

PARLIAMENT OF VICTORIA

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**Electoral Legislation Amendment Bill 2018**

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# PARLIAMENT OF VICTORIA

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Introduced in the Assembly

## **Electoral Legislation Amendment Bill 2018**

A Bill for an Act to amend the **Electoral Act 2002** and the **Public Administration Act 2004** and for other purposes.

**The Parliament of Victoria enacts:**

### **Part 1—Preliminary**

#### **1 Purposes**

The purposes of this Act are—

- 5
- (a) to amend the **Electoral Act 2002** to—
- (i) improve the operation of electoral processes; and
- 10 (ii) enhance the integrity of the electoral system by prohibiting political donations from certain sources and introducing a political donations disclosure and reporting scheme; and

- (b) to amend the **Public Administration Act 2004** to provide for the provision of Parliamentary advisers.

**2 Commencement**

- 5 (1) This Part and Parts 3 and 7 come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Part 4 comes into operation on 1 July 2018.
- 10 (3) Parts 5 and 6 come into operation on 25 November 2018.
- (4) Subject to subsection (5), Part 2 comes into operation on a day to be proclaimed.
- (5) If Part 2 does not come into operation before 1 July 2018, it comes into operation on that day.

## Part 2—General amendments

### 3 Amendment of section 3—Definitions

(1) In section 3 of the **Electoral Act 2002**, for the definition of *authorised witness substitute*—

5                   "*authorised witness* means a person who—

                    (a) has attained 18 years of age; and

                    (b) is not a candidate at the election;"

(2) **Insert** the following definition in section 3 of the **Electoral Act 2002**—

10                   "*composite name* means a name formed from the names of more than one registered political party;"

### 4 Amendment of section 9—Powers of the Commission

15                   After section 9(2) of the **Electoral Act 2002** **insert**—

                    "(3) Without limiting the generality of subsection (1), the Commission may, subject to this Act, make, issue and publish determinations for or in connection with the performance of its responsibilities and functions and the exercise of its powers."

20

### 5 Amendment of section 22—Entitlement to enrolment of electors for Assembly and Council

25                   In section 22(3) of the **Electoral Act 2002**, after "94" **insert** ", 94A".

**6 Amendment of section 23—Claims for enrolment and notice of change of address**

For section 23(3) of the **Electoral Act 2002** substitute—

- 5                   "(3) A claim for enrolment under subsection (1) or (2) must include or be accompanied by one of the following forms of identification—
- 10                   (a) if the person completing the claim is the holder of a driver licence or learner permit under the law of Victoria or another State or a Territory of the Commonwealth, the number of the driver licence or learner permit;
- 15                   (b) if the person completing the claim is the holder of an Australian passport issued under the Australian Passports Act 2005 of the Commonwealth, the number of the Australian passport;
- 20                   (c) an attestation as to the identity of the person completing the claim that is—
- (i) in the prescribed form; and
- (ii) signed by an elector;
- 25                   (d) any other form of evidence of identity that is prescribed by the regulations for the purposes of this subsection."

**7 Amendment of section 24—General postal voters**

After section 24(1)(a) of the **Electoral Act 2002** insert—

- 30                   "(aa) an elector who is entitled to be treated as an eligible overseas elector under section 94, 94A or 95 of the Commonwealth Electoral Act 1918; or"

**8 Amendment of section 45—Application for registration**

(1) After section 45(1) of the **Electoral Act 2002** insert—

5           "(1A) An application for the registration of a political party cannot be made during the period commencing 120 days before the day of a general election resulting from the expiration of the Assembly."

10           (2) After section 45(2) of the **Electoral Act 2002** insert—

15           "(3) An application for the registration of an eligible political party may include a request that the Commission enter a logo submitted in relation to the political party in the Register of Political Parties for the printing of ballot-papers in accordance with section 74.

20           (4) An application under subsection (3) must include—

                  (a) a copy of the logo as a black and white image in a format determined by the Commission; and

25                   (b) a declaration that the use of the logo will not infringe the intellectual property rights of any person; and

                  (c) any other requirements as determined by the Commission."

**9 Amendment of section 46 and heading**

30           (1) In the heading to section 46 of the **Electoral Act 2002**, after "party" insert "or logo".

(2) In section 46(a)(ii) of the **Electoral Act 2002**, after "party" insert "or a logo in relation to an eligible political party".

---



**10 New section 47A inserted—Certain logos not to be entered in Register of Political Parties**

After section 47 of the **Electoral Act 2002**  
**insert—**

5           **'47A Certain logos not to be entered in Register of Political Parties**

10           The Commission must refuse an application under section 45(3) to enter a logo in relation to a political party in the Register of Political Parties if, in the opinion of the Commission, the logo that the political party wishes to use for the purposes of this Act—

- 15           (a) is obscene; or
- (b) is the logo of another registered political party; or
- (c) so nearly resembles the logo of another registered political party that it is likely to be confused with, or mistaken for, that logo; or
- 20           (d) comprises the words "Independent Party" or comprises or contains the word "Independent" and—
- (i) the name, or an abbreviation or acronym of the name, of a registered political party; or
- 25           (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a registered political party, that the matter is likely to be confused with, or mistaken for, that name, abbreviation or acronym.'
- 30

**11 Amendment of section 48—Variation of application**

(1) In section 48(1) of the **Electoral Act 2002**, after "Commission must" **insert** "within 30 days of receiving the application".

5

(2) In section 48(3) and (5) of the **Electoral Act 2002**, for "45" **substitute** "30".

**12 Amendment of section 49—Publication of notice of application**

10

After section 49(1) of the **Electoral Act 2002** **insert**—

"(1A) A notice under subsection (1) in relation to an application must be published—

15

(a) within 30 days of receiving the application, if the Commission has decided that it is required to consider accepting the application; or

(b) within 14 days of receiving a written request under section 48(3).".

**13 Amendment of section 50—Registration**

20

After section 50(1)(a)(i) of the **Electoral Act 2002** **insert**—

"(ia) if the application included a request under section 45(3), enter the logo in relation to that political party; and".

25

**14 Amendment of section 51—Changes to Register of Political Parties**

(1) After section 51(1)(a) of the **Electoral Act 2002** **insert**—

30

"(aa) if a logo is entered in the Register in relation to the political party, changing the logo to a logo submitted in the application; or

(ab) if a logo is not entered in the Register in relation to the political party, entering the logo submitted in the application in the Register in relation to the political party; or".

5

(2) After section 51(1) of the **Electoral Act 2002** insert—

10

"(1A) An application under subsection (1) to amend the Register to change the name of a political party or to enter a logo cannot be made during the period commencing 120 days before the day of a general election resulting from the expiration of the Assembly."

15

(3) After section 51(2) of the **Electoral Act 2002** insert—

20

"(2A) An application under subsection (1)(aa) or (ab) must include—

(a) a copy of the logo as a black and white image in a format determined by the Commission; and

(b) a declaration that the use of the logo will not infringe the intellectual property rights of any person; and

25

(c) any other requirements determined by the Commission."

30

(4) After section 51(3) of the **Electoral Act 2002** insert—

"(3A) In the case of an application under subsection (1)(aa) or (ab), sections 46, 47A, 48 and 49 apply in relation to the application as if in those sections a reference to an application under section 45 were a reference to an application under section 51(1)(aa) or (ab)."

---

**15 Amendment of section 61—Writs for elections**

(1) In section 61(2) of the **Electoral Act 2002**, for "A" **substitute** "Unless subsection (2A) applies, a".

5

(2) After section 61(2) of the **Electoral Act 2002** **insert—**

10

"(2A) The Speaker may decide not to issue a writ for a by-election if the vacancy occurs on or after 30 June in the year in which a general election resulting from the expiration of the Assembly is to be held."

(3) In section 61(3) of the **Electoral Act 2002**, for "If" **substitute** "Unless subsection (3A) applies, if".

15

(4) After section 61(3) of the **Electoral Act 2002** **insert—**

20

"(3A) The Governor may decide not to issue a writ for a by-election if the vacancy occurs on or after 30 June in the year in which a general election resulting from the expiration of the Assembly is to be held."

**16 Amendment of section 74—Ballot-papers to be prepared**

25

After section 74(4) of the **Electoral Act 2002** **insert—**

30

"(5) If a person has been endorsed as a candidate in an election by a registered political party that has a logo entered in the Register of Political Parties, the logo must be printed adjacent to the name of the candidate and beneath the square in relation to the group in accordance with Schedule 1A, 1B or 2, whichever is applicable."

