

October 2009

Funding and Disclosure in Western Australia GUIDELINES



WESTERN AUSTRALIAN Electoral Commission

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FOREWORD

Under the provisions of Part VI *Electoral funding and disclosure of gifts, income and expenditure* of the Western Australian *Electoral Act 1907*, all political parties, associated entities, individual candidates, groups and other persons are required to provide the Electoral Commissioner with details of gifts, other income and expenditure incurred for electoral and/or political purposes. In addition, since December 2006 candidates and political parties are entitled to public funding under the provisions of Part VI.

These guidelines outline the essential legislative requirements of the Act, and provide guidance on the disclosure of gifts and expenditure, and claims for public funding. These guidelines should be used in conjunction with the *Electoral Act 1907* and the *Electoral (Political Finance) Regulations 1996*, which together fully explain and set out all legislative requirements for disclosure.



Warwick Gately AM
ELECTORAL COMMISSIONER

October 2009

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GPO Box 316

PERTH WA 6841

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1. INTRODUCTION

1.1 Relevant Legislation

The political finance disclosure provisions were first introduced for the 1996 State general election. Part VI of the *Electoral Act 1907* requires all political parties, associated entities, individual candidates, groups and other persons to declare gifts and/or income received and electoral expenditure incurred for electoral and political purposes. This Part was amended in 2006 to allow for funding of electoral expenditure incurred by eligible political parties and candidates at State elections. The six divisions of Part VI cover the following areas:

All references are made to the Electoral Act 1907 (E) and the Electoral (Political finance) Regulations 1996 (R)

- definitions and references
- agents
- electoral funding
- disclosure of gifts and other income
- disclosure of electoral expenditure
- offences, investigations and miscellaneous provisions.

The *Electoral (Political Finance) Regulations 1996* set out how records and other information should be recorded and kept.

1.2 These Guidelines

The Commission has produced these guidelines to assist political parties, associated entities, candidates, groups and other persons who are bound by disclosure laws. They also aim to provide assistance to those political parties and candidates who are entitled to claim for electoral funding. Key concepts and terms are explained in the following section.

All references within this document are made to the *Electoral Act 1907* (E) and the *Electoral (Political Finance) Regulations 1996* (R). These guidelines should be used in conjunction with this legislation, which fully explains and set out all requirements for funding and disclosure. Copies of the Act and Regulations can be obtained from:

State Law Publisher
Ground Floor, 10 William Street
PERTH WA 6000
Phone (08) 9321 7688
Fax (08) 9321 7536
Internet www.slp.wa.gov.au

1.3 Definition of Terms Used

Definitions relevant to an understanding of the legislation are provided in Part VI of the *Electoral Act 1907*, and also where necessary within the *Electoral (Political Finance) Regulations 1996*. Some of the key terms and concepts used in this publication are listed below.

E, s.175

Acknowledgment book

Contains forms of acknowledgment issued as receipts for non-monetary gifts received, including 'gifts-in-kind'. The forms should be in duplicate, machine numbered serially, and each form should include:

R, 8, 17, 24

- the date of the acknowledgement
- the value of the gift
- a description of the gift
- the name and address of the person, body or organisation on whose behalf the gift is made
- the purpose for which the gift is made.

Acknowledgments must be issued for items with a value less than the threshold of \$2,100 as a record of all donors and to provide details of any one donor whose series of gifts equal or exceed the threshold in value.

Agent

A person appointed to act on behalf of a political party, candidate or group for the purposes of funding and disclosure. *E, s. 175*

Approved

Authorised or agreed to by the Electoral Commissioner. *E, s.175*

Associated entity

An entity, whether incorporated or not, that is controlled by one or more political parties or operates for the benefit of one or more political parties at any time during a financial year. *E, s. 175*

Bank and financial institution statements

Statements obtained on a regular periodic basis of the account or accounts into which gifts (and/or income, in the case of political parties and associated entities) have been deposited, and from which electoral expenditure has been incurred with the authority of the political party, associated entity, candidate, group or other person. *R, 10, 19, 30*

Campaign committee

A body of persons who form a committee to assist in the election of one or more candidates (including groups), who are endorsed by a political party. *E, s.175*

Candidate

Any person who, within three months before the day of election, offers himself or herself for election as a member of the Council or Assembly.

