

## Electoral Legislation Amendment (Party Registration Integrity) Act 2021

### Table of changes to Part XI of the *Commonwealth Electoral Act 1918*

On 3 September 2021, amendments to the Electoral Act under the [Electoral Legislation Amendment \(Party Registration Integrity\) Act 2021](#), came into effect.

In summary, changes were made to Part XI of the Electoral Act in relation to party registration including:

- membership requirements for non-Parliamentary parties
- party names and abbreviations
- party logos
- objections to an existing party name, abbreviation or logo.

For further information see [Party registration guidance](#) on the AEC website and the [Electoral Act](#).

Topic	Section of <i>Commonwealth Electoral Act 1918</i>	Explanatory Memorandum
Membership requirements for non-Parliamentary parties	Subsection 123(1) (subparagraph (a)(ii) of the definition of <i>eligible political party</i> )  Omit “500”, substitute “1,500”.	Amends the definition of “eligible political party” in subsection 123(1). This amendment increases the minimum membership requirements for a non-Parliamentary party to 1,500 unique members to ensure that registered political parties have a genuine foundation of national community support, and addresses recommendation 4 from the JSCEM <i>Interim report on the inquiry into the conduct of the 2013 Federal Election</i> and Recommendation 4 from the JSCEM <i>Report on the conduct of the 2016 federal election and matters related thereto</i> .

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Membership requirements for non-Parliamentary parties	<p>After section 123</p> <p>Insert:</p> <p>123A Determining whether a non-Parliamentary party has at least 1,500 members</p> <p>(1) In determining for the purposes of this Part whether a political party that is not a Parliamentary party has at least 1,500 members, the same member may not be relied on by more than one party.</p> <p>(2) If an individual is a member of more than one political party that is not a Parliamentary party, then, for the purposes of subsection (1):</p> <p>(a) only the party nominated by the member may rely on the individual as a member; and</p> <p>(b) no party may rely on the individual as a member if, after the Electoral Commission has given the individual at least 30 days to do so, the individual has not nominated a party.</p>	<p>Inserts new section 123A to prevent an individual member being relied upon by two or more parties for the purposes of registration. Under this amendment, the individual must make a selection, and nominate which party they choose to be relied upon for the purposes of satisfying the membership requirements under the Electoral Act. Where the individual has not nominated a party after 30 days, none of the parties may rely on that individual to satisfy the membership requirement.</p>
Membership requirements for non-Parliamentary parties	<p>Paragraph 126(2)(ca)</p> <p>Omit “include a list of the names of the 500”, substitute “for an eligible political party that is not a Parliamentary party—include a list of the names of the 1,500”.</p>	<p>Amends paragraph 126(2)(ca) to omit “include a list of the names of the 500” and substitute it with “for an eligible political party that is not a Parliamentary party—include a list of the names of the 1,500”. This is a consequential amendment to Item 1, and clarifies that an application for registration of a Parliamentary party does not need to include a membership list.</p>
Membership requirements for non-Parliamentary parties	<p>Subsection 126(2A)</p> <p>Repeal the subsection.</p>	<p>Repeals subsection 126(2A). This is a consequential amendment, as the function of preventing a member to be relied upon by two or more parties is served by new section 123A.</p>
Party names and abbreviations	<p>Before subsection 129(1)</p> <p>Insert:</p> <p><i>Names not to be registered</i></p>	<p>Inserts the subheading “<i>Names not to be registered</i>” before subsection 129(1), to clarify the function of this subsection.</p>

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Party names and abbreviations	Paragraph 129(1)(b) After “obscene”, insert “, frivolous or vexatious”.	Inserts “,frivolous or vexatious” after “obscene” in existing paragraph 129(1)(b). These terms are to be given their ordinary meaning, and are intended to include party names or abbreviations that are nonsensical or are malicious in their application. This would include, for example, an applicant seeking to register ‘Australian Electoral Commission’, or ‘Australian Government’ as a political party.
Party names and abbreviations	At the end of section 129 Add: Names to be registered only with consent (3) The Electoral Commission must refuse an application for the registration of a political party if: (a) either of the following apply: (i) the applicant party’s name contains a word that is in the name, or the abbreviation of the name, of a registered political party; (ii) the proposed abbreviation of the applicant party’s name contains a word that is in the name, or abbreviation of the name, of a registered political party; and (b) the application is not accompanied by the written consent, to the use by the applicant party of the word in its name or abbreviation, of: (i) if there is only one registered political party to which paragraph (a) applies—the registered political party’s registered officer; or (ii) otherwise—the registered officer of the first such political party to be registered. (4) For the purposes of subparagraph (3)(b)(ii), if the registered political parties to which paragraph (3)(a) applies are a State branch, and the federal branch, of a federal party that were registered on the same	Inserts a new subsection 129(3) to require the Electoral Commission to refuse an application for the registration of a political party if both of the following are satisfied: <ul style="list-style-type: none"> <li>• the applicant party’s name or proposed abbreviation contains a word that is in the registered name or abbreviation of a registered political party; and</li> <li>• the applicant party’s application for registration is not accompanied by written consent from the registered officer of that previously registered political party to the applicant party using the word in the applicant party’s name or abbreviation for the purposes of registration.</li> <li>• If there is more than one registered political party with the word in its currently-registered name or abbreviation, new subparagraph 129(3)(b)(ii) provides that the written consent needs only to be from the party who was first to register the relevant name or abbreviation.</li> <li>• This ‘first-in-time’ consent principle does not include previous registrations of a name or abbreviation. Therefore, the consenting party must be the party with the longest continuous registration of that name or abbreviation.</li> </ul> Also inserts new subsection 129(4) to clarify that, in the situation where a federal branch and a related federally-registered State or Territory branch register a name on the same day, and are both ‘first-in-time’ for the