---

**17 Amendment of section 78—Submission of how-to-vote cards to the Commission**

For section 78(3) of the **Electoral Act 2002** substitute—

- 5           "(3) A how-to-vote card submitted under this section must be—
- (a) a single how-to-vote card, that is, a how-to-vote card submitted with respect to one electoral district or one electoral region only; or
- 10           (b) a multiple how-to-vote card, that is, a how-to-vote card submitted with respect to no less than every electoral district or electoral region for which the registered political party submitting the how-to-vote card has endorsed a candidate; or
- 15           (c) a combined how-to-vote card, that is, a how-to-vote card submitted with respect to one or more electoral districts or electoral regions for which the registered political party submitting the how-to-vote card has endorsed a candidate."
- 20

25           **18 Amendment of section 79—Registration process**

For section 79(2)(d) of the **Electoral Act 2002** substitute—

- "(d) that the how-to-vote card contains on at least one printed side of the how-to-vote card—
- 30           (i) the name and address of the person who authorised the how-to-vote card; and
- (ii) the name and place of business of the printer or publisher of the how-to-vote card;"

**19 Amendment of section 80—Alterations to registered how-to-vote card to correct error**

For section 80(4)(d) of the **Electoral Act 2002** substitute—

- 5           "(d) that the how-to-vote card contains on at least one printed side of the how-to-vote card—
- (i) the name and address of the person who authorised the how-to-vote card; and
- 10           (ii) the name and place of business of the printer or publisher of the how-to-vote card;"

**20 Amendment of section 83—Printing and publication of electoral advertisements, handbills, pamphlets or notices**

- 15           (1) In section 83(1)(a) and (1)(b) of the **Electoral Act 2002**, omit "at its end".
- (2) After section 83(3)(aa) of the **Electoral Act 2002** insert—
- 20           "(ab) a how-to-vote card registered under section 79 or 80; or".

**21 New section 83A inserted—Printing and publication of how-to-vote cards**

After section 83 of the **Electoral Act 2002** insert—

- 25           "**83A Printing and publication of how-to-vote cards**
- (1) A person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed a how-to-vote card unless it complies with section 79(2)(d) or 80(4)(d).
- 30

Penalty: In the case of a natural person,  
10 penalty units;  
In the case of a body corporate,  
50 penalty units.

5

**Note**

Section 179A applies to an offence against this subsection.

10

(2) For the purposes of subsection (1), a person who makes copies for distribution of a how-to-vote card that is published on the Internet is deemed to be the printer of those copies."

**22 Repeal of section 98—Electors who may apply to vote early or by post**

15

Section 98 of the **Electoral Act 2002** is repealed.

**23 Amendment of section 99—Application to vote early**

20

(1) In section 99(1) of the **Electoral Act 2002**, for "An" substitute "If an election is not a by-election, an".

(2) In section 99(1)(a) of the **Electoral Act 2002**, for "4 p.m. on" substitute "9 a.m. on the Monday after".

(3) After section 99(1) of the **Electoral Act 2002** insert—

25

"(1A) If an election is a by-election, an elector may apply to an election manager or an election official at an early voting centre during the operating times advertised under section 65 to vote within the period that—

30

(a) starts at 9 a.m. on the Monday immediately after the final nomination day; and

(b) ends at 6 p.m. on the day immediately before election day."

---

(4) After section 99(2) of the **Electoral Act 2002**  
**insert—**

"(3) There must be kept at an early voting  
centre—

- 5
- (a) a ballot-box for the deposit of  
ballot-papers marked by an elector  
who is enrolled in the district where  
the early voting centre is located; and
- 10
- (b) a ballot-box for the deposit of  
ballot-papers marked by an elector  
who is enrolled in a district outside  
the district where the early voting  
centre is located; and
- 15
- (c) a ballot-box for the deposit of  
ballot-papers marked by an elector  
under this section that are declaration  
votes."

**24 Amendment of section 101—Application to vote by  
post**

20 (1) In section 101(1) of the **Electoral Act 2002**, after  
"writing" **insert** "or by electronic means".

(2) After section 101(2) of the **Electoral Act 2002**  
**insert—**

25 "(2A) An application by electronic means to the  
Commission to vote by post—

- (a) must be in the prescribed form; and
- (b) must contain information to enable  
the Commission to verify the identity  
of the elector in accordance with the  
verification process determined by the  
Commission for the purposes of this  
subsection."
- 30

(3) In section 101(3) of the **Electoral Act 2002**,  
after "(2)" **insert** "or (2A)".



(4) In section 101(4) of the **Electoral Act 2002**,  
for "Thursday" **substitute** "Wednesday".

**25 Amendment of section 102—Duty of authorised  
witness in witnessing signature**

5                   In section 102(2)(b) of the **Electoral Act 2002**  
**omit** "the title or capacity in respect of which the  
authorised witness acts and".

**26 Repeal of section 103—Application to vote by post  
made outside Australia**

10                   Section 103 of the **Electoral Act 2002** is  
**repealed.**

**27 Amendment of section 104—Issue of declaration  
and ballot-paper to postal voters**

15                   (1) In section 104(1) of the **Electoral Act 2002**,  
after "101" **insert** "(2)".

(2) After section 104(1) of the **Electoral Act 2002**  
**insert—**

20                   "(1A) If the Commission receives an application  
to vote by post in accordance with section  
101(2A) and is satisfied that the application  
contains information to enable the  
Commission to verify the identity of the  
elector in accordance with the verification  
process determined by the Commission  
for the purposes of that subsection, the  
Commission must—

- 25                   (a) deliver or post to the applicant—
- 30                   (i) a declaration in the prescribed  
form; and
  - (ii) a ballot-paper; and
- (b) record the name of the elector to whom  
the declaration and ballot-paper has  
been issued and the date of issuing."

(3) In section 104(2)(a) of the **Electoral Act 2002**, after "101" **insert** "(2) or (2A)".

(4) In section 104(2)(b) of the **Electoral Act 2002**, for "Thursday" **substitute** "Wednesday".

5           **28 Amendment of section 106—Directions for postal voting**

(1) In section 106(2)(c)(ii) of the **Electoral Act 2002** **omit** "the title under which the authorised witness acts and".

10           (2) In section 106(2)(d) of the **Electoral Act 2002** **omit** ", fold the ballot-paper, place it and the declaration in the envelope provided by the Commission and fasten the envelope".

15           (3) For section 106(2)(e) of the **Electoral Act 2002** **substitute—**

"(e) the elector must then—

(i) post the declaration and ballot-paper to the Commission before 6 p.m. on election day; or

20           (ii) deliver the declaration and ballot-paper to the Commission or an election official at a voting centre before 6 p.m. on election day;"

25           (4) For section 106(3) of the **Electoral Act 2002** **substitute—**

"(3) For the purposes of subsection (2)(e), a ballot-paper is to be taken to have been posted before 6 p.m. on election day if—

30           (a) the ballot-paper is received by the Commission or an election official at a voting centre on or before 6 p.m. on the Friday immediately after election day; and

(b) the declaration is witnessed on or before election day."

**29 Amendment of section 107—Provision of silent elector's address**

5 In section 107 of the **Electoral Act 2002**, for "Act" **substitute** "Part".

**30 Amendment of section 109—Provisions as to voting by absent voters**

10 In section 109(8)(a) of the **Electoral Act 2002**, for "province" **substitute** "region".

**31 New section 110J inserted**

Before section 111 of the **Electoral Act 2002** **insert—**

15 **"110J Early processing of votes under sections 99 and 106**

- (1) This section applies to the processing of—
- (a) ballot-papers deposited in ballot-boxes kept at an early voting centre under section 99(3); and
  - 20 (b) ballot-papers received by post under section 106.
- (2) The processing of ballot-papers must be conducted—
- (a) during the authorised period; and
  - 25 (b) within a restricted area; and
  - (c) in accordance with the regulations; and
  - (d) in accordance with any instructions in relation to secrecy determined by the Commission.

- 5 (3) An election manager or election official cannot conduct any processing of ballot-papers unless the election manager or election official has given written notice to each registered political party and each candidate whose name is printed on the ballot-papers specifying—
- (a) the authorised period; and
  - (b) the location of the restricted area.
- 10 (4) A person must not enter the restricted area with any device that could be used to convey or transmit any information to a person or device located outside the restricted area.
- Penalty: 600 penalty units.
- 15 (5) A person must not disclose or otherwise use information obtained during the processing of ballot-papers for any purpose other than the conducting of the processing.
- Penalty: In the case of a natural person,  
600 penalty units;
- In the case of a body corporate  
or registered political party,  
3000 penalty units.
- Note**
- 25 Section 179A applies to an offence against this subsection.
- (6) In this section—
- authorised period*** means—
- (a) in the case of ballot-papers deposited in ballot-boxes kept at an early voting centre under section 99(3), the period of 2 hours immediately before the close of voting specified in the
- 30
-

written notice given under subsection (3); and

- 5 (b) in the case of ballot-papers received by post under section 106, the period of 10 hours immediately before the close of voting specified in the written notice given under subsection (3);

10 ***restricted area*** means an area specified in the written notice under subsection (3)—

- (a) that precludes any person outside that area from seeing or hearing any aspect of the processing; and
- 15 (b) that is under the control of an election manager or election official who can permit a person to enter or leave that area."

