verify their membership of the party.
Section 71(4)(e) of the Act	If the application is not for a Queensland parliamentary party – set out the names and addresses of 500 members of the	While providing the names and addresses of 500 electors who are members is acceptable, the ECQ strongly encourages applicant parties to submit a list of all elector members, even if this list contains over 500 individuals. The ECQ also encourages

	party who are electors.	<p>applicant parties to provide email addresses for their members, as this will potentially expedite the registration process.</p> <p>Refer to Paragraphs 4 and 5 of this Policy and Procedure for further information about how the ECQ uses membership information, and Paragraph 9 of this Policy and Procedure for information about what the ECQ does with the membership information at the end of the registration process.</p>
Section 71(4)(f) of the Act	A copy of the party's constitution	The ECQ must reject an application if the party's constitution is not a complying constitution, as outlined in section 76 of the Act. Refer to Paragraph 6 and Appendix 2 of this Policy and Procedure for further information about complying constitutions.
Section 71(4)(g) of the Act; Section 4(1)(a)(i) of the Regulation	If the application is not for a Queensland parliamentary party – for each person who is an elector and listed in the application as being a member of the party – a copy of the person's application for party membership.	<p>The ECQ acknowledges that many political parties do not have a paper-based membership application process, and instead utilise application software which does not generate a physical application form.</p> <p>In such instances, the ECQ will accept an extract of a Party's membership database, along with a statutory declaration from the party's secretary, declaring that the extract provided is accurate, as of the date it is provided.</p>
Section 71(4)(g) of the Act; Section 4(1)(a)(ii) of the Regulation	If the application is not for a Queensland parliamentary party – for each person who is an elector and listed in the application as being a member of the party – a document which is evidence of the party's acceptance of the person as a member under the party's constitution	<p>This requirement does not apply if the party's constitution grants automatic acceptance of membership.</p> <p>Otherwise, an appropriate document may be a letter of acceptance addressed to the member/elector. If the extract of a membership database (given to the ECQ to satisfy the requirements of section 4(1)(a)(i) of the Act) includes a "membership status", then the extract can also suffice, so long as the statuses are explained in the covering letter and can be clearly linked to each elector/member.</p>
Section 71(4)(g) of the Act; Section 4(1)(a)(iii) of	If the application is not for a Queensland parliamentary party – for each person who is an elector and listed in the application as being a member of the party – a document that is evidence of the person's	If the extract of a membership database (given to the ECQ to satisfy the requirements of section 4(1)(a)(i) of the Act) includes a "membership status", then the extract can also suffice, so long as the statuses are explained in the covering letter and can be clearly linked to each elector/member.

the Regulation	current membership, if the person's application for party membership is over a year old.	
Section 71(4)(g) of the Act; Section 4(1)(b) of the Regulation	If the application is not for a Queensland parliamentary party – a list of the party's associated entities.	Refer to sections 197 and 204 of the Act for what constitutes an associated entity.

## Appendix 2 — Requirements for a compliant constitution

Section 76(1) of the *Electoral Act 1992* (the Act) requires that a party's constitution will be compliant if it contains provisions which:

- (a) outlines the party's objects, 1 of which must be the promotion of the election to the Legislative Assembly of a candidate or candidates endorsed by it or a body or organisation of which it forms a part,
- (b) the procedure for amending the constitution,
- (c) the rules for membership of the party, which must include the following rules:
  - (i) a rule stating the procedure for accepting a person as a member,
  - (ii) a rule stating the procedure for ending a person's membership,
  - (iii) a rule prohibiting a person from becoming a member of the party if the person has been convicted of a disqualifying electoral offence within 10 years before the person applies to become a member,
  - (iv) a rule prohibiting a person from continuing as a member of the party if the person is convicted of a disqualifying electoral offence,
- (d) a statement about how a party manages its internal affairs, including a statement about:
  - (i) the party structure, and
  - (ii) the process for dispute resolution,
- (e) the rules for selecting:
  - (i) a person to hold office in the party, and
  - (ii) a candidate to be endorsed by the party for an election or an election for a local government,
- (f) a rule requiring that a preselection ballot must satisfy the general principles of free and democratic elections.

