



Western Australia

Electoral Amendment (Names of Registered Political Parties) Act 2024

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Western Australia

Electoral Amendment (Names of Registered Political Parties) Act 2024

No. 46 of 2024

An Act to amend the *Electoral Act 1907*.

[Assented to 15 November 2024]

The Parliament of Western Australia enacts as follows:

s. 1

1. Short title

This is the *Electoral Amendment (Names of Registered Political Parties) Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *Electoral Act 1907*.

4. Section 62J amended

- (1) In section 62J(1) delete the definition of *application name*.
- (2) In section 62J(1) insert in alphabetical order:

application abbreviation means the abbreviation or acronym (if any) set out under section 62E(4)(b) in a political party's application for registration;

application name means the name stated under section 62E(4)(a) in a political party's application for registration;

registered abbreviation, of a registered political party, means the abbreviation or acronym (if any) of the name of the political party entered in the register;

registered name, of a registered political party, means the name of the political party entered in the register;

word includes an acronym.

- (3) In section 62J(1) in the definition of *public body name* delete “body.” and insert:

body;

- (4) In section 62J(3) and (5) delete “application name —” and insert:

application name or application abbreviation —

- (5) After section 62J(5) insert:

- (6) The Electoral Commissioner must refuse to register a political party if —

- (a) the party’s application name or application abbreviation contains a word that is in the registered name or registered abbreviation of a registered political party (the *affected party*); and
- (b) the application for registration is not accompanied by the written consent of the secretary of the relevant affected party to the use of the word by the applicant party in its application name or application abbreviation.

- (6A) The *relevant affected party* for the purposes of subsection (6)(b) is —

- (a) if there is only 1 affected party — that affected party; or
- (b) if there are 2 or more affected parties — the affected party that has continuously had the word in its registered name or registered abbreviation longest.

- (6B) Subsection (6) does not apply to a word that is —
- (a) a function word; or
 - (b) a collective noun for people; or
 - (c) the name of a country or a recognised geographical place in Australia; or
 - (d) the adjectival form of the name of a country or a recognised geographical place in Australia; or
 - (e) the word “country”; or
 - (f) the word “State”; or
 - (g) the word “democratic”.
- (6C) In applying subsections (6) to (6B) in relation to a word, other grammatical forms, and commonly accepted variants (including abbreviations, contractions and alternative forms), of the word must be treated in the same way as the word.

5. Part 9 Division 3 inserted

At the end of Part 9 insert:

Division 3 — Transitional provisions for *Electoral Amendment (Names of Registered Political Parties) Act 2024*

Subdivision 1 — Preliminary

235. Terms used

- (1) In this Division —
- commencement day* means the day on which the *Electoral Amendment (Names of Registered Political Parties) Act 2024* section 4 comes into operation;

ongoing application means an application for registration of a political party if —

- (a) the application was made before commencement day; and
 - (b) the Electoral Commissioner has neither registered nor refused to register the political party before commencement day.
- (2) A term used in this Division that is given a meaning in section 62J(1) has the same meaning in this Division.

236. Application of s. 62J(6) to (6C)

Section 62J(6) to (6C) apply —

- (a) to an application for registration of a political party made on or after commencement day; and
- (b) to an ongoing application; and
- (c) for the purposes of any reference to, or application of, section 62J under this Division.

Subdivision 2 — Name of political party that applied for registration before commencement day

237. Dealing with ongoing application if name or abbreviation contains relevant word

- (1) The Electoral Commissioner must review each ongoing application to determine whether it must be refused because of the operation of section 62J(6).
- (2) If the Electoral Commissioner determines that an ongoing application must be refused because of the operation of section 62J(6) in relation to a word (the *relevant word*) in the application name or application

abbreviation, the Electoral Commissioner must give the applicant a written notice —

- (a) setting out the determination and the reasons for the determination; and
 - (b) explaining the effect of subsections (3) to (6) of this section and section 239.
- (3) An applicant given a notice under subsection (2) may, within 10 business days beginning on the day on which the notice is given (the *response period*), lodge with the Electoral Commissioner —
- (a) written consent to the use of the relevant word as required by section 62J(6)(b); or
 - (b) a written request, in the approved form and signed by the applicant, to vary the ongoing application by doing either or both of the following —
 - (i) changing the application name to a name set out in the request that does not contain the relevant word;
 - (ii) changing the application abbreviation to an abbreviation or acronym set out in the request that does not contain the relevant word.