E, s.4

Election period

The period commencing from the day of issue of the writ for the election to the latest time on polling day an elector in the State can enter a polling booth for the purpose of casting a vote in the election.

E, s.175

Electoral expenditure in relation to an election

Expenditure incurred by advertising during the election period, or by producing advertisements for the purposes of advertising during the election period. The following categories should be disclosed:

E, s.175

- Broadcasting an election-related advertisement, for example, a television or radio advertisement
- Publishing an advertisement in a journal (including newspapers or magazines)
- Displaying an election-related advertisement at a place of entertainment, for example, the cinema
- The production of any advertisement which is broadcast, published or displayed as above (even if the production of that advertisement occurs outside the election period)
- Producing any material, other than above, which requires authorisation and which is used for advertising during the election period (even if the production of that material occurs outside the election period)
- Producing and distributing electoral matter addressed to particular persons or organisations, for example, mail-outs or letterbox drops to households

- Consultant's or advertising agent's fees for services

provided during the election period, or the production of material for use during the election period

- Carrying out an opinion poll or other research during the election period which is related to the election.

Electoral funding

An amount of money paid to a candidate or political party for an election. This amount is either the amount of money spent on electoral expenditure for that election, or the election funding reimbursement amount per first preference valid vote received in the contested district or region, whichever is the lesser amount.

E Part VI, Divison 2A

Election funding reimbursement amount

The dollar amount which is used to determine the amount of electoral funding that a party or candidate is entitled to receive in relation to an election. The election funding reimbursement amount is adjusted each financial year on 1 July using the following formula:

E, s. 175LC

$$\frac{A \times B}{C} = \text{New election funding reimbursement amount}$$

A = current election funding reimbursement amount

B = CPI number published for the March quarter in the current year

C = CPI number published for the March quarter in the previous year

Eligible vote

A vote given at an election which is a first preference valid vote. Eligible votes do not include informal votes or votes gained under a transfer of preferences.

E, s. 175LA (1)

Entitled amount

In relation to electoral funding claims, this is the election

funding reimbursement amount multiplied by the number of eligible votes received in the election to which the claim relates.

Expenditure book

An adequate record of any details of any electoral expenditure incurred by or with the authority of the political party, candidate or other person. These details must be entered as soon as possible after the transaction is effected.

R, 9, 18, 29

Electoral (Political Finance) Notice 2000, Gazette No 235

Expenditure for a political purpose

This is related to the definition of ‘other persons’ who must disclose gifts received. It is the incurring of expenditure for, or in connection with, promoting or opposing, directly or indirectly, a political party or a member of parliament, or the election of a candidate or candidates in an election. It also covers expenditure incurred for the purpose of influencing, directly or indirectly, voting in an election. It includes the incurring of expenditure in connection with:

E, s.175Q(5)

- the publication, broadcasting, display or distribution of electoral matter in relation to an election
- the expression publicly, by any other means, of views on an issue in an election
- the making of a gift to a candidate or group in an election
- the making of a gift to a political party
- the making of a gift to a person on the understanding that that person or another person will apply, either directly or indirectly, the whole or part of the gift as mentioned above.

This is slightly different from electoral expenditure in relation to an election, also defined in this section.

Financial controller

The financial controller of an associated entity means: *E, s.175*

- if the entity is a company, the secretary of the company
- if the entity is the trustee of a trust, the trustee
- in other cases, the person responsible for maintaining the financial records of the entity.

Gift

The donation of property made by a person to another person, other than by will, made without consideration for the real value or worth of the property. This includes the provision of a service (other than volunteer labour) for no or inadequate consideration, but does not include annual membership subscriptions of \$200 or less paid by a person to a political party or to a division of a political party. *E, s.175*

Only non-monetary gifts are recorded in the acknowledgement book. Gifts of money are recorded in the receipt book. *R, 7, 8, 16, 17, 23, 24*

Gifts can include:

- amounts above \$200 paid with annual membership subscriptions
- levies made on party members and parliamentarians
- donations received from the patron of a political party
- vouchers in lieu of cash.

Group

A group of two or more candidates who have nominated for election to the Legislative Council and have their names *E, s.80*

grouped together on the ballot paper in accordance with section 80 of the Act.