**32 Amendment of section 111—Preliminary scrutiny of declaration votes**

20 Section 111(4) of the **Electoral Act 2002** is repealed.

**33 Amendment of section 112—Rejection of ballot-papers**

25 After section 112(1) of the **Electoral Act 2002** insert—

"(1A) A ballot-paper that has been reproduced by hand by an election official at a voting centre must not be rejected only because the ballot-paper does not have printed on it—

- 30 (a) the logo of a political party entered in the Register of Political Parties in relation to a political party and any candidate endorsed by that political party on the ballot-paper for an
- 35 election; or
-

- (b) if a composite name is to be printed on the ballot-paper for a Council election, the logo of each political party to which the composite name relates."

5           **34 Amendment of section 114A—Procedure for  
ascertaining number of votes for Council candidates**

For section 114A(28)(c) of the **Electoral Act 2002 substitute—**

- 10           "(c) a transfer to a candidate in accordance with subsection (12)(b) of all of the votes of an excluded candidate or candidates, as the case may be, at a particular transfer value."

**35 Amendment of section 158—Conduct near voting centres**

- 15           (1) For section 158(1) of the **Electoral Act 2002 substitute—**

"(1) This section applies during the hours of voting in respect of a voting centre—

- 20           (a) within 6 metres of the entrance of, or within the building used as, a voting centre; or

- 25           (b) if the Commission considers that it is practically necessary to do so for a voting centre specified by the Commission by a notice displayed at the entrance to the voting centre, within a distance determined by the Commission that is less than 6 metres of the entrance of, or within the building used as, the specified voting centre.
- 30

**Example**

The Commission may determine that it is practically necessary to determine a shorter distance because of the need to deal with inclement weather."

5

(2) After section 158(3) of the **Electoral Act 2002** insert—

"(4) Subsection (2)(e) does not apply to—

10

(a) a car sticker, an item of clothing (when worn), lapel button, lapel badge, fridge magnet, pen or pencil; or

(b) any other thing or item or class of thing or item prescribed by the regulations.

15

(5) An election manager or election official may remove, or cause to be removed, any notice or sign that the election manager or election official reasonably considers is being exhibited in contravention of subsection (2)."

20

**36 New section 158A inserted—Exhibit of notice or sign within 100 metres of entrance to voting centre**

After section 158 of the **Electoral Act 2002** insert—

25

**"158A Exhibit of notice or sign within 100 metres of entrance to voting centre**

(1) Subject to section 158, this section applies during the hours of voting in respect of a voting centre—

30

(a) within 100 metres of any designated entrance to the voting centre; or

(b) if any entrance to the grounds of the voting centre is designated under subsection (3), within 100 metres of any designated entrance to the grounds in which the voting centre is situated—

35

5 but excluding any premises used as a private residence that is located within 100 metres of any designated entrance to the voting centre or any designated entrance to the grounds in which the voting centre is situated.

(2) While this section applies, a person must not exhibit any notice or sign (other than an official notice) in relation to the election except as provided in subsection (3).

10 Penalty: 5 penalty units.

**Note**

Section 179A applies to an offence against this subsection.

15 (3) A candidate, registered political party or organisation may display one sign not exceeding—

(a) 600 millimetres by 900 millimetres; or

(b) if another size is prescribed by the regulations, the prescribed size—

20 at each designated entrance to the grounds in which the voting centre is situated.

(4) Subsection (2) does not apply to—

25 (a) a car sticker, an item of clothing (when worn), lapel button, lapel badge, fridge magnet, pen or pencil; or

(b) any other thing or item or class of thing or item prescribed by the regulations.

(5) For the purposes of this section, **designated entrance** means—

30 (a) an entrance or entrances to a voting centre; or

(b) an entrance or entrances to the grounds in which the voting centre is located—

---



designated by the Commission for the purposes of this section.

- 5 (6) An election manager or election official may remove, or cause to be removed, any notice or sign that the election manager or election official reasonably considers is being exhibited in contravention of subsection (2)."

10 **37 Consequential amendments to section 179A—  
Criminal liability of officers of bodies corporate—  
accessorial liability**

- (1) After section 179A(2)(c) of the **Electoral Act 2002** insert—

"(ca) section 83A;"

- 15 (2) After section 179A(2)(g) of the **Electoral Act 2002** insert—

"(ga) section 110J(5);"

- (3) In section 179A(2)(k) of the **Electoral Act 2002**, for "(f)." substitute "(f);"

- 20 (4) After section 179A(2)(k) of the **Electoral Act 2002** insert—

"(l) section 158A(2)."

**38 Consequential amendment of Schedules**

- (1) In Schedule 1A to the **Electoral Act 2002**—

25 (a) after "2" (wherever occurring) insert "and 5";

(b) after note 4 insert—

30 "5. Here insert any logo registered in relation to the registered political party or any logos in relation to the registered political parties forming a composite name."

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Part 2—General amendments

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- 5
- (2) In Schedule 1B to the **Electoral Act 2002**—
- (a) after "2" (wherever occurring) **insert**  
"and 5";
- (b) after note 4 **insert**—
- "5. Here insert any logo registered in  
relation to the registered political party  
or any logos in relation to the registered  
political parties forming a composite  
name."
- 10
- (3) In Schedule 2 to the **Electoral Act 2002**, after  
"parties" **insert** ", and any logo registered in  
relation to a registered political party,".

### **Part 3—Amendments relating to prohibited political donations and powers of the Commission**

#### **39 Consequential amendment of heading to Part 12**

5 In the heading to Part 12 of the **Electoral Act 2002**, after "expenditure" insert "and political donations".

#### **40 Amendment of section 206—Definitions**

10 (1) **Insert** the following definitions in section 206(1) of the **Electoral Act 2002**—

"*associated entity* means—

- (a) an entity that is controlled by one or more registered political parties; or
- 15 (b) an entity that operates wholly, or to a significant extent, for the benefit of one or more registered political parties; or
- (c) an entity that is a financial member of a registered political party; or
- 20 (d) an entity on whose behalf another person is a financial member of a registered political party; or
- (e) an entity that has voting rights in a registered political party; or
- 25 (f) an entity on whose behalf another person has voting rights in a registered political party—

but does not include a nominated entity of a registered political party;

30 *Australian resident* has the same meaning as it has in section 7 of the Social Security Act 1991 of the Commonwealth;

***candidate*** means—

- (a) an elected member; or
- 5 (b) a person who has been selected by a political party to be a candidate in an election; or
- (c) a person, other than a member of a political party, who has publicly announced an intention to be a candidate in an election;

10 ***compliance officer*** means a person who is appointed by the Commission under section 222A;

***donor*** means a person who makes a political donation;

15 ***elected member*** means a person who is a member of the Council or the Assembly;

***entity*** means—

- (a) an incorporated or unincorporated body; or
- 20 (b) the trustee of a trust;

***financial institution*** means—

- (a) a bank; or
- (b) a credit union; or
- (c) a building society; or
- 25 (d) a body prescribed by the regulations to be a financial institution;

***group*** means 2 or more candidates whose names are grouped on a ballot-paper in accordance with section 69A;

Part 3—Amendments relating to prohibited political donations and powers of the Commission

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***loan*** means—

- (a) an advance of money; or
- (b) the provision of credit or any other form of financial accommodation; or
- 5 (c) the payment of an amount for, on account of, on behalf of or at the request of, the receiver, where there is an express or implied obligation to repay that amount; or
- 10 (d) any other transaction, whatever its terms or form, that in substance is a loan of money—

but does not include a loan made on a commercial basis by a financial institution;

15 ***nominated entity***, of a registered political party, means an entity the name and address of which is entered on the Register of Nominated Entities as the nominated entity of the registered political party;

20 ***non-financial loan*** means the loan of an asset or piece of equipment;

***political expenditure*** means any expenditure for the dominant purpose of directing how a person should vote at an election, by promoting or opposing—

- 25 (a) the election of any candidate at the election; or
- (b) a registered political party which has endorsed any candidate at the election;

30 ***Register of Nominated Entities*** means the Register of Nominated Entities established and maintained under section 222E;

***relevant business number*** means—

- 5
- (a) an Australian Business Number; or
  - (b) any other number allocated or recognised by the Australian Securities and Investments Commission for the purpose of identifying a business;

***third party campaigner*** means any person or entity other than—

- 10
- (a) a registered political party; or
  - (b) a candidate at an election; or
  - (c) a group; or
  - (d) an elected member; or
  - (e) an associated entity; or
  - (f) a nominated entity of a registered political party—
- 15

that incurs political expenditure which exceeds a total of \$2000 in a financial year;".