Note for this subsection:

Section 239(1) applies if the applicant does not lodge written consent in accordance with paragraph (a), or a request to vary the ongoing application in accordance with paragraph (b), within the response period.

- (4) If written consent is lodged in accordance with subsection (3)(a) within the response period —
- (a) the ongoing application is varied to add the written consent to the documents accompanying the application; and

- (b) the Electoral Commissioner must continue dealing with the ongoing application under Part IIIA.
- (5) If a request to vary the ongoing application is lodged in accordance with subsection (3)(b) within the response period, the request and ongoing application must be dealt with under the process that applies under section 238.
- (6) The Electoral Commissioner is not required to take any action under Part IIIA in relation to the ongoing application during the period that —
 - (a) begins when a notice is given under subsection (2); and
 - (b) ends when the earliest of the following occurs —
 - (i) the applicant lodges a written consent in accordance with subsection (3)(a);
 - (ii) the applicant lodges a request to vary the application under subsection (3)(b);
 - (iii) the response period ends.

238. Process if applicant requests variation of ongoing application to change name or abbreviation

- (1) For the purposes of this section and section 239(2), a request under section 237(3)(b) to vary an ongoing application *complies with the relevant name requirements* if the ongoing application, as varied in accordance with the request, would not be required to be refused under section 62J(6).
- (2) If a request to vary an ongoing application is lodged in accordance with section 237(3)(b) within the response

period referred to in section 237(3), the Electoral Commissioner must —

- (a) consider the request; and
- (b) determine whether or not the request complies with the relevant name requirements.

Note for this subsection:

Section 239(2) applies if the Electoral Commissioner determines under paragraph (b) that the request does not comply with the relevant name requirements.

- (3) If the Electoral Commissioner determines under subsection (2)(b) that the request complies with the relevant name requirements —
 - (a) the ongoing application is varied as set out in the request; and
 - (b) the varied ongoing application must be dealt with under Part IIIA as if it were a new application for registration of a political party made under section 62E, subject to subsections (4) to (7) of this section.
- (4) Nothing in subsection (3)(b) requires any information set out in the ongoing application under section 62E(4)(d) (**relevant information**), or any document accompanying the ongoing application under section 62E(4)(da) or (e) (a **relevant document**), to be submitted again following a variation under subsection (3)(a).
- (5) If the application name is varied under subsection (3)(a), any reference in relevant information or a relevant document to the application name as it was stated in the ongoing application before it was varied may, if it is necessary and appropriate to do so for the purposes of dealing with the varied ongoing application under subsection (3)(b), be treated as if it were a reference to the application name as varied.

- (6) If the application abbreviation is varied under subsection (3)(a), any reference in relevant information or a relevant document to the application abbreviation as it was set out in the ongoing application before it was varied may, if it is necessary and appropriate to do so for the purposes of dealing with the varied ongoing application under subsection (3)(b), be treated as if it were a reference to the application abbreviation as varied.
- (7) For the purposes of subsection (3)(b), the provisions of Part IIIA are modified as follows —
 - (a) sections 62E(5) and 62HA apply as if the varied ongoing application were received when the ongoing application was originally received;
 - (b) section 62F does not apply to the varied ongoing application;
 - (c) section 62G(3)(b) applies as if the reference to the period of one month after the day of publication of the *Gazette* notice were a reference to the period of 5 business days beginning on the day of publication of the *Gazette* notice;
 - (d) section 62G(6)(b) applies as if the reference to such reasonable period as is specified in the notice were a reference to the period of 3 business days beginning on the day on which the notice is given.

239. Refusal of registration

- (1) If an applicant for registration of a political party given a notice under section 237(2) does not lodge written consent in accordance with section 237(3)(a), or a request to vary the application in accordance with

section 237(3)(b), within the response period referred to in section 237(3), the Electoral Commissioner must refuse the application for registration under section 62J(6).

- (2) If the Electoral Commissioner determines under section 238(2)(b) that a request lodged under section 237(3)(b) to vary an application for registration of a political party does not comply with the relevant name requirements, the Electoral Commissioner must refuse the application for registration under section 62J(6) at the same time the determination under section 238(2)(b) is made.
- (3) Subsections (1) and (2) apply —
 - (a) subject to section 62H(3); but
 - (b) despite any other provision of Part IIIA that would otherwise require the Electoral Commissioner to take any further action, or wait for the expiry of any period, before refusing the application.

