

Party Registration Policy and Procedures

1. Introduction

The New South Wales Electoral Commissioner ('the Commissioner') is responsible for the registration of parties for State elections and local government elections.

Officers of the NSW Electoral Commission staff agency ('the Electoral Commission agency') undertake the work for the Commissioner in relation to the registration of parties.

Parties registered for State elections are registered in accordance with the *Parliamentary Electorates and Elections Act 1912* (NSW) ('the PE&E Act'). Parties registered for local government elections are registered in accordance with the *Local Government Act 1993* (NSW) ('the LG Act'). Parties registered for State elections under the PE&E Act are also registered under the LG Act for local government elections.

The Commissioner must keep the following Registers:

- the Register of Parties (for State elections), kept and maintained under Part 4A of the PE&E Act; and
- the Local Government Register of Political Parties (for local government elections), kept and maintained under Part 7 of the LG Act.

Registered parties have a number of entitlements including:

- the name of the party may be included on the ballot paper for an election next to the name of the party's endorsed candidate;
- a party registered under the PE&E Act may be eligible to receive public funding under the *Election Funding, Expenditure and Disclosures Act 1981* (NSW) ('the EFED Act'); and
- a party registered under the PE&E Act is provided with access to the NSW electoral roll.

Registered parties must also comply with the requirements of parties under the EFED Act.

2. Purpose

The purpose of this policy is to provide a guide as to the principles and objectives of party registration, including how the Commissioner may make decisions about certain registration matters.

This document is not a guideline within the meaning of section 24 of the EFED Act.

3. Scope and application

This policy applies to:

- the registration of parties under the PE&E Act and LG Act;
- registered officers and secretaries of parties; and
- officers of the Electoral Commission agency, including contractors and third-party consultants, involved in the registration of electoral participants.

4. Principles and objectives of registration

4.1 Principles

- To register political parties in accordance with the PE&E Act and LG Act, and maintain the Registers so as to provide an accurate account of the registration of political parties.
- The registers must provide a true and faithful record, as they determine a party's entitlements.
- To ensure that parties are eligible to register and that their application is validly made to the Commissioner. See the Procedures (section 5) for more detail.
- Applications for registration are dealt with in accordance with the legislation (as applicable).
- The registers are public documents, available for inspection during ordinary office hours, upon request.

4.2 Objectives

- *Transparency:* To enable the public to see which parties have the benefits of party registration. With greater transparency comes increased accountability.
- *Accountability:* A registered party has obligations under the EFED Act with respect to political donations and electoral expenditure. In return for the benefits of party registration, a party must comply with its obligations under the EFED Act and support the transparency of election campaign funding in NSW.
- *Democracy:* Parties are registered by the Commissioner in an open and impartial way thereby contributing to a fair and democratic electoral system in NSW.
- *Service:* The Electoral Commission agency aims to make the registration process accessible and simple for parties to support greater participation in the democratic process.

5. Procedures

5.1 Registration of parties

Registration of political parties is not compulsory, but a party wanting to receive the entitlements of party registration must be registered in accordance with the legislation. The party must be eligible and must make an application for registration with the Commissioner in the approved form, satisfying the criteria of the relevant legislation.

If a party is eligible to be registered and has made a valid application, the Commissioner must (subject to other requirements) register the party by inserting the name of the party in the Register of Parties or the Local Government Register of Political Parties, as applicable.

A party's registration includes the following details and documents that were provided with the party's application for registration:

- the particulars required in the application for registration;
- a copy of the party's constitution, and
- declarations of membership of the party completed and signed by the members on whom the party relies for registration eligibility.

5.1.1 Registration benefits and entitlements on anniversary of registration

A party gains certain benefits and entitlements on the first anniversary of its registration.

Registration benefits a party by allowing:

- the party (through its registered officer) to nominate candidates for an election;
- the party's name to appear on a ballot paper next to the names of candidates that the party endorses;
- the party to register electoral material (including How to Vote cards) for use on election day; and
- a candidate to register certain electoral material (including How to Vote cards) that show that the candidate is a member of the party or supports the party.