(2) In section 206(1) of the **Electoral Act 2002**—

- 20
- (a) in the definition of ***disposition of property***, after paragraph (c) **insert**—
    - "(ca) the making of a loan or a non-financial loan or the forbearance of any loan or non-financial loan;";
  - (b) for the definition of ***gift substitute***—

25

    - gift*** means any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including the following—

30

    - (a) the provision of a service;

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Part 3—Amendments relating to prohibited political donations and powers of the Commission

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- 5
- (b) the payment of an amount in respect of a guarantee;
  - (c) the making of a payment or contribution at a fundraising function;
  - (d) the disposition of property from a registered political party, a branch of a registered political party or an associated entity—
- 10 but does not include the following—
- (e) a payment under this Part;
  - (f) a gift to an individual that was made in a private capacity to the individual for their personal use, and that the individual has not used, and does not intend to use, solely or substantially for an election;
  - (g) an annual subscription paid to a registered political party, an associated entity or a third party campaigner by a person in respect of the person's membership of the registered political party, associated entity or third party campaigner;
  - (h) an annual affiliation fee paid to a registered political party by an associated entity;
  - (i) an annual levy paid to—
    - (i) a registered political party by an elected member or a member of staff of the elected member (including an electoral officer), or by
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Part 3—Amendments relating to prohibited political donations and powers of the Commission

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- an employee or elected official of the registered political party; or
- 5 (ii) an associated entity by an elected official or employee of the associated entity; or
- 10 (iii) a third party campaigner by an elected official or employee of the third party campaigner;
- 15 (j) a gift made by a registered political party to the nominated entity of the registered political party or received by a registered political party from the nominated entity of the registered political party;
- (k) the provision of volunteer labour;
- 20 (l) the provision of labour shared between—
- (i) a registered political party and any other branch of the registered political party; or
- 25 (ii) an associated entity and any other branch of the associated entity; or
- (iii) a third party campaigner and any other branch of the third party campaigner;
- 30 (m) if the provision of labour to which paragraph (l) applies includes the provision of an asset or piece of equipment to be used by the person in providing the labour,
- 35 the asset or piece of equipment;
-



Part 3—Amendments relating to prohibited political donations and powers of the Commission

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**Example**

5 If a person from the first branch of a registered political party, associated entity or third party campaigner is shared with another branch of the registered political party, associated entity or third party campaigner and brings with them a mobile phone supplied by the first branch of the registered political party, associated entity or third party campaigner to use while providing their labour, the provision of the mobile phone is not a gift.

10  
15 If a person from the first branch of a registered political party, associated entity or third party campaigner is shared with another branch of the registered political party, associated entity or third party campaigner and provides their labour from an office supplied by the first branch of the registered political party, associated entity or third party campaigner, the provision of the office is not a gift.";

(c) for the definition of *political donation* substitute—

"*political donation* means a gift to any of the following—

- 30
- (a) a registered political party;
  - (b) a candidate at an election;
  - (c) a group;
  - (d) an elected member;
  - 35 (e) an associated entity, if the whole or part of the gift was used, or intended to be used, by the associated entity to—

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Part 3—Amendments relating to prohibited political donations and powers of the Commission

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- 5 (i) enable the associated entity to make, directly or indirectly, a political donation or incur political expenditure; or
- 10 (ii) reimburse the associated entity for making, directly or indirectly, a political donation or incurring a political expenditure;
- 15 (f) a third party campaigner, if the whole or part of the gift was used, or intended to be used, by the third party campaigner to—
- 20 (i) enable the third party campaigner to make, directly or indirectly, a political donation or incur political expenditure; or
- 25 (ii) reimburse the third party campaigner for making, directly or indirectly, a political donation or incurring a political expenditure;
- (g) the nominated entity of a registered political party;".
- (3) After section 206(1) of the **Electoral Act 2002** **insert—**
- 30 "(1A) For the purposes of this Part, the value of a gift, other than of money, is to be determined in accordance with the principles prescribed by the regulations."

**41 New Division 3A inserted in Part 12**

After Division 3 of Part 12 of the **Electoral Act 2002** insert—

**"Division 3A—Prohibited political donations**

5

**217A Political donation from certain sources banned**

10

It is unlawful for a donor to make a political donation, or for a registered political party, a candidate at an election, a group, an elected member, a nominated entity, an associated entity or a third party campaigner to accept a political donation from a donor, unless the donor—

15

(a) in the case of a donor who is a natural person, is an Australian citizen or an Australian resident; or

20

(b) in the case of a donor who is not a natural person, has a relevant business number.

**217B Anonymous political donation not to be accepted**

25

It is unlawful for a donor to make a political donation equal to or above the value of \$1000, or for a registered political party, a candidate at an election, a group, an elected member, a nominated entity, an associated entity or a third party campaigner to accept a political donation equal to or above the value of \$1000 from a donor, unless when the donation is made—

30

(a) the donor gives to the registered political party, candidate at an election, group, elected member, nominated

Part 3—Amendments relating to prohibited political donations and powers of the Commission

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entity, associated entity or third party campaigner their name and address; and

- 5 (b) the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner has no reason to believe that the name or address is false.

10 **217C Forfeiture of political donations accepted in contravention of this Division**

- (1) A political donation that is accepted in contravention of this Division is forfeited to the State.
- 15 (2) An amount forfeited under subsection (1) may be recovered from the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner that accepted the political donation."
- 20

**42 Amendment of section 218—Offences**

After section 218(5) of the **Electoral Act 2002** insert—

- 25 "(5A) A person who knowingly makes or accepts a political donation that is unlawful under Division 3A is guilty of an offence.

Penalty: 300 penalty units or 2 years imprisonment or both."

**43 New Division 4A inserted in Part 12**

After Division 4 of Part 12 of the **Electoral Act 2002** insert—

**"Division 4A—Powers of the Commission**

5

**Subdivision 1—General**

**222A Compliance officers**

10

The Commission may by instrument in writing appoint any employees of the Commission to be compliance officers for the purposes of this Part.

**222B Power to issue notice**

15

(1) A compliance officer may by notice require a registered political party, candidate, group, elected member, nominated entity, associated entity, third party campaigner or donor to—

20

(a) produce the documents or other things specified in the notice within the period and in the manner specified in the notice; or

(b) appear before the compliance officer at a time and place specified in the notice to—

25

(i) give evidence either orally or in writing; and

(ii) produce the documents or other things specified in the notice.

30

(2) If a compliance officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence in relation to a contravention

Part 3—Amendments relating to prohibited political donations and powers of the Commission

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or possible contravention of this Part, the compliance officer may by notice require the person to—

- 5
- (a) produce the documents or other things specified in the notice within the period and in the manner specified in the notice; or
  - (b) appear before the compliance officer at a time and place specified in the notice to—
    - 10 (i) give evidence either orally or in writing; and
    - (ii) produce the documents or other things specified in the notice.
- 15 (3) A notice under this section—
  - (a) must be in writing; and
  - (b) may be served personally or by post.

**222C Review of decision to issue notice**

- 20 (1) A person who is served with a notice under section 222B may request the Commission to review the decision of the compliance officer to issue the notice.
- (2) A request under subsection (1) must—
  - 25 (a) be in writing; and
  - (b) be given to the Commission within 14 days of the day on which the notice was received.
- (3) The Commission must—
  - 30 (a) review the decision of the compliance officer to issue the notice; and
  - (b) affirm, vary or set aside the decision; and

- 5
- (c) notify the person in writing of its decision on the review.
- (4) If a person requests a review of a decision, the person is not to be taken to have refused or failed to comply with the notice to which the review relates any time before the Commission has notified the person of its decision on the review.

10 **222D Offences in relation to notice issued under section 222B**

- (1) A person who refuses to comply with a notice issued under section 222B to the extent that the person is capable of complying is guilty of an offence.
- 15 Penalty: 200 penalty units.
- (2) A person who in purported compliance with a notice issued under section 222B gives evidence that contains particulars that are, to the knowledge of the person, false or misleading in a material particular is guilty of an offence.
- 20 Penalty: 200 penalty units.

**Subdivision 2—Register of Nominated Entities**

25 **222E Register of Nominated Entities**

- (1) The Commission must establish and maintain a register, to be known as the Register of Nominated Entities, in accordance with this Division.
- 30 (2) The Commission must publish the Register of Nominated Entities on its Internet site.

