

The information provided on political party constitutions is intended to inform the reader of the minimum elements of a constitution needed to satisfy the requirements of the *Commonwealth Electoral Act 1918* (the Electoral Act) for a party to be considered for registration. While the Australian Electoral Commission (the AEC) plays a role registering existing political parties that apply for registration, it does not have expertise in the formation, development and management of successful political parties. Any organisation seeking to become a registered political party should seek independent legal advice on its constitution.

Political party constitution – general drafting guide

The Electoral Act sets out a number of requirements that a party must meet in order to be eligible for federal registration as a political party. Set out below are elements which a political party constitution either must cover in order to meet the registration requirements, or that the AEC strongly recommends the party consider including in its constitution.

Should a party seek to become registered, there are some circumstances where the AEC will ask for evidence that certain decisions were made in accordance with the party's own constitution.

Name of the party

A constitution should set out the name of the political party. Section 129 of the Electoral Act prohibits registered political parties from having certain names. The party should consider this when deciding on a name.

A party can also request an abbreviation on its application for registration. The abbreviation can be printed instead of the party name on ballot papers. The same rules in Section 129 of the Electoral Act apply to abbreviations.

Function and objectives of the party

A constitution should set out the aims and objectives of the party. The aims or objectives of the party can be as broad or narrow as the party wishes.

One of the requirements of the Electoral Act is that a registered political party must have an aim or objective of endorsing candidates for Senate and House of Representatives elections.

Membership requirements

The Electoral Act requires a party to have at least 500 members or at least 1 member who is a Commonwealth Parliamentarian in order to become registered. Therefore, a party constitution must deal with membership of the party. Matters that might be covered include: who is eligible to join the party, how they can resign, what rights and obligations they have as members, whether they can be expelled and what the cost of membership is per year.

It is important to note that the Electoral Act requires the 500 members who are used to support the application for registration to be eligible for enrolment on the Commonwealth electoral roll.

The party's decision making process

A constitution usually includes details about the decision making processes of the party; namely, who is eligible to make decisions and how these are to be made.

A constitution also usually contains details of arrangements for annual general meetings, how often party meetings must be held, how party members are notified of meetings and the number of members required for a quorum.

Office bearers of the party

A constitution usually contains descriptions of office bearers. Office bearers are positions within the party that have specific roles or powers. Examples of office bearers are: President, Treasurer, Secretary, etc. As well as setting out what office bearers the party has, a constitution should also set out how they are elected and for how long they are elected.

The Electoral Act requires the constitution of a registered party to identify someone who is responsible for the day to day administration and correspondence of the party. The Electoral Act refers to this person as a secretary, but the party constitution may give them a different title.

Details relating to the keeping of the party's accounts

A constitution usually deals with details relating to the keeping of the party's accounts. This might cover who is responsible for managing the party's finances (could be an office bearer), how funds are to be used, who can authorise expenditure, etc.

The Electoral Act requires registered political parties to appoint a 'Party Agent' who is responsible for lodging disclosure returns with the AEC. The party agent is also required by law to keep relevant records for certain periods of time.

Mechanism for changing the constitution

Usually a constitution sets out the procedures for amending the constitution from time to time. Often, this is linked to the party's decision making process, but there is a larger majority required for the vote to pass.

Establishment of State and Territory Branches

The Electoral Act allows for a registered political party to establish state and territory branches.

Typically a party constitution will set out a procedure for establishing a branch of the party in a state or territory. It might also cover representation of state and territory branches in federal branch decision making. Often a party constitution will provide that the federal constitution has supremacy over state or territory branch constitutions.

Endorsing candidates

Some parties choose to set out detailed procedures for endorsing candidates in federal elections in their constitution.

Commencement

A constitution usually sets out details about how the organisation can adopt the Constitution. This might require a meeting in which participants vote to adopt the constitution, or some other decision making mechanism.

Interpretation

A constitution usually includes a section on interpretation. This section will usually list words which appear throughout the document and provide a definition for them. Some examples of words which could be defined are: Annual General Meeting (AGM), Special General Meeting (SGM), Quorum, Member, Notice of meeting, etc.

Further information

Further information on political party constitutions can be found at:

The Australian Capital Territory Electoral Commission

<http://www.elections.act.gov.au/resources/uploads/pdfs/partyreghb.pdf>

The Queensland Electoral Commission

http://www.ecq.qld.gov.au/political_parties.aspx?id=121

In addition, many political parties publish their constitutions on their websites.