Registration is also one of the eligibility criteria for receiving public funding under the EFED Act.

5.1.2 Eligibility for registration

Before a party can apply for registration at the State or local government levels (or for the purposes of the EFED Act), it must be eligible for registration. Under the PE&E and the LG Acts, a party is eligible for registration if it:

- *In the case of a State registered party* – has at least 750 members who are enrolled to vote in NSW;
- *In the case of a local government party* – has at least 100 members who are enrolled to vote in NSW; and
- *In either case* – is established on the basis of a written constitution that sets out the platform or objectives of the party.

Two parties cannot rely on the same member for eligibility purposes.

5.1.3 Application for registration

An application for the registration of a party may be made to the Commissioner (in the form and manner approved by the Commissioner) by the secretary of the party. Refer to the *Political Party Registration Handbooks and Forms* on the NSWEC's website for application forms, and information about party registration.

An application for party registration must set out a number of details, including the name and address of the registered officer and deputy registered officer, the party headquarters in NSW, and the names, addresses and signed declarations of the requisite number of members of the party. See the *party registration handbook* for more information.

It costs \$2,000 to register a party, unless the party is registering for local government elections only (in which case there is no fee).

The following table compares party definitions and registration requirements for State and local government applications:

Requirement/definition	State registration under the PE&E Act	Local government registration under the LG Act
Definition of party	“Party” means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Assembly or the Council of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.	“Political party” means a body or organisation, whether or not incorporated, having as one of its objects or activities the promotion of the election to Parliament or to a council of a candidate or candidates endorsed by it or by a body or organisation of which it forms part.
Level of election	State and local government	Local government only
Eligibility for registration	At least 750 members, and must be established on the basis of a written constitution that sets out the platform or objectives of the party.	At least 100 members, and must be established on the basis of a written constitution that sets out the platform or objectives of the party.
Application for registration	To the Commissioner in the form and manner approved by the Commissioner, by the party secretary, setting out particulars in s.66D(2).	Same as under the PE&E Act, with some terms and references modified.
Application fee	\$2,000	None

Public notice of application for registration

If the Commissioner is satisfied that a party may be eligible to be registered and the application is likely to have been duly made, the Commissioner must publish notice of the party's application for registration in one or more newspapers circulating in NSW.

The purpose of the notice is to state that the application has been received, and to request that any objections to the application be lodged with the Commissioner within 14 days of the date of publication of the notice.

The notice sets out the details that are required in the application, such as the name and address of the registered officer and the party headquarters in NSW, and states that the application can be inspected at a specified address.

The Commissioner must consider all objections received during the 14 days (in conjunction with any other matters relevant to the determination), to determine:

- whether the party is an eligible party;
- whether the application was duly made; and
- whether the Commissioner should refuse to register the party.

5.1.4 Refusal of registration

The Commissioner can refuse to register a party in some circumstances, and must refuse to register a party in other circumstances.

Eligibility and application

The Commissioner can refuse to register a party if:

- it is not an eligible party;
- its application for registration was not valid; or
- the Commissioner believes on reasonable grounds that the application details or documents are incomplete or incorrect; or
- the registration application is received during an election period.

The Commissioner can require further information or adopt any other test for verifying membership of the party, or make other inquiries about the party members, to confirm the party's eligibility.

Party name

The Commissioner must refuse to register a party if, in the Commissioner's opinion, the party's name or the abbreviation of the party's name, as stated in the application for registration:

1. is longer than 6 words;
2. is obscene or offensive (subject to the Commonwealth exception, below);
3. is the same as or closely resembles the name, acronym or abbreviation of another party registered in NSW (subject to the Commonwealth exception, below); or
4. includes the words "Independent Party" or "Independent", plus words that are the same as or closely resemble the name, acronym or abbreviation of another party registered in NSW.

The Commonwealth exception

The Commissioner cannot refuse to register a party based on points 2 and 3 above, if:

- the party is already registered under the Commonwealth Act ('a Commonwealth party'); or
- is a party with the same name and/or abbreviation as a Commonwealth party and it has obtained the consent of the Commonwealth party).