Non-party groups are those that have not been endorsed by a registered political party.

Other persons

Persons who are not a political party, associated entity, candidate or a group. Other people may include interest groups, lobby groups, welfare groups, unions and associations. Other people may need to lodge a disclosure return if they incur expenditure for a political purpose, or electoral expenditure in relation to an election. Both types of expenditure are defined in this section.

E, ss.175Q, 175SD

Political party

An organisation whose objectives or activities include the promotion of one or more candidates it has endorsed for election to Parliament.

E, s. 4

Receipt book

Used to record relevant amounts of money received. Must contain forms of receipt in duplicate, machine numbered serially, with provision on each form for:

R, 7, 16, 23

- the date of the receipt
- the amount of money received
- the form in which the money was received, for example, cash, cheque, electronic transfer, postal order etc

- the name and address of the person, body or organisation on whose behalf the amount is paid
- the purpose of the payment.

The issuing of receipts for amounts or gifts less than \$2,100 is important as one donor may make a series of payments which, when totalled equals or exceeds \$2,100, details of which must be given in the return.

For disclosure purposes, political parties and associated entities must record all money received in the receipt book. Candidates, groups and other people who incur expenditure for political purpose need only issue receipts for gifts of money or the proceeds of a sale of a gift.

Specified amount

The specified amount has increased to \$2,100 and applies to all returns and claims lodged prior to the next increase, except annual returns for the year ending 30 June 2009. The amount will be revised after the next State general election.

E, s.175, R, 3

Value of a gift

The value assigned to a non-monetary gift should be a current value at the prevailing commercial rate. If necessary, a professional valuation could be sought from a reputable source.

The following guidelines are suggested to assign values to non-monetary gifts:

- the current hourly award wage rate
- the current average retail price of petrol
- the level of rent normally charged for commercial premises
- the normal charge levied for the hire of equipment and vehicles
- the normal selling price of a good or service

- by consulting appropriate professional sources, for example, realty agents, auctioneers etc).

1.4 Role of the Western Australian Electoral Commissioner

Responsibility

The Electoral Commissioner is responsible for maintaining a register of political party agents and obtaining any relevant information from parties, associated entities, candidates, groups and other persons for the purposes of funding and disclosure.

Audit functions

The Electoral Commissioner is empowered to check all returns and claims, obtain any information relevant to funding and disclosure requirements and to interview people and scrutinise bank or other financial accounts where donations are deposited. This is part of the audit process to confirm compliance with the legislation. Audits are generally conducted for each financial year, and a sample of returns lodged during that year is chosen for audit.

E, s.175W

Political finance annual report

Following the return of annual disclosure returns by political parties and associated entities each financial year, the Electoral Commissioner is required to submit an annual report to the Minister, who subsequently tables the report in Parliament. This report includes any relevant information relating to funding and disclosure activities for that year, including any audit findings.

E, s.175ZG

1.5 Public Inspection of Returns

The public may view returns free of charge at the Commission's office. The returns are available four weeks

E, s.175ZC

after the required lodgement date. Annual returns are available the first working day after 28 December and election related returns from 19 weeks after polling day.

2. AGENTS

2.1 Agents of Political Parties and Associated Entities

Agent for a political party

All political parties are required to appoint an agent who must register with the Electoral Commissioner. The appointment takes effect on the entry of the name and address of the party agent in the party agents' register at the Electoral Commission, and ceases to have effect when the name and address is removed. An agent assumes responsibility for lodging disclosure returns and claims for electoral funding.

E, ss.175F, 175G, 175H, 175I

Party agent appointment

To be eligible for appointment as an agent of a political party, the nominated person must:

E, s.175E

- be over the age of 18 years
- be appointed in writing by the party
- declare their eligibility and consent to the position
- not have been convicted of an offence under the disclosure provisions of the Act.

When there is no agent of the political party, all members of the party's executive committee jointly assume responsibility for the disclosure obligations.

E, s.175J

Party agent appointment form

The following form has been approved by the Electoral Commissioner for the appointment of political party agents:

E, s.175E(2)

- PA 01 *Notice of Appointment of an Agent by a Political*

Party.

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the Commission's web site at www.waec.wa.gov.au

Agent for an associated entity

The financial controller of an associated entity is considered to be its agent for the purposes of Part VI of the Act.