**222F Nomination and eligibility for appointment as nominated entity**

- 5
- (1) A registered political party may appoint an entity as the nominated entity of the registered political party.
- (2) An entity is eligible to be appointed as the nominated entity of a registered political party if the entity is an incorporated body—
- 10
- (a) that is controlled, within the meaning of section 50AA of the Corporations Act, by the registered political party; and
- (b) that—
- 15
- (i) operates for the sole benefit of the members of the registered political party; or
- (ii) is established and maintained, or is the trustee of a trust established and maintained, for the sole benefit of the members of the registered political party; and
- 20
- (c) that does not have voting rights in the registered political party.
- (3) Despite subsection (1), an entity is not eligible to be appointed as the nominated entity of a registered political party if—
- 25
- (a) the entity is currently the nominated entity of another registered political party; or
- 30
- (b) the entity, or an officer of the entity within the meaning of section 9 of the Corporations Act, has been convicted of an offence under Part 12 of this Act; or



- (c) the appointment of another entity as the nominated entity of the registered political party is in effect.

**222G Appointment as nominated entity**

- 5 (1) A registered political party may provide written notice of the appointment of an entity as its nominated entity to the Commission, in the form and manner determined by the Commission, specifying—
  - 10 (a) the name and address of the registered political party; and
  - (b) the name and address of the entity; and
  - (c) such other information as is determined by the Commission.
- 15 (2) An entity appointed as the nominated entity of a registered political party must provide to the Commission—
  - 20 (a) written notice, in the form and manner determined by the Commission, that the entity consents to the appointment; and
  - (b) a declaration, duly executed by the entity, stating that the entity is eligible to be appointed as the nominated entity of the registered political party.

**222H When does an appointment as a nominated entity take effect?**

- 25 (1) If a registered political party has provided written notice of the appointment of an entity as its nominated entity under  
30 section 222G(1), the Commission must enter the name and address of the nominated entity as the nominated entity of the registered political party on the Register of Nominated Entities if—

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- 5 (a) the entity has provided written notice to the Commission under subsection 222G(2) that it consents to the appointment and is eligible to be appointed; and
- (b) the Commission is satisfied that the entity is eligible to be appointed as the nominated entity of the registered political party.
- 10 (2) The appointment of the entity as the nominated entity of the registered political party takes effect when the Commission enters the name and address of the entity, and the registered political party of which
- 15 the entity is the nominated entity, on the Register of Nominated Entities.
- (3) The Commission may request that an entity provide the Commission with any evidence it requires to satisfy itself that the entity is
- 20 eligible to be appointed as the nominated entity for a registered political party.
- 222I When does an appointment as a nominated entity cease?**
- 25 (1) The appointment of an entity as the nominated entity of a registered political party ceases if the Commission removes the name and address of the entity, as the nominated entity of the registered political
- 30 party, from the Register of Nominated Entities.
- (2) The Commission may only remove the name and address of an entity from the Register of Nominated Entities if—
- 35 (a) the entity provides the Commission with a written notice stating that the entity has resigned as the nominated

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- entity, or provides the Commission with a notice under subsection (3) that the entity has ceased to be eligible to be the nominated entity; or
- 5 (b) the registered political party that appointed the entity provides the Commission with a written notice stating that the registered political party has revoked the appointment of the nominated entity; or
- 10 (c) the entity, or an officer of the entity within the meaning of section 9 of the Corporations Act, is convicted of an offence against this Part or Part XX of the Commonwealth Electoral Act 1918.
- 15
- (3) The nominated entity of a registered political party must provide written notice to the Commission within 7 days of the nominated entity ceasing to be eligible to be the nominated entity of the registered political party."
- 20

## **Part 4—Amendments relating to Register of Agents, State campaign accounts and administrative funding**

### **44 Amendment of section 206—Definitions**

5                   **Insert** the following definitions in section 206(1)  
of the **Electoral Act 2002**—

"*election quarter*, of a year in which a general  
election is held, means the quarter of that  
year beginning on 1 October;

10                   *Register of Agents* means the Register of Agents  
established under section 207A;

*registered agent* means—

- 15                   (a) a person nominated as the agent of a  
candidate at an election, a group, an  
elected member an associated entity  
or a third party campaigner whose  
name and address is registered on the  
Register of Agents; or
- 20                   (b) if a person has not been nominated,  
the person who is to be taken to be the  
registered agent of a candidate at an  
election, a group, an elected member,  
a nominated entity, an associated  
25                   entity or a third party campaigner in  
accordance with section 207B or 207C;

*registered officer* has the meaning given to  
registered officer of a registered political  
party by section 44;

30                   *small contribution* means a political donation that  
is equal to or less than the value of \$50;

*State campaign account* means the separate  
account or accounts required to be kept  
under section 207F;".

**45 New Divisions 1A and 1B inserted in Part 12**

After section 207 of the **Electoral Act 2002**  
**insert—**

**"Division 1A—Register of Agents**

5

**207A Register of Agents**

The Commission must establish and maintain a Register of Agents in accordance with this Division which contains the prescribed details.

10

**207B Appointment of agent by a candidate at an election, group or elected member**

(1) Subject to subsection (4), a candidate at an election may appoint a person to be their agent in relation to the election.

15

(2) Subject to subsection (4), the members of a group may jointly appoint a person to be their agent in relation to the election.

20

(3) Subject to subsection (4), an elected member may appoint a person to be their agent in relation to the election.

(4) If—

25

(a) a registered political party has endorsed a candidate; or

(b) all the members of a group are members of the same registered political party; or

(c) an elected member is a member of a registered political party—

30

the registered officer of the registered political party is to be taken to be the agent of the candidate, group or elected member.

Part 4—Amendments relating to Register of Agents, State campaign accounts  
and administrative funding

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- 5 (5) Subject to subsection (4), during any period in which there is no appointment in force under subsection (1) of an agent of a candidate, a candidate at an election is to be taken to be their own agent in relation to the election.
- 10 (6) Subject to subsection (4), during any period in which there is no appointment in force under subsection (2) of an agent of a group, the candidate whose name appears first in the group on the ballot-paper is to be taken to be the agent of the group in relation to the election.
- 15 (7) Subject to subsection (4), during any period in which there is no appointment in force under subsection (3) of an agent of an elected member, the elected member is to be taken to be their own agent in relation to the election.
- 20 **207C Agent of associated entity, third party campaigner or nominated entity**
- 25 (1) An associated entity may appoint a person to be an agent of the associated entity.
- (2) During any period in which there is no appointment in force under subsection (1) of an agent of an associated entity, the financial controller of the associated entity is to be taken to be the agent of the associated entity.
- 30 (3) A third party campaigner may appoint a person to be an agent of the third party campaigner.

Part 4—Amendments relating to Register of Agents, State campaign accounts  
and administrative funding

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- 5
- (4) During any period in which there is no appointment in force under subsection (3) of an agent of a third party campaigner—
- (a) if the third party campaigner is a natural person, the third party campaigner; or
- (b) in any other case, the financial controller of the third party campaigner—
- 10 is to be taken to be the agent of the third party campaigner.
- (5) The registered officer of a registered political party is taken to be the agent of the nominated entity of the registered political party, if the registered political party has a nominated entity.
- 15
- (6) In this section, *financial controller* means, if the associated entity or third party campaigner—
- 20 (a) is a corporation, the secretary of the corporation; or
- (b) is a trustee of a trust and the trustee is a natural person, the trustee; or
- 25 (c) is neither a corporation nor a trustee of a trust who is a natural person, the person responsible for keeping the financial records of the associated entity or third party campaigner.
- 207D Requirements in relation to appointment of agent**
- 30
- (1) An appointment of a person as an agent under this Division has no effect unless—
- (a) the person has attained the age of 18 years; and

Part 4—Amendments relating to Register of Agents, State campaign accounts  
and administrative funding

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- 5 (b) the person or entity making the appointment has provided written notice of the appointment to the Commission in the form and in the manner determined by the Commission specifying—
- 10 (i) the name and address of the person or entity making the appointment; and
- (ii) the name and address of the person appointed as an agent; and
- (iii) any other information determined by the Commission; and
- 15 (c) the person appointed as an agent has provided to the Commission in the form and in the manner determined by the Commission—
- (i) their consent to the appointment; and
- 20 (ii) a declaration signed by the person stating that they are eligible to be appointed as an agent.
- 25 (2) A person is not eligible to be appointed as an agent if the person has been convicted of an offence against this Part or Part XX of the Commonwealth Electoral Act 1918.
- 207E When is appointment of agent in effect?**
- 30 (1) The appointment of an agent as a registered agent takes effect when the Commission enters the name and address of the person appointed as an agent on the Register of Agents.