During an election period

In addition, a party cannot be registered during an election period (which is from the day of the issue of the writ for the election up to and including polling day). No applications for registration are dealt with during an election period.

5.2 Amending a party's registration

The registered officer of a party may apply to the Commissioner, in the form and manner approved by the Commissioner, to amend particulars about the party in the register. Refer to the *Political Party Registration Handbooks and Forms* on the NSWEC's website for amendment forms.

If the amendment is to change the registered officer, the secretary of the party may make the application.

An amendment to particulars in the register cannot be made during the broader election period (the period starting from the day of the issue of the writ for an election up to and including the day of the return of the writ for the election).

5.2.1 Publishing amendments to a register

The Commissioner is responsible for notifying the public of an application to amend the register. The Commissioner must publish a notice in one or more newspapers circulating throughout NSW. Objections to the amendment must be lodged with the Commissioner within 14 days after the date for publication. This process does not apply where the Commissioner is of the opinion that the amendment is of a minor nature only and does not warrant publication of a notice.

The following table shows the types of application for amendment that will require public notice and those that are considered to be minor in nature and will generally not be subject to public consultation:

Requires public notice	Does not require public notice
Change of registered officer for a party	Change to the party's registered address
Deregistration of a party	Change of deputy registered officer for a party
Change to the party's constitution	
Change of party name	

5.3 Continued registration requirements

To ensure the veracity and integrity of the registration process, registered parties are required to provide an annual return to the Commissioner demonstrating their continued eligibility for registration. This process of review provides a regular opportunity to verify that parties continue to meet all of the registration requirements required under the PE&E Act and LG Act. If a party fails to comply with a requirement, the Commissioner may cancel the registration of the party.

5.4 Cancelling a party's registration

The Commissioner may cancel the registration of a party:

- At the written request of the registered officer of the party; or
- If the Commissioner is satisfied on reasonable grounds that:
 - A registered party no longer exists (for example, because it has merged with another party);
 - A registered party is no longer an eligible party;
 - After registration, the party did not endorse any candidates at a general election; and
 - The party's registration was obtained by fraud or misrepresentation.

5.4.1 Public notice of cancellation of registration

If the registration of a party is cancelled, the Commissioner must:

- give notice of the cancellation and the reasons for the cancellation to the person who was the registered officer of the party;
- publish notice of the cancellation in the Gazette; and
- remove the party's name, details and documents from the register.

5.5 Inspecting the register

To ensure visibility and transparency, the register is a public document and available for inspection at the office of the NSWEC during ordinary office hours, upon request. Inspection does not extend to making copies of the register. This is because the register contains personal information about the officers and members of parties.

5.6 Dealing with incidents of registration non-compliance

The objectives of transparency and accountability set out in this policy are supported by the legislation. Breaches of the legislation are unlawful and may constitute criminal offences. Any potential breaches will be dealt with in accordance with the NSWEC's Compliance and Enforcement Policy.

The Commissioner can provide evidence of a party's registration status at a given time, or a person's status as registered officer at a given time, by signing a certificate to that effect. The signed certificate is admissible in any proceedings and is prima facie evidence of the matters that are certified.

6. Definitions and abbreviations

Commissioner	New South Wales Electoral Commissioner
EFED Act	<i>Election Funding, Expenditure and Disclosures Act 1981</i>
Electoral Commission agency	NSW Electoral Commission staff agency
LG Act	<i>Local Government Act 1993</i>
PE&E Act	<i>Parliamentary Electorates and Elections Act 1912</i>

7. Associated documents

1. Compliance and Enforcement Policy
2. Compliance and Enforcement Procedures
3. Prosecution Policy

8. Party Registration Policy and Procedures Document control

8.1 Approval authority

The approval authority for this document is the Commissioner.

8.2 Branch responsible for content and implementation

Funding, Disclosure and Compliance (FDC) Branch of the Electoral Commission staff agency.

8.3 Review Record

Date	Version	Revision description
29/06/2016	V1.0	New Policy and Procedures

8.4 Review frequency

This document will be reviewed by the FDC branch every 3 years following the anniversary date of approval or as required due to legislative change, whichever is the earliest.