240. Review

- (1) This section applies to —
 - (a) a decision to refuse an application for registration under section 62J(6) that is made as referred to in section 239(1) or (2); or
 - (b) a decision to register a political party under section 62H, or to refuse an application for registration under section 62J, if the application was dealt with under section 238(3)(b).
- (2) Section 62N applies in relation to the decision as if the reference in section 62N(2)(c) to the period of one month after the decision comes to the notice of the applicant were a reference to the period of 5 business

days beginning on the day on which notice of the decision is given under section 62H(5)(a) or 62J(7) (as the case requires).

Subdivision 3 — Name of political party registered before commencement day

241. Earlier registered word and earliest registered party

- (1) In this Subdivision, an *earlier registered word*, in relation to the registered name or registered abbreviation of a registered political party (the *relevant registered party*), is a word that —
 - (a) is in the registered name or registered abbreviation of the relevant registered party; and
 - (b) is also in another registered political party's registered name or registered abbreviation; and
 - (c) has continuously been in the other registered political party's registered name or registered abbreviation for longer than it has continuously been in the relevant registered party's registered name or registered abbreviation.
- (2) In this Subdivision, the *earliest registered party*, in relation to an earlier registered word, is —
 - (a) if there is only 1 other registered political party to which subsection (1)(b) and (c) apply — that registered political party; or
 - (b) if there are 2 or more other registered political parties to which subsection (1)(b) and (c) apply — the party that has continuously had the word in its registered name or registered abbreviation longest.

- (3) Section 62J(6B) and (6C) apply, with appropriate modifications, to a reference to a word in subsection (1).
- (4) Subsection (1) does not apply to a word unless the word was in the registered name or registered abbreviation of the relevant registered party, and the registered name or registered abbreviation of the other registered political party, immediately before commencement day.

242. Party registered before commencement day with earlier registered word in name or abbreviation

- (1) The Electoral Commissioner must review the registered name, and registered abbreviation, of each registered political party that was a registered political party immediately before commencement day to determine whether the registered name, or registered abbreviation, contains an earlier registered word.
- (2) If the Electoral Commissioner determines under subsection (1) that the registered name, or registered abbreviation, of a registered political party (the *relevant party*) contains an earlier registered word, the Electoral Commissioner must give the relevant party's secretary a written notice —
 - (a) setting out the determination and the reasons for the determination; and
 - (b) stating the name of the earliest registered party in relation to the earlier registered word; and
 - (c) explaining the effect of subsections (3) to (5) and section 244.
- (3) The relevant party's secretary may, within 10 business days beginning on the day on which the notice is given

under subsection (2) (the *response period*), lodge with the Electoral Commissioner —

- (a) the written consent of the secretary of the party named in the notice under subsection (2)(b) to the use of the earlier registered word by the relevant party in its registered name or registered abbreviation; or
- (b) an application, in the approved form and signed by the relevant party's secretary, to amend the register of political parties by doing either or both of the following —
 - (i) changing the registered name of the relevant party to a name set out in the application that does not contain the earlier registered word;
 - (ii) changing the registered abbreviation of the relevant party to an abbreviation or acronym set out in the application that does not contain the earlier registered word.

Note for this subsection:

Section 244 applies if the secretary does not lodge written consent in accordance with paragraph (a), or an application in accordance with paragraph (b), within the response period.

- (4) If written consent is lodged in accordance with subsection (3)(a) within the response period, the Electoral Commissioner is not required to take any further action under this Subdivision in relation to the relevant party.
- (5) If an application to amend the register of political parties is lodged in accordance with subsection (3)(b) within the response period, the application must be dealt with under the process that applies under section 243.

243. Process for application to change registered name or registered abbreviation under s. 242(3)(b)

- (1) For the purposes of this section and section 244(1)(b), an application to amend the register of political parties under section 242(3)(b) *complies with the relevant name requirements* if, were the application to be granted, neither the registered name nor the registered abbreviation of the relevant party would contain an earlier registered word.
- (2) If an application to amend the register of political parties is lodged in accordance with section 242(3)(b) within the response period referred to in section 242(3), the Electoral Commissioner must —
 - (a) consider the application; and
 - (b) determine whether or not the application complies with the relevant name requirements.

Note for this subsection:

Section 244 applies if the Electoral Commissioner determines under paragraph (b) that the application does not comply with the relevant name requirements.

