

# Registration of Third 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.

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## Purpose

To provide guidance on how the Electoral Commission of Queensland (ECQ) staff will administer the registration of third parties for state and local government elections under the *Electoral Act 1992* (EA) and the *Local Government Electoral Act 2011* (LGEA). The ECQ's Funding, Disclosure and Compliance team (FDC) is responsible for administering the registration of third parties.

## Rationale

Part 11, division 12 of the EA and part 6, division 5A of the LGEA contain provisions relating to the registration of third parties for state and local government elections in Queensland, including how third parties may apply to register for an election, how to change the details of a registered third party, and how to cancel the registration of a third party.

## Guiding Principles

The ECQ conducts transparent, fair and democratic elections under the EA and the LGEA in accordance with these guiding principles:

1. **Efficiency of administrative procedures.** Administrative mechanisms and procedures, including administrative paperwork, should be efficient, user-friendly, and compliant with legislative requirements.
2. **Collection of personal information.** Ensure collection, storage, use and disclosure of personal information aligns with the *Information Privacy Act 2009*, as well as the privacy provisions in the EA and the LGEA.
3. **Public confidence in elections must be preserved.** Election procedures should be open and subject to review so public confidence in the integrity of the electoral system and election outcomes can be maintained.
4. **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 dealings with all election participants.
5. **Right to review other decisions made by the ECQ.** Judicial and administrative review procedures are available to all election participants 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*, has been conducted to identify any human rights that may be affected by the actions recommended in this policy. This policy intersects with section 22 'Peaceful assembly and freedom of association' and section 23 'Taking part in public life' of the *Human Rights Act 2019*. Under section 13(1) of the *Human Rights Act 2019*, a human right may be subject to reasonable limitations that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

Part 11 of the EA and part 6 of the LGEA lawfully regulate third parties in relation to incurring electoral expenditure and their participation in Queensland's electoral system. Regulating third parties and the publishing of a register of third parties improves the transparency of state and local government elections by enabling electors to obtain information about which third parties

are incurring electoral expenditure, and to identify who is responsible for communications that result from such expenditures.

## Part 1 – Registration of third parties

### 1. Applying for registration as a third party

- 1.1. Third party individuals or organisations may apply to register for a state or local government election with the ECQ.<sup>1</sup> Third parties must be registered before they incur more than \$6,000 in electoral expenditure during the capped expenditure period for an election.<sup>2</sup>
- 1.2. An application to register as a third party may only relate to a single election. If a third party wishes to register for more than 1 election, a separate application must be given for each election.<sup>3</sup>
- 1.3. Timeframe for applying for registration: An application to register a third party for an election must be made before election day for the election.<sup>4</sup> The ECQ encourages early registration by third parties who are intending to incur more than \$6,000 in electoral expenditure for an election.
- 1.4. Application requirements: The EA and LGEA set out the requirements for an application to register a third party for an election.
  - 1.4.1. The application must be made in the approved form.<sup>5</sup>
    - 1.4.1.1. The ECQ prefers that third parties complete and submit the approved form online via the ECQ's Self Service Portal (SSP) ([selfserv.elections.qld.gov.au](http://selfserv.elections.qld.gov.au)). Third parties can also complete the physical version of the approved form (*Form FAD5A Application to register a third party individual* or *FAD5B – Application to register a third party organisation*) and provide it by email, post or in person.
  - 1.4.2. The application must state the election to which the application relates.<sup>6</sup>
  - 1.4.3. The application must include the following details about the third party –
    - (a) name
    - (b) if the third party is an individual –
      - (i) date of birth
      - (ii) enrolled address
    - (c) if the third party is an organisation –
      - (i) ABN or ACN

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<sup>1</sup> Section 299 of the EA and section 127F of the LGEA.

<sup>2</sup> Section 297 of the EA and section 127D of the LGEA.

<sup>3</sup> Section 299 of the EA and section 127F of the LGEA state that a third party that intends to incur electoral expenditure for *an election* may apply to the ECQ for registration for *the election*. The registration of a third party does not carry across to other elections, and the third party must apply to be registered separately for each election.

<sup>4</sup> Section 299(2)(d) of the EA and section 127F(2)(d) of the LGEA.

<sup>5</sup> Section 299(2)(a) of the EA and section 127F(2)(a) of the LGEA.

<sup>6</sup> Section 299(2)(b) of the EA, section 127F(2)(b) of the LGEA, section 11A of the Electoral Regulation 2013 and section 10 of the Local Government Electoral Regulation 2023.