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and administrative funding

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- 5
- (2) A person ceases to be a registered agent if the Commission removes the name and address of the person from the Register of Agents.
- 10
- (3) The Commission may only remove the name and address of a person from the Register of Agents if—
- 15
- (a) the person provides the Commission with a written notice stating that they have resigned as an agent; or
- (b) the person or entity who appointed the person as their agent provides the Commission with a written notice stating that they have revoked the appointment of the person as their agent; or
- 20
- (c) the person is convicted of an offence against this Part or Part XX of the Commonwealth Electoral Act 1918; or
- (d) the Commission is notified of the death of the person appointed as an agent in accordance with subsection (4).
- 25
- (4) If a person who is a registered agent dies, the person or entity who appointed the person as their agent must provide to the Commission—
- 30
- (a) written notice of the death of the person appointed as their agent; and
- (b) written notice of the appointment of another person as their agent in accordance with section 207D.

Part 4—Amendments relating to Register of Agents, State campaign accounts  
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- 5
- (5) If a person who is a registered agent is convicted of an offence against this Part or Part XX of the Commonwealth Electoral Act 1918, the person or entity who appointed the person as their agent must provide to the Commission written notice of the appointment of another person as their agent in accordance with section 207D—
- 10
- (a) within 28 days after the conviction; or
  - (b) if an appeal against the conviction is instituted and the conviction is affirmed, within 28 days after the appeal is determined.

**Division 1B—State campaign account**

15 **207F State campaign account**

- 20
- (1) The registered officer of a registered political party and the registered agent of a candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner must keep a State campaign account consisting of a separate account or accounts with an ADI for the purpose of State elections.
- 25
- (2) The registered officer of a registered political party and the registered agent of a candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner must ensure that each political donation (including each small contribution) received under Division 3
- 30
- by the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner is paid into the
- 35
- State campaign account.

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and administrative funding

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- (3) The registered officer of a registered political party and the registered agent of a candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner must ensure that any amount kept in any account for Commonwealth electoral purposes by the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner is not paid into the State campaign account.
  - (4) The registered officer of a registered political party must ensure that any amount received as—
    - (a) an annual subscription paid to the registered political party by a person in respect of the person's membership of the registered political party; or
    - (b) an annual affiliation fee paid to the registered political party by an associated entity; or
    - (c) an annual levy paid to the registered political party by an elected member or a member of staff of the elected member (including an electoral officer), or by an employee or elected official of the registered political party—is not paid into the State campaign account.
  - (5) The registered agent of an associated entity or a third party campaigner must ensure that any amount received as—
    - (a) an annual subscription paid to the associated entity or third party campaigner by a person in respect of the person's membership of the

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and administrative funding

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associated entity or third party  
campaigner; or

- 5 (b) an annual levy paid to the associated  
entity or third party campaigner by  
an elected official or employee of  
the associated entity or third party  
campaigner—

is not paid into the State campaign account.

- 10 (6) The registered officer of a registered political  
party and the registered agent of a candidate  
at an election, group, elected member,  
nominated entity, associated entity or third  
party campaigner must ensure that no  
15 amount of money for political expenditure  
is paid for by the registered political party,  
candidate at an election, group, elected  
member, nominated entity, associated entity  
or third party campaigner unless the amount  
is paid from the State campaign account.

- 20 (7) The regulations may prescribe—  
(a) what other amounts of any kind may be  
paid into a State campaign account; and  
(b) what other amounts of any kind must  
25 not be paid into a State campaign  
account.

- (8) After debts have been paid, any amount  
remaining in a State campaign account—  
(a) of a candidate at an election when the  
candidate is not successful, or when an  
30 elected member ceases to be a member,  
is to be paid—  
(i) if the candidate or elected member  
was a member of a registered  
political party, to the registered

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- political party for payment into its  
State campaign account; or
- 5 (ii) if the candidate or elected member  
was not a member of a registered  
political party, to a charity  
nominated by the candidate or  
elected member or their registered  
agent; or
- 10 (b) of a group when one or more of the  
group is not successful or ceases to be  
an elected member, is to be paid—
- 15 (i) to the remaining member of  
the group, or if more than one  
remaining member, to each of  
the remaining members in equal  
shares, for payment into the  
relevant State campaign account;  
or
- 20 (ii) if there are no remaining members  
of the group and the members had  
been endorsed by a registered  
political party, to the registered  
political party for payment into  
its State campaign account; or
- 25 (iii) if there are no remaining  
members of the group and the  
members had not been endorsed  
by a registered political party,  
to a charity nominated by the  
registered agent of the group.
- 30

**Division 1C—Administrative  
expenditure funding**

**207G Entitlement to administrative expenditure  
funding**

- 5 (1) The Commission must make payments of administrative expenditure funding under this section quarterly in advance to a registered political party or an independent elected member.
- 10 (2) Subject to subsection (4), a registered political party is entitled to be paid \$10 000 each quarter for each elected member who is a member of the registered political party on a pro-rata basis for each day that the elected member is a member of the registered political party.
- 15 (3) Subject to subsection (5), an independent elected member is entitled to be paid \$10 000 for each quarter that they are an independent elected member on a pro-rata basis for each day that they are an independent elected member.
- 20 (4) A registered political party is entitled to be paid \$10 000, for the election quarter of a year in which a general election is held, for—
- 25 (a) each elected member who was an elected member on 1 October of that year, on a pro-rata basis for each day that the elected member is a member of the registered political party during the period—
- 30 (i) beginning on 1 October of that year; and

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- (ii) ending on the day of the general election; and
- (b) each person who is a member of the registered political party and who is declared elected under section 121, on a pro-rata basis for each day that the person is a member of the registered political party during the period—
- (i) beginning on the day after the day of the general election; and
- (ii) ending on 31 December in that year.
- (5) A person who is an independent elected member on 1 October of a year in which a general election is held is entitled to be paid \$10 000 for the election quarter of that year—
- (a) on a pro-rata basis for each day during the period—
- (i) beginning on 1 October of that year; and
- (ii) ending on the day of the general election; and
- (b) if the person is a candidate at the general election and is declared elected under section 121, on a pro-rata basis for each day during the period—
- (i) beginning on the day after the day of the general election; and
- (ii) ending on 31 December in that year.

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- 5
- (6) A person who is a candidate at a general election and who will be an independent elected member as a result of being elected, and in respect of whom an amount is not payable under subsection (4) or (5), is entitled to be paid \$10 000 for the election quarter of that year, on a pro-rata basis for each day during the period—
- 10
- (a) beginning on the day after the day of the general election; and
- (b) ending on 31 December in that year.
- 15
- (7) If a registered political party or an independent elected member has received a payment in respect of a quarter that exceeds the entitlement at the end of the quarter, the amount paid in excess must be—
- 20
- (a) deducted from the amount payable in respect of any subsequent quarter; or
- (b) if the Commission so requests in writing, repaid to the Commission.
- 25
- (8) The registered officer of a registered political party or the registered agent of an independent elected member must ensure that any payment made under this section is not paid into the State campaign account or used for electoral expenditure.
- 30
- (9) If a payment is made on behalf of a registered political party or an independent elected member in contravention of subsection (8), the registered political party or independent elected member is liable to pay a penalty equal to 200 per cent of the payment.



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- 5
- (10) The Commission may recover the amount of the penalty under subsection (9)—
- (a) by deducting the amount from any amount payable in respect of any subsequent quarter; or
  - (b) as a debt due to the State in a court of competent jurisdiction.
- 10
- (11) The first payment under this section is to be made on 1 July 2018.
- (12) A payment under subsection (4)(a) or (5)(a) is to be paid on 1 October of the year in which the general election concerned is held.
- 15
- (13) A payment under subsection (4)(b), (5)(b) or (6) is to be paid—
- (a) if the candidate to whom the payment relates is declared elected under section 121 before 1 January of the year after the general election concerned is held, on 1 January of that year; or
  - (b) otherwise, as soon as reasonably practicable after 1 January of the year after the general election concerned is held.
- 20
- 25
- (14) In this section, ***independent elected member*** means an elected member who is not a member of a registered political party."

## **Part 5—Amendments relating to political donations disclosure and reporting scheme**

### **46 Amendment of section 206—Definitions**

- 5 (1) **Insert** the following definitions in section 206(1)  
of the **Electoral Act 2002**—
- "*annual return* means an annual return required  
to be provided to the Commission under  
Division 3C;
- 10 "*disclosure return* means a disclosure return  
required to be provided to the Commission  
under section 216;
- general cap* means \$4000;".
- (2) In section 206(1) of the **Electoral Act 2002**—
- 15 (a) for the definition of *election period*  
**substitute**—
- "*election period* means—
- (a) the period commencing on the  
day after election day of the  
20 2018 general election and ending  
on election day of the subsequent  
general election; and
- (b) each subsequent period  
commencing on the day after  
election day of the previous  
25 general election and ending on  
the next general election day;";
- (b) the definition of *relevant licence* is  
**repealed**.
- 30 (3) In section 206(1) of the **Electoral Act 2002**,  
in the definition of *electoral expenditure*,  
for "period of 12 months immediately before  
election day" **substitute** "election period".
-

(4) Section 206(5) of the **Electoral Act 2002** is  
**repealed**.