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	<p>day, the federal branch is taken to be the first of those political parties to be registered.</p> <p>(5) Subsection (3) of this section, and subsections 129A(2) and 134A(1), do not apply to:</p> <ul style="list-style-type: none"> <li>(a) a function word; or</li> <li>(b) a collective noun for people; or</li> <li>(c) the name of a country, the word “country”, or a recognised geographical place in Australia; or</li> <li>(d) the word “democratic”.</li> </ul> <p>(6) In applying subsection (3) or (5) of this section, or subsection 129A(2) or subparagraph 134A(1)(a)(iii), in relation to a word, other grammatical forms, and commonly accepted variants (including abbreviations, contractions and alternative forms), of the word are to be treated in the same way as the word.</p>	<p>purposes of new subparagraph 129(3)(b)(ii), only the registered officer of the federal branch can provide consent to another party using that word.</p> <p>Inserts new subsection 129(5), which provides that new subsections 129(3), 129A(2), and new subparagraph 134A(1)(a)(iii) do not apply to a function word, a collective noun for people, the word “country”, the name of a country or recognised geographical place in Australia, or the word “democratic”. This reflects the intention of new subsection 129(3) to prevent the registration of party names and abbreviations that risk causing voter confusion with existing registered names and abbreviations.</p> <p>The phrases “a function word”, “a collective noun for people”, and “the name of a country”, and word “country” in new subsection 129(4) are to be given their ordinary meaning.</p> <p>The Macquarie Dictionary of Australia defines a ‘function word’ to mean “a word, like the or of, which may add meaning to, or show relationships between, content words in a given sentence but does not refer the mind to any entity outside the sentence”.</p> <p>‘Collective noun for people’ is intended to include words including, but not limited to ‘Party’, ‘Group’, ‘Alliance’, ‘Network’ and ‘Team’.</p> <p>‘Recognised geographical place’ is intended to include the name of Australian towns, cities, states and territories, as recognised by State, Territory and Commonwealth authorities, for example, a place listed in the Gazetteer of Australia. Words specified under paragraph 129(5)(c) are also intended to include the terms that denote inhabitation of these places, for example the geographical place of “Victoria” is intended to include the word “Victorian”, and the country of “Australia” is intended to include the word “Australian”.</p>

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		<p>Also inserts new subsection 129(6), which provides that the application of new subsections 129(3), 129(5), and 129A(2) and new subparagraph 134A(1)(a)(iii) to a word includes other grammatical forms and commonly accepted variants (including abbreviations, contractions, and alternative forms) of that word. This is intended to cover pluralisation and commonly accepted spelling variants of a word, for example, “color” and “colours”.</p> <p>The word “democratic” is treated as an exception, because it has a unique position as both being of widespread historical use in political party naming conventions, and being directly related to the intrinsic function of all Australian political organisations. The word can also be used to distinguish a political organisation from other forms of voluntary associations or professional groups that share a key word in its name.</p> <p>The amendments in s 129 are intended to minimise the risk that a voter might be confused or potentially misled in the exercise of their choice at an election due to a political party having a registered name or abbreviation similar to that of an unrelated registered political party. The amendments respond to Recommendation 23 from the JSCEM Report on the conduct of the 2019 federal election and matters thereto. The principle of the change is to ensure registered political parties are sufficiently distinct in name, while also providing appropriate exceptions for non-key words. The <i>Macquarie Dictionary</i> of Australia currently recognises over 138,000 distinctive headwords and phrases, almost all of which can be used for party names and allow parties to communicate their distinctive characteristics to the public.</p>
Party names and abbreviations	Section 129A Before “The”, insert “(1)”.	Amends section 129A to insert “(1)” before “The”. This is a consequential amendment to reflect the insertion of new subsection 129A(2) at Item 9 (below).