(ii) business address

(d) telephone number

(e) email address.<sup>7</sup>

1.4.4. If the third party is an organisation, the application must be accompanied by written notice of the appointment of an agent for the third party.<sup>8</sup>

1.4.4.1. The notice of appointment is incorporated into *FAD5B – Application to register a third party (organisation)*.

1.5. Related corporations: If a third party is a corporation that is related to one or more other corporations (as defined by the *Corporations Act 2001* (Cth)), the related corporations will be taken to be a single third party (i.e., the same person).<sup>9</sup> Only one of the corporations may apply to register as a third party for an election. All corporations related to the registered third party must collectively comply with electoral regulations as if they were the same person. For example, all related corporations only get the benefit of one electoral expenditure cap, one political donation cap, and must complete disclosures as a single entity.

## 2. Assessing an application for registration of a third party

2.1. As soon as practicable after receiving an application to register a third party for an election, the ECQ will check that the application –

(a) has been submitted before election day for the election

(b) meets the application requirements (see section 1.4 above), and

(c) does not contain any information that the ECQ reasonably believes is incorrect (e.g., there are no evident misspellings or typos).<sup>10</sup>

2.2. Approval of application: Applications that meet the above requirements will be approved by the ECQ in its Election Management System (EMS).

2.2.1. For applications that are completed using a physical application form (rather than using the online form in SSP), a FDC officer will enter the information provided on the application into EMS. Another FDC officer will check that the information has been entered correctly before approving the application in EMS.

2.2.2. The third party becomes a 'registered third party' upon approval of the application in EMS.

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<sup>7</sup> Section 299(2)(b) of the EA, section 127F(2)(b) of the LGEA, section 11A of the Electoral Regulation 2013 and section 10 of the Local Government Electoral Regulation 2023 prescribe the details that are required to be included in an application to register a third party for an election. The name of the third party is not prescribed; however, the ECQ considers it necessary for an application to state this information. That information is also required in the approved form, which must be used in any application for registration.

<sup>8</sup> Section 299(2)(c) of the EA and section 127F(2)(c) of the LGEA.

<sup>9</sup> Section 205 of the EA and section 112 of the LGEA.

<sup>10</sup> Section 300 of the EA and section 127G of the LGEA.

2.2.3. The ECQ may approve an application to register a third party on or after election day for the election, provided the application was received before election day.

2.3. Refusal of application: Applications that do not meet the above requirements will be refused by the ECQ.<sup>11</sup> The ECQ will notify the applicant of this decision in writing as soon as practicable after the decision is made. The notice will state that the ECQ has decided to refuse the application and the reasons for the refusal.<sup>12</sup>

2.3.1. Incomplete or incorrect applications: If the ECQ refuses an application because it does not meet the application requirements under section 1.4 of this Policy, or because the ECQ reasonably believes it contains incorrect information, the notice of refusal will additionally state that the third party may –

- (a) amend the application in the way stated in the notice, and
- (b) resubmit the application to the ECQ within 30 days after receiving the notice.<sup>13</sup>

2.4. Resubmitted applications: If a third party amends and resubmits an application to register in accordance with section 2.3.1 above, the application will be taken to have been made on the day the original application was made.<sup>14</sup>

2.4.1. A resubmitted application may be made on or after election day for the election, provided the original application was made before election day.

### 3. Registering a third party

3.1. Register of third parties: The EA and LGEA require the ECQ to keep a register of third parties for each state and local government election.<sup>15</sup> The register is kept on the ECQ's website and is named after the election for which it is kept (e.g., 'Register of third parties for the 2024 local government election').<sup>16</sup>

3.1.1. Third party details: As soon as practicable after approving an application to register a third party for an election (see section 2.2 above), the ECQ will enter the following details in the register of third parties for the election –

- (a) name of registered third party
- (b) ABN/ACN of registered third party (if an organisation)
- (c) business address of registered third party (if an organisation)
- (d) name of agent (if applicable)

<sup>11</sup> Section 300 of the EA and section 127G of the LGEA.

<sup>12</sup> Section 302 of the EA and section 127I of the LGEA.

<sup>13</sup> Section 302(2)(c) of the EA and section 127I(2)(c) of the LGEA.

<sup>14</sup> Section 302(3) of the EA and section 127I(3) of the LGEA.

<sup>15</sup> Section 298(1) of the EA and section 127E(1) of the LGEA.