**47 Amendment of heading to Division 2 of Part 12**

5 For the heading to Division 2 of Part 12 of the  
**Electoral Act 2002** substitute "**Division 2—  
Public Funding**".

**48 Amendment of section 208—Statement of  
expenditure**

- 10 (1) In section 208(1) and (2) of the **Electoral  
Act 2002**, after "incurred" **insert** "political  
expenditure and electoral expenditure".
- (2) After section 208(2) of the **Electoral Act 2002**  
**insert**—
- 15 "(3) To avoid doubt, political expenditure and  
electoral expenditure is incurred in relation  
to an election if—
- (a) in the case of a general election, it is  
incurred during the election period for  
the election; or
- 20 (b) in the case of a by-election, it is  
incurred in relation to the by-election."

**49 Amendment of section 209—Audit of statement**

- 25 (1) In section 209(1) of the **Electoral Act 2002**, after  
"208(1)" **insert** "or an annual return given under  
section 217I".
- (2) In section 209(2) of the **Electoral Act 2002**, after  
"208(2)" **insert** "or an annual return given under  
section 217J, 217K or 217L".
- 30 (3) In section 209(4) of the **Electoral Act 2002**, after  
"A statement" **insert** "or an annual return given  
under section 217I, 217J, 217K or 217L".

- (4) In section 209(4) of the **Electoral Act 2002**, after "the statement" **insert** "or the annual return, as the case requires".

**50 Amendment of section 211—Entitlement**

- 5 (1) In section 211(2) of the **Electoral Act 2002**, for "an election" **substitute** "the election held on 24 November 2018".
- (2) After section 211(2) of the **Electoral Act 2002** **insert**—
- 10 "(2A) The sum of—
- (a) \$6 is payable for each first preference vote given for a candidate for election to the Assembly in an election held after 24 November 2018; and
- 15 (b) \$3 is payable for each first preference vote given for a candidate for election to the Council in an election held after 24 November 2018."

**51 Amendment of section 212—Making of payments**

- 20 (1) In section 212(2) of the **Electoral Act 2002**, for "The" **substitute** "Subject to subsection (2A), the".
- (2) After section 212(2) of the **Electoral Act 2002** **insert**—
- 25 "(2A) The amount payable is reduced by double the amount of the part of the amount of any political donation that is received in contravention of this Part by—
- 30 (a) in an election for a candidate endorsed by a registered political party, the candidate or the registered political party during the election period; or

(b) in an election for a candidate who is not endorsed by a registered political party, the candidate during the election period."

5 (3) After section 212(4) of the **Electoral Act 2002**  
**insert—**

10 "(4A) The registered officer of a registered political party or a candidate who receives a payment from the Commission under this section must pay the amount of the payment into the State campaign account."

**52 New sections 212A and 212B inserted—Instalment payments of public funding entitlement**

15 After section 212 of the **Electoral Act 2002**  
**insert—**

**"212A Instalment payments of public funding entitlement**

20 (1) This section applies to an eligible registered political party or an eligible independent candidate.

(2) Subject to subsection (5), an eligible registered political party or an eligible independent candidate is to be paid, in relation to a general election, an amount equal to the payment received under section 212(3) or (4) in relation to the immediately preceding general election, in 4 instalments as follows—

30 (a) 40 per cent within 30 days after the Commission is given the statement under section 208 in relation to the immediately preceding general election;

- 5
- (b) 20 per cent on 30 April in each of the  
2 calendar years preceding the calendar  
year in which the general election to  
which the payment relates is held;
- (c) 20 per cent on 30 April in the calendar  
year in which the general election to  
which the payment relates is held.
- 10
- (3) If the amount payable to the eligible  
registered political party or the eligible  
independent candidate under section 212(3)  
or (4) in relation to the general election is  
greater than the amount paid to the eligible  
registered political party or the eligible  
independent candidate under subsection (2),  
15 the Commission must make a payment  
equal to the balance in accordance with  
section 212(3) or (4).
- 20
- (4) If the amount payable to the eligible  
registered political party or the  
eligible independent candidate under  
section 212(3) or (4) in relation to the  
general election is less than the amount  
paid to the eligible registered political  
party or the eligible independent candidate  
25 under subsection (2)—
- (a) the amount of the overpayment must  
be deducted by the Commission  
from the first instalment of payment  
otherwise to be made to the eligible  
30 registered political party or the eligible  
independent candidate for the next  
general election and any balance still  
outstanding must be repaid to the  
Commission; or

- (b) the amount of the overpayment must be repaid to the Commission if the registered political party or independent candidate—
- 5 (i) is not eligible to receive payment under this section in relation to the next general election; or
- (ii) has not elected to receive payment under this section in relation to the
- 10 next general election.
- (5) If a general election is to be held under section 61(1)(b) due to the dissolution of the Assembly, and at the time the general election is to be held all the instalments under subsection (2) have not become payable—
- 15 (a) no further instalments are to be made; and
- (b) subsections (3) and (4) apply in respect of the amount already paid in relation to the general election.
- 20
- (6) An amount paid by way of an instalment under paragraph (2)(a), (b) or (c) to an eligible registered political party or an
- 25 eligible independent candidate must not be used by the eligible registered political party or eligible independent candidate as security or collateral (however described) for a loan.
- (7) In this section—
- 30 ***eligible independent candidate*** means an independent candidate who—
- (a) has received a payment under section 212(4) in respect of votes given at the immediately

preceding general election to the  
independent candidate; and

5

- (b) makes an election in writing to the  
Commission, at the time that the  
independent candidate gives the  
Commission the statement under  
section 208 in relation to the  
immediately preceding general  
election, that they wish to receive  
payments under this section;

10

***eligible registered political party*** means a  
registered political party which—

15

- (a) has received a payment under  
section 212(3) in respect of  
votes given at the immediately  
preceding general election for  
a candidate endorsed by the  
registered political party; and

20

- (b) makes an election in writing to the  
Commission, at the time that the  
registered political party gives the  
Commission the statement under  
section 208 in relation to the  
immediately preceding general  
election, that they wish to receive  
payments under this section;

25

***independent candidate*** means a candidate  
at an election who is not endorsed by  
a registered political party;

30

***loan*** means—

- (a) an advance of money; or  
(b) the provision of credit or any other  
form of financial accommodation;  
or



- 5 (c) the payment of an amount for, on  
account of, on behalf of or at the  
request of, the receiver, where  
there is an express or implied  
obligation to repay that amount; or
- (d) any other transaction, whatever its  
terms or form, that in substance is  
a loan of money—
- 10 and includes a loan made on a  
commercial basis by a financial  
institution.

**212B Special rule for instalment payments of  
public funding entitlement in relation  
to 2022 general election**

- 15 (1) This section applies to an eligible  
registered political party or an eligible  
independent candidate (within the meaning  
of section 212A) in relation to the general  
election to be held in 2022 (the **2022**  
20 **election**).
- (2) Despite section 212A(2), for the purposes  
of the payment for the 2022 election, the  
amount that the eligible registered political  
party or eligible independent candidate is  
25 entitled to receive is to be calculated on  
the assumption that section 211(2A) as  
inserted by section 50(2) of the **Electoral  
Legislation Amendment Act 2018** had  
applied in respect of the previous general  
30 election.
- (3) The amount is payable in relation to the 2022  
election in 4 instalments as follows—
- 35 (a) 40 per cent within 30 days after the  
Commission is given the statement  
under section 208 in relation to the  
previous general election;

- 5 (b) 20 per cent on 30 April in each of the  
2 calendar years preceding the calendar  
year in which the 2022 general election  
is held;
- (c) 20 per cent on 30 April in the calendar  
year in which the 2022 election is held.
- 10 (4) Section 212A(3) to (7) apply in relation to a  
payment referred to in subsection (2) of this  
section in the same way as they apply to a  
payment referred to in section 212A(2).".

