

**AGENTS**

## Funding and disclosure overview

Unless otherwise stated, all references to legislation are to the *Electoral Act 1992* (EA). The information in this fact sheet does not replace legislation. If you are concerned about your circumstances, you should seek independent legal advice.

This fact sheet relates to agents of participants in state elections and by-elections who may be acting on behalf of candidates, registered political parties or third parties.

### What is an agent?

An agent is the person responsible for ensuring an election participant's funding, disclosure and reporting obligations under the EA are met.

Election participants and their agents have a responsibility to familiarise themselves with all relevant and current legislative provisions. Failure to do so cannot be used as an excuse for failing to comply with any legislative requirement.

The agent is responsible for fulfilling an election participant's funding and disclosure obligations under the EA. The agent is also liable for any penalties associated with non-compliance with those obligations.

### What are an agent's responsibilities?

An agent is responsible for:

- ensuring all disclosure returns for gifts, loans, and expenditure are lodged by the due date before, during and after the election
- ensuring all information contained in the returns is complete and accurate
- ensuring their participant maintains a state campaign bank account for the election
- ensuring their participant complies with caps on electoral expenditure and political donations
- informing their participant (and any of their associated entities) about the obligations that apply to them under the EA
- establishing and maintaining appropriate systems to support their participant (and any of their associated entities) to comply with their obligations
- informing donors about their disclosure obligations under the EA
- maintaining records for 5 years after the election, demonstrating that they have taken reasonable action as an agent to fulfil their above responsibilities
- responding to the ECQ about any matters which arise in respect of their participant's compliance (before, during, and after the election).

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#### More information

If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing [fad@ecq.qld.gov.au](mailto:fad@ecq.qld.gov.au).



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While agents are responsible for these obligations, election participants also have an obligation to ensure agents do not give information to the ECQ that the participant knows to be false or misleading. The ECQ recommends that an agent ensures their participant/s review any completed returns before they are submitted.

The ECQ has provided a range of [fact sheets and handbooks](#) so election participants can be familiar with their disclosure, expenditure cap, political donation cap and state campaign bank account obligations during the election. Agents should refer to the information for their relevant election participant to understand their obligations.

## Who can be an agent?

An agent must be an adult who has consented to their appointment in writing and signed a declaration that they are eligible for appointment.

Any person who has been convicted of an electoral funding or financial disclosure offence against the EA is not eligible for appointment as an agent.

## Appointment of agents

This table summarises Part 11, Division 2 of the EA which sets out the election participants that either **must** or **may** appoint an agent and when they should do so.

Election participant	Requirement to appoint an agent:		Information about appointment
	MUST	MAY	
Individual candidate			Notification to the ECQ is only required if the candidate chooses to appoint an agent. An agent can be appointed via Form FAD3B found at <a href="http://ecq.qld.gov.au/factsheets">ecq.qld.gov.au/factsheets</a> .
Registered political party			Registered political parties must appoint an agent under s206 of the EA. An agent can be appointed via Form FAD3A found at <a href="http://ecq.qld.gov.au/factsheets">ecq.qld.gov.au/factsheets</a> .
Registered third party (an individual)			Notification to the ECQ is only required if the registered third party (individual) chooses to appoint an agent. An agent can be appointed via Form FAD3C found at <a href="http://ecq.qld.gov.au/factsheets">ecq.qld.gov.au/factsheets</a> .

### More information on state government elections

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Election participant	Requirement to appoint an agent:		Information about appointment
	MUST	MAY	
Registered third party (not an individual)			If a registered third party is not an individual, they must include a notice of the appointment of an agent with their application to ECQ for registration for an election under section 208 of the EA.
Unregistered third party			Notification to the ECQ is only required if the unregistered third party chooses to appoint an agent.  An agent can be appointed by contacting the ECQ.

## Change or removal of agents

If circumstances change and the agent is no longer able to perform their duties, they can give the ECQ a signed notice stating that they have resigned as the agent. An agent can also be removed if the entity that appointed the agent provides the ECQ with a signed notice stating that the agent's appointment has ceased. Once an agent resigns or is removed, a new agent can be appointed.

If, at any time, an agent is not appointed for a registered political party or a third party organisation – both of which must have an agent – then each member of the executive committee assumes responsibility for obligations under the EA including any penalties which may be imposed for non-compliance. Notice of appointment of another agent must be given to the ECQ within 28 days.

## Record keeping

All agents must keep records for 5 years. This is required to demonstrate compliance in relation to all legislative requirements. See [Fact sheet 4 – Record keeping requirements](#) for further details.

## Compliance

The ECQ is responsible for administering and enforcing the EA which includes penalties for election participants who breach their disclosure obligations.

The compliance framework is available on the [ECQ website](#).

## For further information

This fact sheet refers mainly to part 11 of the EA. The Act is available in full at [legislation.qld.gov.au](#). Participants in the electoral process should ensure they understand their obligations under the EA.

## More information on state government elections

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 **RELATED FACT SHEETS**

Fact sheet 4 – Record keeping requirements

Fact sheet 9 – Funding and disclosure overview for registered political parties

Fact sheet 15 – Funding and disclosure overview for candidates

Fact sheet 19 – Funding and disclosure overview for third parties

Fact sheets can be found on the [ECQ website](#).

**More information on state government elections**

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