<sup>16</sup> Section 298(2)(c) of the EA and section 127E(2)(c) of the LGEA allow the ECQ to keep the register of third parties in the way, and in the form, the ECQ considers appropriate. Section 298(2)(a) of the EA and section 127E(2)(a) of the LGEA state that the register is called the register of third parties for the election for which the register is kept.



(e) date of registration.<sup>17</sup>

3.2. Notice of registration: The ECQ will notify the third party (and their agent if one is appointed) in writing as soon as practicable after the third party's application to register is approved.<sup>18</sup> The notice will confirm that the third party is registered for the election.

3.3. Agent: A registered third party that is an organisation must have an agent appointed for the election. A registered third party who is an individual may appoint an agent for an election; otherwise, they are taken to be their own agent for the election.<sup>19</sup>

3.3.1. System access: The ECQ will link the agent's account in SSP to the third party's registration. This will provide the agent with the ability to lodge disclosure returns on behalf of the registered third party in the ECQ's Electronic Disclosure System (EDS).

3.4. Campaign bank account: A registered third party must operate a separate campaign bank account for the election.<sup>20</sup> The agent of the registered third party must notify the ECQ of the campaign bank account details within 5 business days of the third party being registered for the election.<sup>21</sup>

3.5. Change to third party details: If any of the details under section 1.4.3 of this Policy change after the third party is registered for an election, the agent of the registered third party must notify the ECQ about the change within 30 days.<sup>22</sup>

3.5.1. The notice must be in the approved form. The agent will need to complete *Form FAD5C – Change of details for a registered third party* and provide this to the ECQ by email, post or in person.

3.5.2. A FDC officer will enter the information provided on the form into EMS. Another FDC officer will check that the information has been entered correctly before approving the change in EMS.

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<sup>17</sup> Section 301(2) of the EA and section 127H(2) of the LGEA state that the ECQ will enter the details about a third party that are stated in its application to register in the register of third parties, which is published on the ECQ's website. However, section 388A of the EA and section 135B of the LGEA prohibit the ECQ from publishing the street address, date of birth or contact details of individuals. As such, the ECQ can only enter limited details from a third party's application in the register of third parties.

<sup>18</sup> Section 301(2)(b) of the EA and section 127H(2)(b) of the LGEA.

<sup>19</sup> Section 208 of the EA and 116A of the LGEA.

<sup>20</sup> Section 215 of the EA and section 127AB of the LGEA.

<sup>21</sup> Section 221B of the EA and section 127BA of the LGEA.

<sup>22</sup> Section 303 of the EA and section 127J of the LGEA.

## Part 2 – Cancellation of registration

### 4. Requesting to cancel the registration of a third party

- 4.1. The agent of a registered third party may ask the ECQ to cancel the third party's registration for an election.<sup>23</sup>
- 4.2. Timeframe for requesting to cancel registration: A request to cancel the registration of a third party's registration can be made at any time, including after election day.
- 4.3. Request requirements: A request to cancel the registration of a third party must be made by the agent of the registered third party (if one is appointed). The request must be in writing but does not need to be on an approved form.<sup>24</sup>
- 4.4. Election obligations: Before requesting to cancel the registration of a third party, the agent should ensure that the third party's obligations for the election have ended.<sup>25</sup>
  - 4.4.1. The agent should confirm that there are no outstanding disclosure returns required to be lodged for the registered third party. If electoral expenditure was incurred for the election, the agent must lodge an election summary return for the registered third party.<sup>26</sup>
  - 4.4.2. If the third party was registered for a local government election, any amounts remaining in the registered third party's campaign bank account must either be paid to a charity or kept in the account for a future local government election.<sup>27</sup>

### 5. Assessing a request to cancel the registration of a third party

- 5.1. As soon as practicable after receiving a request to cancel the registration of a third party, the ECQ will check that –
  - (a) the request requirements have been met (see section 4.3 above)
  - (b) the registered third party has no outstanding disclosure returns in EDS (see section 4.4.1 above), and
  - (c) for a local government election, the registered third party has either –
    - (i) provided a copy of the bank statement for its campaign bank account, which shows a nil balance, or
    - (ii) confirmed that they intend to keep any funds remaining in the account for a future local government election (see section 4.4.2 above).
- 5.2. Approval of request: If the above requirements are met, and the ECQ is satisfied that the registered third party's obligations for the election have ended, the request will be

<sup>23</sup> Section 304(1) of the EA and section 127K(1) of the LGEA.