E, ss.175, 175NA(3)(b)

2.2 Agents of Candidates and Groups

Agent for candidates in both Legislative Assembly and Legislative Council

When a candidate has been endorsed by a political party the party agent is automatically deemed to be the candidate agent.

A candidate that is endorsed by a political party can appoint an agent other than the party agent. This separate appointment must be lodged by 6.00 pm on the day before polling day at each election. If a candidate does not make a separate appointment before this time the party agent is deemed to be the candidate agent.

E, ss. 175C, 175E(4)

If a candidate is not endorsed by a political party they have until 6.00pm on the day before polling day at each election to appoint an agent. If an agent is not appointed a candidate is deemed to be their own agent and personally accepts responsibility for compliance with disclosure requirements.

Agent for a party group

Where all candidates in a party group have been endorsed by a political party, the agent of that political party is automatically the agent for both the group and the endorsed candidates with no separate written appointment required.

E, s. 175D(2)

Agent for a non-party group

In the case of non-party groups, each candidate in the group must endorse the group agent if one is to be appointed. If no group agent is appointed, the name of the first candidate for the group on the ballot paper will be registered as the group agent by the Electoral Commission.

E, s. 175D(3)

Appointment

An agent of a candidate or group assumes responsibility for lodging disclosure returns. Party agents are automatically deemed to be the agents of endorsed candidates and groups unless otherwise specified.

E, s. 175E

In the case of an independent candidate, an agent is also responsible for lodging claims for electoral funding if the candidate receives more than 4% of the primary vote.

To be eligible for appointment as an agent, the nominated person must:

- be over the age of 18 years
- be appointed in writing by the candidate or group
- declare their eligibility and consent to the position
- not have been convicted of an offence under the disclosure provisions of the Act.

An agent must be appointed by 6.00 pm on the day before polling day in an election.

E, s. 175E(4)

Duration of appointment

A candidate or group may revoke the appointment of an agent by giving notice to the Electoral Commissioner. The Electoral Commissioner must also be informed without delay of the death or resignation of an agent.

E, ss. 175K, 175L

If an agent appointment is revoked by a candidate or group before 6.00 pm on the day before polling day another agent may be appointed.

However when a candidate or group revokes the appointment of an agent after 6.00 pm on the day before polling day the candidate or first candidate in the group becomes the agent for disclosure purposes.

A separate agent appointment is required for each election, with the exception of party agents which are ongoing appointments.

Agent appointment form

The following forms have been approved by the Electoral Commissioner for the appointment of agents:

E, s.175E

- PA 02 *Notice of Appointment of an Agent by a Candidate*
- PA 03 *Notice of Appointment of an Agent by a Group.*

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the Commission's web site at www.waec.wa.gov.au

3. POLITICAL PARTIES AND ASSOCIATED ENTITIES DISCLOSURE

3.1 Annual Returns

Agents of political parties and financial controllers of associated entities are required to lodge a return with the Electoral Commissioner setting out the value of gifts and other income received during the previous financial year.

E, ss.175N(1), 175NA(1)

The financial year (1 July to 30 June) forms the disclosure period for political parties and associated entities for gifts and other income.

Should no gifts or other income be received by a political party, a return must nevertheless be lodged with nil or a similar statement against the relevant items.

E, s.175S

The following forms have been approved by the Electoral Commissioner for the disclosure of gifts and other income by political parties and associated entities:

E, ss.175N(1), 175NA(1)

- PD 01 *Annual Return by a Political Party*
- PD 02 *Annual Return by an Associated Entity*

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the Commission's web site at www.waec.wa.gov.au

3.2 Details of Gifts and Other Income

The annual return must disclose:

E, s.175N

- the amount or value of all gifts
- the relevant details of each gift whose value equals or exceeds the specified amount of \$2,100;
- the relevant details of donors who make a series of donations which, when totalled, equal or exceed \$2,100
- an amount of other income not included above.

The sum of the respective amounts or values of two or more gifts made to a political party or associated entity by the same person shall be taken to be one gift. However, in calculating the sum of that gift, an individual amount or value that is less than one-third of the specified amount need not be counted in that sum. This amount must still be included in the overall amount of gifts disclosed.

