

Western Australian
Electoral Commission

2025 State General Election

Eligibility for Membership of State Parliament



WESTERN AUSTRALIAN
Electoral Commission

Our purpose and values

The WA Electoral Commission's purpose is to provide Western Australians with an electoral experience that they understand, trust and can access easily and efficiently. The Commission is guided by its five core values:

Impartial

Our electoral outcomes will not be influenced by others.

Professional

Our work will be at the highest standards for ethics, accuracy and efficiency.

Respectful

Our relationships will be courteous, honest and fair with all.

Innovative

Our systems and processes will adapt to customers' needs.

Collaborative

As a team we will consult and test new ideas with customers.

The Western Australian Electoral Commission acknowledges the Traditional Owners of the lands on which our electoral activities take place. We pay our respects to Elders past, present and emerging.

Table of Contents

Chapter	Page
1. Qualifications for membership of State Parliament.....	1
2. Disqualifications for membership of State Parliament.....	2
3. Public employees standing for election.....	3

This following summary is designed to assist you in determining whether you may need to seek advice on your eligibility for nomination or membership of either the Legislative Assembly or the Legislative Council.

The qualifications and disqualifications for membership of State Parliament are to be found in the following Western Australian Acts of Parliament:

Electoral Act 1907 (E)

Electoral Regulations 1996 (ER)

Constitution Acts Amendment Act 1899 (CAA)

Public Sector Management Act 1994 (PSM)

Certain other Acts under which candidates may be employed may stipulate the need to stand down or resign from a position prior to either nominating as a candidate or taking up a seat in either House of State Parliament.

1. Qualifications for membership of State Parliament

To be eligible to take up a seat in the Legislative Assembly or Legislative Council, the following qualifications apply, **E, s 76A**:

- the candidate must have resided in Western Australia for one year
- the candidate must be 18 years or older
- the candidate must not be subject to any legal incapacity
- the candidate must be an Australian citizen
- the candidate must be an elector entitled to vote at an election of a member of the Legislative Assembly.

2. Disqualifications for membership of State Parliament

If any of the following circumstances are applicable, a person will be disqualified from taking up a seat in either House of State Parliament:

- a person is an undischarged bankrupt, or a debtor against whose estate there is a subsisting receiving order in bankruptcy, **CAA, s 32(1)(a)**
- has been convicted attainted of treason, and has not been granted a pardon for the offence, **E, s 18(1)(b)**
- a person has been convicted on indictment of an offence for which the indictable penalty was or included imprisonment for life or imprisonment for more than 5 years, **CAA, s 32(1)(b)**
- a person is serving or is yet to serve a sentence or sentences of detention (imposed under the Young Offenders Act (1994) or imprisonment, of one year or longer **E, s 18(1)(c)**
- a person is serving or is yet to serve indefinite imprisonment imposed under Part 14 of the *Sentencing Act 1995, Part 14*, **E, s 18(1)(ca)**
- a person is subject to an order under repealed sections **19(6a)(a), 282(c)(iii) or (d)(ii), 653, 661, 662 or 693(4) of The Criminal Code E, s 18(1)(cc)**
- a person is, or is taken to be, a mentally impaired accused as defined in the Criminal Law (Mentally Impaired Accused) Act 1996, **E, s 18(1)(cd)**
- a person is a holder of any office specified in Part 1 of Schedule V of the Constitution Acts Amendment Act 1899, **CAA, s 34(1)(a)**
- a person is a member of the Commonwealth Parliament, a Territory Parliament or another State Parliament, **CAA, s 34(1)(b)**
- a person is a member of the other House of Western Australia's Parliament, **CAA, s 34(2)**
- a person holds an office or place in the service of the Crown in right of the Commonwealth or another State of the Commonwealth or in the service of the government of, or any department or agency of the government of, the Commonwealth or a Territory or another State of the Commonwealth and that office or place has not been exempted under section 36 of the *Constitution Acts Amendment Act 1899*, **CAA, s 36(1)(a)**
- a person holds an office as a member of any commission, council, board, committee, authority, trust or other body, and was appointed as such a member by the Crown in right of the Commonwealth or another State of the Commonwealth, or by the government of, or any department or agency of the government of, the Commonwealth or a Territory or another State of the Commonwealth and that office or place has not been exempted under section 36 of the *Constitution Acts Amendment Act 1899*, **CAA, s 36(1)(b)**
- a person is a holder of any office or place specified in Part 2 of Schedule V of the *Constitution Acts Amendment Act 1899* (not being an office also specified in

Part 1 of Schedule V of the Act) and does not vacate the office or place upon his or her election to State Parliament (includes State Police, Teachers, Public Servants and various others), **CAA, s 37(1)(a), s 37(3)**

- a person is a member of any commission, council, board, committee, authority, trust or other body specified in Part 3 of Schedule V and does not vacate the office or place upon his or her election to State Parliament, **CAA, s 37(1)(b), s 37(3)**
- a person is the subject of a lack of capacity notice or becomes of unsound mind, **E, s 18(1)(a)** and **CAA, s 38(e)**
- a person is the holder of a temporary visa entry permit for the purposes of the *Migration Act 1958*, of the Parliament of the Commonwealth as amended from time to time, or is an unlawful non-citizen prohibited immigrant under that Act, **E, s 18(d)**.

3. Public employees standing for election

- State public sector employees may nominate but must take leave of absence for the election period commencing on the first working day after nomination. The *Electoral Regulations 1996* authorise public employees to apply for and take leave and for public employers to grant leave for this period, **ER, 28**.
- A State employee may be required to resign, by other legislation, before nominating for election. Subject to some conditions, a State employee may be entitled to re-enter public sector employment should he or she not be elected, **PSM, s 103, s 104**.
- It is recommended that public sector employees considering nominating as a candidate seek independent legal advice if they are unclear about their rights and obligations under their present employment.

This guide provides general information only. It is not, nor is it intended to be, a substitute or replacement for the legislation. It is your obligation to comply with the legislation. The Commission can provide general guidance on matters, but it is not able to offer legal advice. If you are in doubt as to your obligations, please seek your own independent legal advice.

Western Australian Electoral Commission

Level 2, 66 St Georges Terrace, PERTH WA 6000
GPO Box F316, PERTH WA 6841

Phone (08) 9214 0400 or 13 63 06

Email waec@waec.wa.gov.au

Web elections.wa.gov.au

Translating & Interpreting Service (TIS)

13 14 50 and the ask for (08) 9214 0400

National Relay Service (NRS)

Speak & Listen number 1300 555 727

SMS Relay number 0423 677 767