- (3) If the Electoral Commissioner determines under subsection (2)(b) that the application complies with the relevant name requirements, sections 62G, 62H and 62J apply to the application as if it were an application for registration of a political party, subject to —
 - (a) the modifications set out in subsection (4) of this section; and
 - (b) any other necessary modifications.
- (4) For the purposes of subsection (3), the modifications are as follows —
 - (a) section 62G(3) applies as if it required the *Gazette* notice referred to in that section to include the following matters instead of the

matters referred to in section 62G(3)(a) and (b) —

- (i) the proposed change to the registered name, registered abbreviation, or both, of the registered political party;
 - (ii) the name and address of each registered officer of the registered political party;
 - (iii) an invitation to each elector who believes that the application does not comply with section 242(3)(b), or should be refused under section 62J, to submit to the Electoral Commissioner, within 5 business days beginning on the day of publication of the *Gazette* notice, a statement under section 62G(4);
- (b) section 62G(4)(a) applies as if the reference to the elector's belief under section 62G(3)(b) were a reference to the elector's belief referred to in paragraph (a)(iii) of this subsection;
- (c) section 62G(6)(b) applies as if the reference to such reasonable period as is specified in the notice were a reference to the period of 3 business days beginning on the day on which the notice is given;
- (d) section 62H(1) applies as if the reference to the application complying with the requirements of section 62E were a reference to the application complying with the requirements of section 242(3)(b);
- (e) section 62J(1A) does not apply.

244. Cancellation of registration

- (1) This section applies if —
 - (a) the secretary of a registered political party given a notice under section 242(2) does not lodge written consent in accordance with section 242(3)(a), or an application in accordance with section 242(3)(b), within the response period referred to in section 242(3); or
 - (b) the Electoral Commissioner determines under section 243(2)(b) that an application lodged under section 242(3)(b) by the secretary of a registered political party does not comply with the relevant name requirements; or
 - (c) an application to amend the register of political parties lodged under section 242(3)(b) by the secretary of a registered political party is refused by the Electoral Commissioner under section 62J (as that section applies under section 243(3)).
- (2) The Electoral Commissioner must cancel the registration of the registered political party.
- (3) Section 62L(3) to (6) apply in relation to a cancellation of registration under subsection (2) of this section as if it were a cancellation of registration under section 62L (other than because of section 62L(2)(d)), subject to the modification set out in subsection (4) of this section.
- (4) For the purposes of subsection (3), section 62L(3)(c) applies as if the reference to the period of 14 days after the *Gazette* notice is given were a reference to the period of 5 business days beginning on the day on which the *Gazette* notice is given.
- (5) Nothing in this section prevents the cancellation of the registration of a political party under section 62L.

245. Review

- (1) Section 62N applies to a decision to cancel the registration of a political party under section 244(2) as if it were a decision to cancel the registration of a political party under section 62L, subject to the modification set out in subsection (3) of this section.
- (2) Section 62N applies to a decision to grant or refuse an application lodged under section 242(3)(b) as if it were a decision to grant or refuse an application made under section 62K, subject to the modification set out in subsection (3) of this section.
- (3) For the purposes of subsections (1) and (2), section 62N applies as if the reference in section 62N(2)(c) to the period of one month after the decision comes to the notice of the applicant were a reference to the period of 5 business days beginning on the day on which notice of the decision is given under section 62H(5)(a), 62J(7) or 62L(5)(a) (as the case requires).

Subdivision 4 — Miscellaneous

246. Application of offence under s. 62Q(1)

Section 62Q(1) applies to a consent, request, application or other document lodged with the Electoral Commissioner under this Division as if it were an application under section 62E.

247. Electronic transmission of documents

- (1) In this section —
transmitted has the meaning given in section 211A(1).

- (2) Section 211A applies to a document required or permitted to be transmitted under this Division as if it were required or permitted to be transmitted under Part IIIA.

248. Electoral Commissioner to act expeditiously and complete required processes by 17 January 2025

- (1) The Electoral Commissioner must exercise the Electoral Commissioner's functions under this Division as expeditiously as is practicable.
- (2) Without limiting subsection (1), the Electoral Commissioner must ensure that, to the extent practicable, each process required under this Division is wholly completed on or before 17 January 2025.
- (3) A reference in subsection (2) to a process required under this Division —
- (a) is a reference to everything that must be done —
 - (i) under Subdivision 2 (including a provision of Part IIIA as it applies under Subdivision 2) in relation to an ongoing application; or
 - (ii) under Subdivision 3 (including a provision of Part IIIA as it applies under Subdivision 3) in relation to a registered political party;
 - but
 - (b) does not include a reference to anything done in connection with an application for review under section 62N.

249. Division does not affect operation of s. 62H(3) or 62L(6)

Nothing in this Division affects the operation of section 62H(3) or 62L(6).