<sup>24</sup> Section 304(1) of the EA and section 127K(1) of the LGEA.

<sup>25</sup> Section 304(2) of the EA and section 127K(2) of the LGEA.

<sup>26</sup> Section 283 of the EA and section 125C of the LGEA.

<sup>27</sup> Section 127AB of the LGEA.

actioned and approved by the ECQ in EMS.<sup>28</sup> This will result in the third party being 'deregistered' in EMS.

5.2.1. Only the Manager, FDC (or a higher position responsible for the oversight of FDC), may approve a request to cancel the registration of a third party.

5.2.2. Approval to cancel the registration of a third party in EMS does not mean that the cancellation has yet taken effect (see section 6.2 below).

5.3. Refusal of request: If the above requirements are not met, the ECQ will refuse the agent's request to cancel the registration of the third party. The ECQ will notify the agent and the registered third party of this decision in writing as soon as practicable after the decision is made. The notice will state that the ECQ has decided to refuse the request and the reasons for the refusal.<sup>29</sup>

## 6. Cancelling the registration of a third party

6.1. Notice of cancellation: The ECQ will notify the agent and the third party in writing as soon as practicable after the agent's request to cancel the third party's registration is approved.<sup>30</sup> The notice will advise the cancellation will take effect either on the day the notice is issued or on a later day set by the ECQ.<sup>31</sup>

6.2. Cancellation takes effect: The cancellation of a third party's registration takes effect on either –

(a) the day the notice of cancellation is issued, or

(b) a later day stated in the notice of cancellation (if applicable).<sup>32</sup>

6.3. Update to register of third parties: The ECQ will record the cancellation, and the date of the cancellation, in the register of third parties for the election.<sup>33</sup> The date of the cancellation will be based on the day the cancellation takes effect.

6.4. Disclosure returns after cancellation: Once a third party is deregistered in EMS, the agent will no longer be able to lodge disclosure returns on behalf of the third party in EDS. As such, if the agent is required to lodge or amend the third party's disclosure returns after the third party is deregistered, the agent will need to complete a paper form and provide this to the ECQ by email, post or in person. The ECQ will then lodge or amend the returns in EDS on the agent's behalf.

<sup>28</sup> Section 304(2) of the EA and section 127K(2) of the LGEA.

<sup>29</sup> Section 304(5) of the EA and section 127K(5) of the LGEA.

<sup>30</sup> Section 304(3)(b) of the EA and section 127K(3)(b) of the LGEA.

<sup>31</sup> Section 304(4) of the EA and section 127K(4) of the LGEA state that the cancellation of the registration of a third party takes effect on the day the third party receives the notice about the cancellation or, if a later day is stated in the notice, the stated day. As the notice of cancellation will be issued by email (except in special circumstances), the ECQ will consider the day the notice is issued as the day the third party receives the notice.

<sup>32</sup> Section 304(4) of the EA and section 127K(4) of the LGEA.

<sup>33</sup> Section 304(3)(a) of the EA and section 127K(3)(a) of the LGEA.

## Part 3 – Third parties that ought to be registered

### 7. Third parties that ought to be registered

- 7.1. A third party is considered a ‘third party that ought to be registered’ if they –
- (a) incur more than \$6,000 in electoral expenditure during the capped expenditure period for an election, and
  - (b) are not registered with the ECQ for the election.
- 7.2. A third party should contact the ECQ as soon as possible after becoming aware that they ought to be registered for an election.
- 7.3. Notice to third party that ought to be registered: If the ECQ reasonably believes a third party ought to be registered for an election, the ECQ will issue a written notice to the third party as soon as practicable.
- 7.3.1. The notice will outline the registration requirements for third parties and require the third party to confirm whether they have incurred more than \$6,000 in electoral expenditure for the election. The ECQ may request supporting documentation from the third party if required.
  - 7.3.2. If the third party does not respond or comply with the ECQ’s requests, the matter will be escalated to the Manager, FDC.
- 7.4. Agent: A third party that ought to be registered for an election may appoint a person to be the third party’s agent for the election.<sup>34</sup>
- 7.5. Requirements for third party that ought to be registered: If the ECQ confirms that a third party ought to be registered for an election, the ECQ will contact the third party to advise of the following requirements.
- 7.5.1. Before election day: If it is before election day, the third party (or their agent where applicable) must –
    - (a) apply to be registered for the election as soon as possible (see part 1 of this Policy)
    - (b) establish a campaign bank account<sup>35</sup>
    - (c) notify the ECQ of their campaign bank account details within 5 business days,<sup>36</sup> and
    - (d) if registering for a local government election – lodge any outstanding real-time disclosure returns for electoral expenditure incurred for the election.<sup>37</sup>
  - 7.5.2. After election day: If it is after election day, the third party (or their agent where applicable) must –
    - (a) register an account in SSP (if they have not done so already)

<sup>34</sup> Section 209 of the EA and section 116B of the LGEA.