The relevant details of donors to be recorded are:

E, ss.175M, 175R

- for gifts made on behalf of the members of an unincorporated association, the name of the association and the names and addresses of the members of the executive committee;
- for gifts made from a trust fund or a foundation, the names and addresses of the trustees, the person for whose benefit the funds are held, and the title of the foundation or fund; and
- for individual donors, their names and addresses.

Acceptance of donations equal to or more than the specified amount of \$2,100 from unidentified persons or sources is prohibited under the Act.

E, s.175R

3.3 Due Date for Annual Returns

Annual returns for political parties and associated entities are due to be lodged with the Electoral Commissioner in an approved form by 30 November each year.

E, ss.175N(1), 175NA(1)

3.4 Election Related Returns

After an election or by-election, the agent of a political party must lodge a return setting out details of specified

E, s.175SA

electoral expenditure in relation to an election which was incurred with the authority of the political party.

Should no expenditure be incurred, a return must nevertheless be lodged with a nil or similar statement against the relevant items.

E, s.175SE

Associated entities are not required to disclose expenditure incurred in an election.

The following form has been approved by the Electoral Commissioner for the disclosure of expenditure by political parties:

- PE 01 *Disclosure of Expenditure by a Political Party*.

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the Commission's web site at www.waec.wa.gov.au

3.5 Electoral Expenditure in Relation to an Election

This includes expenditure that is incurred by advertising during the election period, or by producing advertisements for the purposes of advertising during the election period. This expenditure must be disclosed whether or not incurred during the election period.

E, s.175

The categories of electoral expenditure in relation to an election are listed under the definition of electoral expenditure in relation to an election, at section 1.3 of this publication.

3.6 Due Date for Election Returns

All political party election related returns are due to be lodged in the approved form with the Electoral

175SA

Commissioner within 15 weeks of polling day.

4. CANDIDATES AND GROUPS DISCLOSURE

4.1 Election Related Returns

After an election, candidates and groups, or their agents, must complete a return setting out all election-related gifts received during the disclosure period, and expenditure incurred in relation to the election, whether or not incurred during the election period.

E, ss.175O, 175P, 175SB, 175SC

Should no gifts be received or expenditure incurred, a return must nevertheless be lodged with nil or a similar statement against the relevant items.

E, ss.175S, 175SE

The following forms have been approved by the Electoral Commissioner for the disclosure of gifts and expenditure by candidates and groups:

E, ss.175O(1), 175P(1)

- PD 03 *Disclosure of Gifts and Expenditure by a Candidate*
- PD 04 *Disclosure of Gifts and Expenditure by a Group.*

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the Commission's web site at www.waec.wa.gov.au

4.2 Disclosure Period for Gifts

For a candidate who was a candidate in a previous election within the past five years, the disclosure period begins 31 days after polling day in the most recent previous election at which the person was a candidate, and ends 30 days after polling day in the current election.

E, s.175O(2)(a)

For new and other candidates, the disclosure period extends from one year before the day of nomination of the person as a candidate in the present election to 30 days after polling day in the current election.

E, s.175O(2)(b)

For a group of candidates, the disclosure period extends from the hour of nomination to 30 days after polling day in the current election.

E, s.175P(2)

4.3 Details of Gifts

Relevant details must be kept of all donors whose contribution equals or exceeds the threshold of \$2,100, including donors who make a series of donations and these, when totalled, equal or exceed \$2,100.

E, s.175M

- For gifts made on behalf of the members of an unincorporated association, the name of the association and the names and addresses of the members of the executive committee must be recorded.
- For gifts made from a trust fund or a foundation, the names and addresses of the trustees, the person for whose benefit the funds are held, and the title of the foundation or fund must be kept.
- Otherwise, the name and address of the individual donor must be kept, together with the details of the gift.

These details must be recorded on the election return.

Acceptance of donations equal to or more than the specified amount of \$2,100 from unidentified persons or sources is prohibited under the Act.

E, s.175R

4.4 Electoral Expenditure in Relation to an Election

This includes expenditure that is incurred by advertising

E, s.175

during the election period, or by producing advertisements for the purposes of advertising during the election period. This expenditure must be disclosed whether or not incurred during the election period.

The categories of electoral expenditure in relation to an election are listed under the definition of electoral expenditure in relation to an election, at section 1.3 of this publication.

