

## Information sheet

# Agents

This information sheet provides a summary of the key legal requirements relating to the appointment, responsibilities, and obligations of agents for registered political parties, candidates, groups of candidates, associated entities, and third parties participating in South Australian state elections. It is designed to help electoral participants understand their obligations in clear, plain language.

**Disclaimer:** This information sheet is for general guidance only. It does not replace or override the *Electoral Act 1985* (The Act). For specific advice you should seek independent legal counsel.

### What is an agent?

An agent is a person appointed by a registered political party, candidate, group of candidates, associated entity or third party to manage their funding and disclosure obligations under Part 13A of the Act. Agents may be formally appointed or deemed to be agents under the legislation.

Agents ensure the person or organisation they represent meets all legal requirements.

A register of current agents is available on the ECSA website.

### Eligibility

To be an agent, a person must:

- Be a natural person aged 18 or over
- Not have been convicted of a prescribed offence under the Act

### Appointing an agent

The appointment must:

- Be made in writing
- Include the agent's name and address
- Include the agent's written consent and declaration of eligibility

Candidates, groups and third parties cannot change their agent after close of nominations.

Only registered political parties may change their agent after that point.

### Acting agent

If the agent is temporarily unavailable, they may appoint an acting agent for up to 3 months, by notifying the Electoral Commissioner in writing. The appointment takes effect when the Commissioner receives the notice.

While appointed, the acting agent performs all functions of the agent, and the original agent cannot act.

An acting agent's appointment ends if the original agent's appointment ends or if the acting agent becomes ineligible.

### Changing or ending an appointment

**Revocation:** Candidates, groups, third parties and associated entities may revoke an agent in writing. Revocation notices must be signed by the relevant person(s).

**Death or resignation:** Notice must be provided within 7 days. Political parties must appoint a new agent within 28 days.

**Conviction:** If an agent is convicted of an offence under Part 13A or Part 20 of the Commonwealth Electoral Act, their appointment ends automatically. A replacement must be appointed within 28 days (or 28 days after any appeal is finalised).

### Agent roles by recipient type

Recipient	Agent
Registered political party	Must appoint a person to be the agent of the party. By default, the party agent is also the agent for any endorsed candidates or members of a group of candidates.
Candidate in an election	May appoint a person to be their agent. If no appointment is made, the candidate is taken to be their own agent.
Members of a group of candidates	May appoint a person to be the agent of the group. If no appointment is made, the candidate whose name appears first in the group on the ballot paper is taken to be the agent.
Third party	May appoint a person to be their agent. If no appointment is made: <ol style="list-style-type: none"> <li>where the third party is a natural person, the third party is taken to be the agent</li> <li>in any other case, each member of the executive committee is taken to be the agent</li> </ol>
Associated entity	May appoint a person to be their agent. If no appointment is made, the financial controller of the associated entity is taken to be the agent.

## Key responsibilities of an agent

Agents must ensure the following:

- A state campaign account is established and maintained
- All donations are paid into the account and all political expenditure is paid from it
- Accurate records are kept, including:
  - Donations of \$200 or more
  - Loans of \$500 or more
  - Donations and loans above the public disclosure threshold (currently \$1,000)
- All required returns are lodged on time
- Audit certificates are provided where required
- Donors and loan providers are informed of their own reporting obligations
- Expenditure caps are not exceeded (if participating in public funding)
- Compliance with any notice from the Electoral Commissioner to produce documents or evidence

**Note:** A 'loan' includes credit, financial accommodation, or any non-commercial loan arrangement.

Where donations or loans come from trusts, foundations, boards or associations, agents must record the names of trustees or governing members.



## Additional responsibilities for party agents

- Keep administrative funding separate
- Notify ECSA if the party shares its expenditure cap with candidates
- Manage shared public funding arrangements
- Lodge administrative funding claims

## Penalties for non-compliance

**Prosecution:** Agents can be prosecuted for failing to meet their legal responsibilities.

**Fines:** Offences against Part 13A attract fines ranging from \$1,500 to \$50,000.

**Loss of eligibility:** A person convicted of an offence under Part 13A is not eligible to act as an agent.



## Recordkeeping

Agents must keep all documents relating to returns for 4 years. They must maintain:

- Donor details for donations of \$200 or more
- Loan details for loans of \$500 or more
- Additional entity details for donations or loans from trusts, foundations, boards or associations

The Electoral Commissioner may require documents or evidence to be produced. Failure to comply may attract penalties up to \$10,000.

## Further information

- This information sheet mainly refers to Part 13A Division 2 of the *Electoral Act 1985* (SA)
- The Act is available in full at: [legislation.sa.gov.au](http://legislation.sa.gov.au)
- All participants should ensure they fully understand their obligations under the Act