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Party logos	<p>At the end of section 129A Add:</p> <p>(2) The Electoral Commission must refuse to enter in the Register a logo of a political party (the applicant), set out in an application to register the applicant, if</p> <p>(a) the applicant’s logo contains a word that is in the name, or the abbreviation of the name, of a registered political party; and</p> <p>(b) the application is not accompanied by the written consent, to the use by the applicant of the word in its logo for the purposes of registration under this Part, of:</p> <p>(i) if there is only one registered political party to which paragraph (a) applies—the registered political party’s registered officer; or</p> <p>(ii) otherwise—the registered officer of the first such political party to be registered.</p> <p><i>Note: Subsection (2) has effect subject to subsections 129(5) and (6).</i></p> <p>(3) For the purposes of subparagraph (2)(b)(ii), if the registered political parties to which paragraph (2)(a) applies are a State branch, and the federal branch, of a federal party that were registered on the same day, the federal branch is taken to be the first of those political parties to be registered.</p>	<p>Inserts new subsection 129A(2), which provides that the Electoral Commission must refuse to register the proposed logo of an applicant party if both of the following are satisfied:</p> <ul style="list-style-type: none"> <li>• the logo contains a word that is in the registered name or abbreviation of a registered political party; and</li> <li>• the applicant party’s application for registration is not accompanied by written consent from the registered officer of that registered political party to the applicant party using the word in the logo for the purposes of registration.</li> </ul> <p>If there is more than one registered political party with the word in its currently-registered name or abbreviation, new subparagraph 129A(2)(b)(ii) provides that the written consent needs only to be from the party who was first to register the name or abbreviation, being the party with the longest continuous registration of that name or abbreviation.</p> <p>Inserts new subsection 129A(3) to clarify where a federal branch and a related federally-registered State or Territory branch are both ‘first-in-time’ for the purposes of new subparagraph 129A(2)(b)(ii), only the registered officer of the federal branch can provide consent to another party using that word.</p> <p>The intention of amendments to s 129A is similar to that of s 129, in that the amendment is intended to minimise the risk that a voter might be confused or potentially misled in the exercise of their choice at an election due to a political party having a registered logo similar to the registered name or abbreviation of another registered political party. The amendment responds to Recommendation 23 from the <i>JSCEM Report on the conduct of the 2019 federal election and matters thereto</i> and expands it to party logos.</p>

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		Also inserts a note at the end of subsection 129A(2) to alert the reader that new subsection 129A(2) is subject to new subsections 129(5) and (6).
Objections to existing parties	Subparagraph 134A(1)(a)(ii) Omit “exist; and”, substitute “exist; or”.	Amends subparagraph 134A(1)(a)(ii) to omit “exist; and”, and substitute it with “exist; or”. This is a consequential amendment to reflect the insertion of new subparagraph 134A(1)(a)(iii).
Objections to existing parties	At the end of paragraph 134A(1)(a) Add: (iii) the name or logo of the second party contains a word that is in the name, or abbreviation of the name, of the parent party; and	Inserts new subparagraph 134A(1)(a)(iii) to provide an additional ground for the operation of the existing section 134A. This additional ground reflects the amendments in ss 129 and 129A.
Objections to existing parties	Paragraph 134A(1)(aa) (second occurring) Repeal the paragraph.	Repeals second paragraph 134A(1)(aa), to ensure consistency in the application of the measures in this Act with the existing objection process in the Electoral Act.
Objections to existing parties	At the end of subsection 134A(1) Add: <i>Note: Subparagraph (1)(a)(iii) has effect subject to subsections 129(5) and (6).</i>	Inserts a note at the end of subsection 134A(1) to alert the reader that new subparagraph 134A(1)(a)(iii) is subject to new subsections 129(5) and (6).
Objections to existing parties	After subsection 134A(1) Insert: (1A) If, in relation to a second party mentioned in subsection (1), there is more than one registered political party that meets both of the following conditions (each such party is an earlier registered party): (a) the party was registered before the second party; (b) party has in its name, or the abbreviation of its name, a word contained in the name or logo of the second party; then only the registered officer of the first of the earlier registered parties to be registered with that word in its name or abbreviation may make an objection under paragraph (1)(b) to the continued use of the name or logo by the second party. (1B) For the purposes of subsection (1A), if the earlier registered parties are a State branch, and the federal branch, of a federal party that	Inserts new subsection 134A(1A). This new subsection provides that, if there is more than one parent party to which subparagraph 134A(1)(a)(iii) applies in relation to a word, the parent party is the party that was first (not including previous registrations) to register its currently-registered name or abbreviation in question. This is intended to provide the same ‘first-in-time’ principle as that in new paragraphs 129(3)(b) and 129A(2)(b).  Inserts new subsection 134A(1B) to clarify that, in the situation where a federal branch and a federally-registered State or Territory branch are related and are both ‘first-in-time’ for the purposes of new subsection 134A(1A), it is only the registered officer of the federal branch who may lodge the objection.