4.5 Due Date for Election Returns

All candidate and group election related returns are due to be lodged in the approved form with the Electoral Commissioner within 15 weeks of polling day.

E, 175O(1), 175P(1), 175SB and 175SC

5. OTHER PERSONS DISCLOSURE

5.1 Election Related Returns

Disclosure of gifts

A person who incurs expenditure for a political purpose (this kind of expenditure is defined at section 1.3 of this publication) is required to lodge a return disclosing any gifts received during the disclosure period.

E, s.175Q(1)

Relevant details of gifts that are expended partially or wholly as expenditure for a political purpose must be provided if the gift equals or exceeds the threshold of \$2,100. If the gift is not used wholly or partially for this purpose, then it need not be disclosed.

E, s.175Q(2)

A return under this section is only required if both the gift and its donor have not been disclosed through an alternate mechanism. For example, if an individual was to make a donation from their own funds to a political party and that political party discloses this gift in their annual return, there would be no requirement in this case for an ‘other persons’ return.

Acceptance of donations equal to or more than the specified amount of \$2,100 from unidentified persons or sources is prohibited under the Act.

E, s.175R

A return does not need to be lodged if the total expenditure for a political purpose during the disclosure period for the election is less than the specified amount of \$2,100.

E, s.175Q(3)

Disclosure of electoral expenditure in relation to an election

E, s.175SD

Where a person incurs electoral expenditure in relation to an election (see definition at section 1.3 of this publication), and that expenditure was not incurred with the written authority of a political party, candidate or person in a group, this expenditure must be set out in a return by the person unless these amounts total less than \$500.

Other persons disclosure form

The following form has been approved by the Electoral Commissioner for the disclosure of gifts and expenditure by other people:

E, ss.175Q(1), 175SD(1)

- PD 05 *Disclosure of Gifts and Expenditure by Other Persons.*

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the

Commission's web site at www.waec.wa.gov.au

5.2 Disclosure Period

The disclosure period for other people begins 31 days after polling day in the last general election and ends 30 days after polling day in the relevant election.

E, s.175Q(4)

5.3 Due Date for Returns by Other People

Returns by other people are due to be lodged in the approved form with the Electoral Commissioner within 15 weeks of polling day.

E, s. 175Q(1)

6. ELECTORAL FUNDING

6.1 Overview

Public funding of candidates and political parties was introduced in 2006 to provide for reimbursement of electoral expenditure at State election events.

The amount paid will be the amount spent by the party and/or candidate within the categories of electoral expenditure in relation to an election, or the entitled amount (both defined at section 1.3 of this publication). The lesser amount of the two will be the amount paid.

E, s. 175LG

Candidates and registered political parties can lodge claims with the Electoral Commissioner within 20 weeks of polling day in a form provided by the Electoral Commission. Candidates endorsed by registered political parties can only claim for funding through the party agent, and this amount is paid to the political party. Independent candidates or their agents can claim for funding on an individual basis.

E, s. 175LD

6.2 Entitlement

The election funding reimbursement amount is payable for each eligible vote given for a candidate at the election to which the claim relates. This payment is made subject to certain criteria being met. These criteria are listed below.

E, s. 175LB

Entitlement for endorsed candidates

Candidates endorsed by political parties receive payment if one or more of the following occurs:

E, s. 175LF

- The number of eligible votes received by the candidate is over 4% of the total number of eligible votes given at the election in that district or region
- In the case of a candidate included in a Legislative Council group, the total number of eligible votes received by all the candidates included in the party group is over 4% of the total number of eligible votes given at the election in the region
- The total number of eligible votes received by all the candidates endorsed by the party is more than 4% of the total number of eligible votes given at all the districts and/or regions those candidates contested.

If one or more of these criteria are met, the party agent is entitled to claim for reimbursement of electoral expenditure up to, but not exceeding, the entitled amount.

E, s. 175LG

Entitlement for independent candidates

Independent candidates receive payment if one or more of the following occurs:

E, s. 175LF

- The number of eligible votes received by the candidate is over 4% of the total number of eligible votes given at the election in that district or region
- In the case of a candidate included in a Legislative

Council group, the total number of eligible votes received by all the candidates included in the group is over 4% of the total number of eligible votes given at the election in the region.