<sup>35</sup> Section 215 of the EA and section 127AB of the LGEA.

<sup>36</sup> Section 221B of the EA and section 127BA of the LGEA.

<sup>37</sup> Section 125B of the LGEA.

(b) if registering for a local government election – lodge real-time disclosure returns for all electoral expenditure incurred for the election,<sup>38</sup> and

(c) lodge an election summary return for the election.<sup>39</sup>

7.6. Enforcement action: It is an offence for a third party that is not registered for an election to exceed the \$6,000 electoral expenditure cap.<sup>40</sup>

7.6.1. The maximum penalty for this offence is the greater of the following amounts—

(a) twice the amount of electoral expenditure that exceeded the expenditure cap

(b) 200 penalty units.<sup>41</sup>

7.6.2. The ECQ may also recover twice the amount of electoral expenditure that exceeded the expenditure cap as a debt due to the State.<sup>42</sup>

7.6.3. The ECQ may still decide to take enforcement and/or recovery action against a third party that ought to be registered even if they comply with the requirements under section 7.5 above.

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<sup>38</sup> Section 125B of the LGEA.

<sup>39</sup> Section 283 of the EA and section 125C of the LGEA.

<sup>40</sup> Section 281H of the EA and section 123O of the LGEA.

<sup>41</sup> Section 281H of the EA and section 123O of the LGEA.

<sup>42</sup> Section 281J of the EA and section 123P of the LGEA.

## Delegations

1. Any FDC officer may approve an application to register or change the details of a third party for an election.
2. The Manager, FDC (or a higher position responsible for the oversight of FDC), may approve a request to cancel the registration of a third party for an election.

## Appendix 1 — Definitions

### Definitions

Term	Definition	Reference (if applic.)
Agent	A person appointed by a third party under the EA or the LGEA who is responsible for fulfilling the third party's election funding and financial disclosure obligations.	Part 11, division 2 of the EA and part 6, division 2 of the LGEA
Campaign bank account	A separate bank account with a financial institution from which all electoral expenditure must be paid for an election.	Section 215 of the EA and section 127AB of the LGEA
Election	Means a state or local government election.	Schedule 1 of the EA and schedule 2 of the LGEA
Election summary return	A return required to be given after an election by the agent of a third party, which summarises the third party's total electoral expenditure for the election.	Section 283 of the EA and section 125C of the LGEA.
Register of third parties	A register kept by the ECQ that includes the details of each third party registered for the election.	Section 298 of the EA and 127E of the LGEA
Registered third party	A third party whose application to register for an election has been approved by the ECQ.	Section 301 of the EA and section 127H of the LGEA.

<b>Term</b>	<b>Definition</b>	<b>Reference (if applic.)</b>
Third party	<p>For a state election, means an entity other than a registered political party, an associated entity or a candidate.</p> <p>For a local election, means an entity other than –</p> <ul style="list-style-type: none"> <li>(a) a registered political party that endorses a candidate in the election; or</li> <li>(b) a candidate in the election; or</li> <li>(c) a group of candidates for the election; or</li> <li>(d) an associated entity of an entity mentioned in paragraph (a), (b) or (c); or</li> <li>(e) a person who is a member of a committee for the election of a candidate endorsed by a registered political party, if the committee is part of the political party; or</li> <li>(f) a person who is a member of a committee for the election of— <ul style="list-style-type: none"> <li>(i) a candidate in the election; or</li> <li>(ii) members of a group of candidates for the election</li> </ul> </li> </ul>	Section 197 of the EA and section 106 of the LGEA
Third party that ought to be registered	A third party that is not registered for an election and has incurred more than \$6,000 in electoral expenditure during the capped expenditure period for the election.	Section 281H of the EA and section 123O of the LGEA



## Appendix 2 — Regulatory Framework

### Regulatory framework

- *Electoral Act 1992*
- Electoral Regulation 2013
- *Human Rights Act 2019*
- *Information Privacy Act 2009*
- *Local Government Electoral Act 2011*
- Local Government Electoral Regulation 2023