Section 76(2) of the Act states that the general principles of free and democratic elections (for preselection ballots) are as follows:

- (a) only members of the party who are electors may vote,
- (b) only members of the party who are eligible to vote in the ballot under the party's constitution may vote,
- (c) each member has only 1 vote,
- (d) voting must be done by secret ballot,
- (e) a member must not be improperly influenced in voting,
- (f) a member's ballot paper must be counted if the member's intention is clear,
- (g) members' votes must be accurately counted,

- (h) each person who is seeking selection may be present personally, or may be represented by another person, at the ballot and for the scrutiny, and counting, of votes.

Schedule 1 of the Act defines “disqualifying electoral offence” to be “an offence, of which an offender is convicted on or after 6 June 2002<sup>61</sup>

- (a) that relates to—
- (i) an election of a member of an Australian parliament, or
  - (ii) an election to the office of chairperson, mayor, president, councillor or member of a local government, or to an equivalent office in another State, or
  - (iii) a referendum conducted under a law of the State, another State or the Commonwealth, or
  - (iv) the enrolment of a person on an electoral roll, and
- (b) for which the penalty imposed included a sentence of imprisonment, other than a sentence of imprisonment for non-payment of a fine, restitution or other amount.”

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<sup>61</sup> Schedule 1 refers to (instead of 6 June 2002) “after the commencement of the *Electoral and Other Act Amendment Act 2002*, section 5” (the EOAAA). Section 2 of the EOAAA confirms that section 5 was due to commence on a day to be fixed by proclamation. The Proclamation confirms that section 5 commenced on 6 June 2002. Section 15B of the *Acts Interpretation Act 1954* confirms that provisions which commence on a day commence at the beginning of the day.

## Appendix 3 — Definitions

Term	Definition	Reference (if applicable)
Associated entity	An associated entity is an entity that – <ul style="list-style-type: none"> <li>(a) is controlled by the party or a group of endorsed candidates of the party, or</li> <li>(b) operates wholly, or to a significant extent, for the benefit of the party or a group of endorsed candidates of the party, or</li> <li>(c) operates for the dominant purpose of—               <ul style="list-style-type: none"> <li>(i) promoting the party in elections, or</li> <li>(ii) promoting a group of endorsed candidates of the party in an election.</li> </ul> </li> </ul>	Section 204, <i>Electoral Act 1992</i>
Australian Parliament	The parliament of the Commonwealth or a State or Territory	Schedule 1, <i>Electoral Act 1992</i>
Election	Means an election of a member or members of the Legislative Assembly	Schedule 1, <i>Electoral Act 1992</i>
Election period	For an election, means the period: <ul style="list-style-type: none"> <li>(a) beginning on the day after the writ for the election is issued, and</li> <li>(b) ending at 6p.m. on the polling day for the election.</li> </ul>	Schedule 1, <i>Electoral Act 1992</i>
Member	Of a political party, includes a member of a related political party	Schedule 1, <i>Electoral Act 1992</i>
Parliament	Includes the legislature of a Territory	Schedule 1, <i>Electoral Act 1992</i>
Parliamentary party	Means a political party of which at least 1 member is a member of the Australian parliament.	Schedule 1, <i>Electoral Act 1992</i>
Party name	Party name means the name, or an abbreviation or acronym of the name, of a parliamentary party or registered political party.	Section 75, <i>Electoral Act 1992</i>

Political party	An organisation is a political party if it has as one of its objectives the promotion of the election to the Legislative Assembly of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.	Schedule 1, <i>Electoral Act 1992</i>
Public body name	For the purposes of registering a political party, means the name, or an abbreviation or acronym of the name, of a prominent public body.	Section 75(1), <i>Electoral Act 1992</i>
Queensland parliamentary party	Is a parliamentary party of which at least 1 member is a member of the Legislative Assembly	Schedule 1, <i>Electoral Act 1992</i>
Related political party	2 political parties are related political parties if – (a) 1 is part of the other, or (b) both are parts of the same political party	Schedule 1, section 5, <i>Electoral Act 1992</i>

## Appendix 4 — Regulatory Framework

- *Acts Interpretation Act 1954*
- *Electoral Act 1992*
- Electoral Regulation 2013
- *Electronic Transactions (Queensland) Act 2001*
- *Financial Accountability Act 2009*
- *Human Rights Act 2019*
- *Information Privacy Act 2009*
- *Local Government Electoral Act 2011*