If one or both of these criteria are met, the candidate or their appointed agent (or group agent) is entitled to claim for reimbursement of electoral expenditure up to, but not exceeding, the entitled amount.

E, s. 175LG

6.3 Claims

Audited statement

The Electoral Commissioner has determined that claims for payment should be accompanied by an independently audited financial statement which certifies that the expenditure amount claimed for reimbursement is in accordance with the provisions of the legislation, and that this claim is supported by receipts and/or other documentation.

E, S. 175LD(5)

These audits should be conducted in accordance with the Australian Auditing Standards and the audit report should be signed off by a qualified member of a recognised accounting organisation; for example, an organisation such as CPA Australia, the Institute of Chartered Accountants, or the National Institute of Accountants. The audited statement should be attached to the claim form.

No receipts or other forms of documentation are required unless expressly requested by the Electoral Commissioner in particular circumstances.

Claims on behalf of endorsed candidates

All claims for candidates endorsed by a registered political party must be lodged as one claim by the agent of the party. *E, s. 175LD(3)*

If the agent is claiming for the whole amount of expenditure incurred, the amount claimed should match the sum of any amounts declared on candidates', groups' and/or party's election related expenditure returns. If expenditure incurred exceeds the entitled amount, then a claim need only be lodged for the entitled amount. Agents should contact the Commission if they are unsure of the amounts for which to claim.

Endorsed candidates are not entitled to lodge individual claims for reimbursement.

The following form has been approved by the Electoral Commissioner for funding claims by political party agents: *E, s. 175LD(1)*

- PF 01 *Political Party Funding Claim*.

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the Commission's web site at www.waec.wa.gov.au

Claims on behalf of independent candidates

Unendorsed candidates should lodge their own claims, or via their agent if one is validly appointed. *E, s. 175LD(4)(a)*

The following form has been approved by the Electoral Commissioner for funding claims by individual candidates: *E, s. 175LD(1)*

- PF 02 *Candidate Funding Claim*.

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the Commission's web site at www.waec.wa.gov.au

If the unendorsed candidate is included in a Legislative Council group, the agent of the group claims for payment. *E, s. 175LD(4)(b)*

The following form has been approved by the Electoral Commissioner for funding claims by non-party groups: *E, s. 175LD(1)*

- PF 03 *Group Funding Claim*.

Copies can be obtained from the Western Australian Electoral Commission or downloaded from the Commission's web site at www.waec.wa.gov.au

6.4 Payment

In the case of a political party claim, payment will be made to that party, as claimed by the party agent.

Individual claims will be paid to the candidate or their agent.

Payment can be made by cheque or directly deposited into a nominated financial institution. This choice should be indicated on the claim form.

7. RECORDS

7.1 Records to be Kept

Agents of political parties, candidates and groups

The agent of a political party, candidate or group must keep: *R, 5-10, 15-20*

- a receipt book, for recording receipts of money
- an acknowledgment book, for recording receipts of gifts other than money
- bank and financial institution statements
- an expenditure book.

Financial controllers of associated entities

The financial controller of an associated entity must keep: *R, 5-10*

- a receipt book, for recording receipts of money
- an acknowledgment book, for recording receipts of gifts other than money
- bank and financial institution statements.

Other people who incur expenditure for political purposes

Other people who incur expenditure for a political purpose must keep a record of all gifts received for those political purposes and maintain: *R, 22-25*

- a receipt book, for recording gifts of money
- an acknowledgment book, for recording receipts of gifts other than money
- bank and financial institution statements.

Other people who incur electoral expenditure

Other people who incur electoral expenditure in relation to an election must maintain: *R, 28-30*

- an expenditure book
- bank and financial institution statements.

7.2 Record Management**Maintenance**

All records and bank and financial institution statements must be retained for six years following the last entry in the system, and must be available for inspection by the Electoral Commissioner or his nominees at the location stated on the relevant disclosure return. Non-compliance is subject to various penalties under the regulations, as shown in *R, 13, 21, 27*

in section 8.2 of these guidelines.

All gifts and other income received must be deposited into bank accounts specifically designated for this purpose, because personal accounts could become subject to scrutiny by the Electoral Commissioner if used for the deposit of donations.