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	were registered on the same day, the federal branch is taken to be the first of the earlier registered parties to be registered with the word in its name or abbreviation.	
Membership requirements for non-Parliamentary parties	Section 136 (heading) Omit “or ceasing to be a Parliamentary party”	Removes “or ceasing to be a Parliamentary party” from the heading of section 136. This is a consequential amendment to reflect the repeal of paragraph 136(1)(b) at Item 17 below.
Membership requirements for non-Parliamentary parties	Paragraph 136(1)(a) Omit “candidate; or”, substitute “candidate.”.	Amends paragraph 136(1)(a) to replace “candidate; or” with “candidate.”. This is a consequential amendment to reflect the repeal of paragraph 136(1)(b).
Membership requirements for non-Parliamentary parties	Paragraph 136(1)(b) Repeal the paragraph.	Repeals paragraph 136(1)(b). This is a minor and technical amendment to streamline and clarify the grounds for deregistering a party for failing to meet the membership requirements in the Electoral Act.
Membership requirements for non-Parliamentary parties	Paragraph 137(1)(b) Omit “has ceased to have at least 500”, substitute “does not have at least 1,500”.	Omits “has ceased to have at least 500” and substitutes it with “does not have at least 1,500”. This is a consequential amendment to reflect the increased membership requirements.
Membership requirements for non-Parliamentary parties	At the end of subsection 137(1) Add: <i>Note: In determining whether a party has at least 1,500 members, the same member may not be relied on by more than one party (see section 123A).</i>	Inserts a note at the end of paragraph 137(1)(b) to clarify the effect of new section 123A in determining whether a party has at least 1,500 members.

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Membership requirements for non-Parliamentary parties	<p><b>Application of amendments</b></p> <p>(1) The following amendments of the Commonwealth Electoral Act 1918 (the Act) made by this Schedule apply, after this item commences, in relation to a political party other than a registered political party:</p> <ul style="list-style-type: none"> <li>(a) the amendment of the definition of eligible political party in subsection 123(1);</li> <li>(b) the amendment of subsection 126(2);</li> <li>(c) section 123A so far as it relates to those amendments.</li> </ul> <p>(2) Subitem (1) has effect in relation to a political party other than a registered political party:</p> <ul style="list-style-type: none"> <li>(a) whether or not the party has applied for registration under Part XI of the Act; and</li> <li>(b) whether any such application was made before or after this item commences.</li> </ul> <p>(3) The following amendments of the Act made by this Schedule apply from the start of the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent:</p> <ul style="list-style-type: none"> <li>(a) the amendments of section 137;</li> <li>(b) section 123A so far as it relates to those amendments.</li> </ul>	<p>Subitem (1) of Item 20 provides that the amendments made by Items 1 and 3 and Item 2 (so far as the amendment made by Item 2 relates to the amendments made by Items 1 and 3) apply, after Item 20 commences, in relation to a political party other than a registered political party.</p> <p>Subitem (2) of Item 20 clarifies that Subitem (1) of Item 20 has effect whether or not an application to register the party has been made under Part XI of the Electoral Act, and whether or not any such application for registration was made before or after Item 20 commences.</p> <p>Subitem (3) of Item 20 provides that the amendments made by Items 16 and 17 and Item 2 (so far as the amendment made by Item 2 relates to the amendments made by Items 16 and 17) apply from the start of the day after the end of the period of 3 months beginning on the day the Act receives the Royal Assent. This is intended to provide non-Parliamentary parties that are registered political parties at the Royal Assent with 3 months in which to become compliant with the increased membership requirements to remain registered.</p>
Party names, abbreviations and logos	<p><b>Application of amendments</b></p> <p>(4) The amendments of sections 129 and 129A of the Act made by this Schedule apply in relation to an application for the registration of a political party made after this item commences.</p>	<p>Subitem (4) of Item 20 is an application provision that provides that the amendments in the Act to sections 129 and 129A apply in relation to applications for registration made after the commencement of Item 20.</p>
Objections to existing parties	<p><b>Application of amendments</b></p> <p>(5) The amendments of section 134A of the Act made by this Schedule apply, from the day this item commences, in relation to all political parties, regardless of their date of registration.</p>	<p>Subitem (5) of Item 20 is an application provision that provides that the amendments in the Act to section 134A apply, in relation to a registered name, abbreviation, or logo of a registered political party, from the day Item 20 commences, in relation to all political parties, regardless of their date of registration.</p>