Party agents and financial controllers of entities should also ensure that the financial recordkeeping of campaign committees and electorate organisations meet the requirements necessary to facilitate their compliance with the Act.

It is important that record keeping is maintained correctly, as all returns lodged are subject to compliance investigations by officers of the Western Australian Electoral Commission, which includes the audit of any relevant records.

E, s. 175W

Alternative systems of record keeping

The records of a political party or associated entity must be kept in a form approved by the Electoral Commissioner, either by conforming with the relevant regulations or according to the provision in which the Electoral Commissioner may approve an alternative system of records for these organisations. If an alternative system of records is to be kept, application should be made to the Electoral Commissioner prior to adopting that system.

R, 11, 12

Candidates and groups are enabled, by a notice printed in the *Government Gazette* dated 10 November 2000, to use a computerised accounting system to keep a receipt book, acknowledgement book and expenditure book.

R, 20

Electoral (Political Finance) Notice 2000, Gazette No 235

8. OFFENCES

The Act provides for a range of offences in relation to funding and disclosure, and the investigation and retrieval of documents by the Electoral Commissioner. Offences against the Act or the Regulations attract substantial fines.

E, ss.175U, 175W, 199A, R, 4-32

8.1 Offences under the *Electoral Act 1907*

Offence	Section	Offender	Penalty
Failure to lodge a return by the due date	s.175U(1)	Party Agent*	\$7,500
		Financial controller of an associated entity	\$1,500
		Agent of a candidate or group	\$1,500
		Other people	\$1,500
Continued failure to lodge a return dating from the day of conviction for failure to lodge a return by the due date	s.175U(6)-(8)	Any person required to lodge a return	\$150 per day
Lodgement of an incomplete return	s.175U(2)	Any person required to lodge a return	\$1,500
Knowingly lodging false or misleading information in a return or claim for funding	s.175U(3) s.175U(4)	Party Agent*	\$15,000
		Financial controller of an associated entity	\$7,500
		Agent of a candidate or group	\$7,500
		Other people	\$7,500
Knowingly providing false or misleading information to a person required to lodge a return or claim for funding	s.175U(5)	Any person	\$1,500
Failure to produce documents or give evidence when required by an authorised officer of the Electoral Commission	s.175W(6)	Any person	\$1,500
Knowingly giving evidence that is false or misleading	s.175W(7)	Any person	\$1,500
Hindering or interfering with the right of a person to make a political gift	s.199A	Any person	\$1,000
* Where there is no agent of a party, the obligation to lodge a return rests with each member of the executive committee of the party.			

8.2 Offences under the *Electoral (Political Finance) Regulations 1996*

Offence	Regulation	Offender	Penalty
Failure to lodge a declaration verifying the information in a return lodged under the Act.	4(3)	Agent of a candidate or group	\$1,500
	4(1)	Party Agent*	\$3,000
	4(2)	Financial controller of an associated entity	\$3,000
	4(4), 4(5)	Other people (s.175Q, s.175SD)	\$1,500
Failure to maintain a receipt book, acknowledgment book and bank and financial institution statements, or an approved accounting system	15(1)	Agent of a candidate or group	\$1,500
	5(1)	Party Agent*	\$3,000
	5(1)	Financial controller of an associated entity	\$3,000
	22	Other people (s.175Q)	\$1,500
Failure to maintain an expenditure book, bank and financial institution statements or approved system of records for expenditure	15(3)	Agent of a candidate or group	\$1,500
	5(2)	Party Agent*	\$3,000
	28	Other people (s.175SD)	\$1,500
Failure to maintain an alternative system of accounts (if applicable)	11(4)	Party Agent*	\$3,000
	12(4)	Financial controller of an associated entity	\$3,000
Failure to retain all records or bank and financial institution statements for six years beyond the final entry (failure to keep records and statements each a separate offence)	21	Agent of a candidate or group	\$1,500
	13	Party Agent*	\$3,000
	13	Financial controller of an associated entity	\$3,000
	27	Other people (s.175Q)	\$1,500
Failure to retain the expenditure book or all bank or financial institution statements for 6 years following the last entry (failure to keep record and statements each a separate offence)	32	Other people (s.175SD)	\$1,500
* Where there is no agent of a party, the obligation to lodge a return rests with each member of the executive committee of the party.			

NOTE

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