**53 Repeal of section 214—Indexation**

Section 214 of the **Electoral Act 2002** is  
**repealed.**

**54 Division 3 of Part 12 substituted**

15 For Division 3 of Part 12 of the **Electoral  
Act 2002 substitute—**

**"Division 3—Disclosure of political  
donations**

**216 Disclosure of political donations**

- 20 (1) A donor must provide to the Commission  
a disclosure return for each political  
donation made by the donor during a  
financial year that is equal to or exceeds  
\$1000 (the *disclosure threshold*) within  
25 21 days of the making of the political  
donation.
- (2) A donor must provide to the Commission a  
disclosure return for each political donation  
made by the donor during a financial year  
30 that is less than the disclosure threshold, if—

Part 5—Amendments relating to political  
donations disclosure and reporting scheme

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- 5
- (a) the political donations are made to the same registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner; and
- 10
- (b) the sum of the political donations made by the donor to that registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner is equal to or exceeds the disclosure threshold.
- 15
- (3) A disclosure return required by subsection (2) for a political donation made by a donor during a financial year to a registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner must be provided as follows—
- 20
- (a) within 21 days of the making of the first political donation during the financial year that has the result that the sum of the political donations made by the donor during that financial year to that registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner is equal to or exceeds the disclosure threshold;
- 25
- (b) within 21 days of the making of each subsequent donation by the donor to that registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner during the financial year.
- 30
- 35

- 5
- (4) If—
- (a) a registered political party or a candidate at an election, a group, an elected member, a nominated entity an associated entity or a third party campaigner receives a political donation during a financial year; and
  - (b) the political donation is equal to or exceeds the disclosure threshold—
- 10
- the registered officer of the registered political party, or the registered agent of the candidate, group, elected member, nominated entity, associated entity or third party campaigner, as the case requires,
- 15
- must provide to the Commission a disclosure return for the political donation within 21 days of receiving the political donation.
- (5) A disclosure return must be in the form approved by the Commission, and must
- 20
- include the following details—
- (a) the name of the donor;
  - (b) if the donor is an individual person, the residential address of the donor;
  - (c) if the donor is not an individual person,
  - 25
  - the address of the registered office or other official office of the donor;
  - (d) the registered political party or the candidate at an election, group, elected member, nominated entity, associated
  - 30
  - entity or third party campaigner that received the political donation;

- 5
- (e) in the case of a disclosure return required by subsection (1) or (2), the date on which the political donation or donations to which the disclosure return relates were made;
- 10
- (f) in the case of a disclosure return required by subsection (4), the date on which the political donation to which the disclosure return relates was received;
- (g) the amount of the political donation or donations, as the case requires.
- 15
- (6) A separate disclosure return must be provided in respect of each political donation for which a disclosure return is required, other than for a disclosure return referred to in subsection (3)(a), which must cover each donation during the financial year that results in the sum of the political donations during that financial year equalling or exceeding the disclosure threshold.
- 20
- (7) If a registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party
- 25
- campaigner receives a political donation for which a donor must provide a disclosure return, the registered officer of the registered political party or the registered agent of the candidate at an election, group, elected
- 30
- member, nominated entity, associated entity or third party campaigner receiving the political donation must notify the donor of this obligation.
- 35
- (8) For the purposes of this section, a small contribution made by a donor or received by a registered political party, a candidate at an election, a group, an elected member,
-

5 a nominated entity, an associated entity or a  
third party campaigner is to be disregarded in  
determining whether the disclosure threshold  
has been equalled or exceeded in a financial  
year, unless the small contribution is made  
in contravention of section 218B.

**217 Commission to publish disclosure return**

- 10 (1) Subject to subsection (2) and section 221A,  
the Commission must publish a disclosure  
return of a political donation under  
section 216 on its Internet site within  
7 days of receiving the disclosure return.
- 15 (2) The Commission may decline to publish a  
disclosure return of a political donation on its  
Internet site if the Commission considers that  
the disclosure return contains any particulars  
that are false or misleading in a material  
particular."

**55 Divisions 3B to 3D inserted in Part 12**

20 After Division 3A of Part 12 of the **Electoral  
Act 2002** insert—

**"Division 3B—General cap on donations**

**217D General cap**

- 25 (1) A political donation made to, or for the  
benefit of, any of the following—
- (a) a registered political party;
  - (b) a candidate at an election;
  - (c) a group;
  - (d) an elected member;
  - 30 (e) an associated entity;
  - (f) a third party campaigner;

- (g) a nominated entity of a registered political party—  
must not exceed the general cap for the election period.
- 5 (2) Except as provided in this section, it is unlawful for a registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner to accept a political donation if—
- 10 (a) the political donation; or  
(b) the political donation when aggregated in accordance with section 217E—  
would exceed the general cap.
- 15 (3) It is not unlawful for a registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner to accept a political donation if—
- 20 (a) the political donation exceeds the general cap because of the aggregation of political donations in accordance with section 217E; and
- 25 (b) the registered political party, candidate, group, elected member, nominated entity, associated entity or third party campaigner did not know and could not reasonably have known of the other political donation included in
- 30 the aggregation; and

- 5 (c) an amount equal to the amount by  
which the political donation exceeds  
the general cap was returned by the  
recipient of the political donation to  
the donor or otherwise forfeited to the  
State.
- 10 (4) It is not unlawful for a person or entity  
to accept a political donation that would  
otherwise be unlawful by virtue of  
subsection (2) if the political donation,  
or that part of the political donation, that  
exceeds the general cap is to be paid into  
an account kept exclusively for the purposes  
of a Commonwealth election campaign.
- 15 (5) A contribution by a candidate at an election  
or an elected member to their own election  
campaign is not included in the general cap  
in respect of that candidate or member.
- 20 (6) A political donation to —
- (a) a candidate who has been selected by  
a political party to be a candidate in an  
election; or
- 25 (b) an elected member who is an endorsed  
candidate of a registered political party;  
or
- (c) a group that is endorsed by a registered  
political party; or
- (d) a nominated entity of a registered  
political party—
- 30 must also be included as a donation to the  
registered political party for the purposes  
of the general cap.



- 5
- (7) A political donation to a candidate at an election or an elected member who is a member of a group must also be included as a donation to the group for the purposes of the general cap.
- 10
- (8) For the avoidance of doubt, a gift that is accepted by an associated entity or a third party campaigner for a purpose that does not involve political expenditure is not included in the general cap.
- 15
- (9) Subject to subsection (10), for the purposes of this section, a small contribution made to, or for the benefit of, the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or third party campaigner is to be disregarded in determining whether the general cap specified in subsection (1) has been exceeded in the election period.
- 20
- (10) Subsection (9) does not apply if a small contribution is made to, or for the benefit of the registered political party, candidate at an election, group, elected member, nominated entity, associated entity or
- 25
- third party campaigner in contravention of section 218B.

**217E Aggregation**

- 30
- (1) These provisions apply for the purposes of determining the general cap under section 217D.
- 35
- (2) A political donation made by a donor of an amount equal to or less than the general cap is to be treated as a political donation that exceeds the general cap if that political donation and other separate political donations made by that donor to the same

5 registered political party, candidate at an  
election, group, elected member, nominated  
entity, associated entity or third party  
campaigner within the election period if  
aggregated exceed the general cap.

10 (3) For the purposes of this section, a political  
donation made by a donor to a person in  
the person's capacity as a candidate at an  
election or an elected member is aggregated  
for the purposes of determining the general  
cap.

(4) Subject to subsection (5), for the purposes  
of this section, a small contribution made  
by a donor is to be disregarded.

15 (5) Subsection (4) does not apply if a small  
contribution to the registered political  
party, candidate at an election, group,  
elected member, nominated entity,  
20 associated entity or third party campaigner  
is made in contravention of section 218B.

**217F Limit on political donations to third-party  
campaigners**

25 It is unlawful for a donor to make political  
donations to more than 6 third-party  
campaigners during the election period.

**217G Forfeiture of political donations accepted  
in contravention of this Division**

30 (1) A political donation that is accepted in  
contravention of this Division is forfeited  
to the State.

35 (2) An amount forfeited under subsection (1)  
may be recovered from the registered  
political party, candidate at an election,  
group, elected member, nominated entity,  
associated entity or third party campaigner  
that accepted the political donation.

---

**Division 3C—Annual returns and other  
information**

**217H Two or more amounts**

5 For the purposes of this Division, 2 or more  
amounts received or paid during the relevant  
financial year by, or on behalf of, the same  
registered political party, candidate at an  
election, group, elected member, nominated  
10 entity, associated entity or third party  
campaigner are to be taken to be one amount.

**217I Annual return by registered political  
party**

15 The registered officer of a registered political  
party must, within 16 weeks after the end  
of each financial year beginning on or after  
1 July 2018, provide an annual return to the  
Commission that—

- 20 (a) is in the form determined by the  
Commission; and
- (b) sets out the following—
- (i) the total amount received by,  
or on behalf of, the registered  
political party;
- 25 (ii) if the sum of all amounts received  
from a person or entity during a  
financial year is more than the  
disclosure threshold under  
section 216(1), the annual return  
must include the following  
30 particulars of that sum—
- (A) the full name and address  
of the person or entity  
from whom the amount  
was received;

- 5 (B) the sum of the amount received;
- (C) whether the amount is a political donation or a receipt for another purpose;
- 10 (iii) the total amount paid by, or on behalf of, the registered political party during the financial year;
- (iv) the total outstanding amount as at the end of the financial year, of all debts incurred by, or on behalf of, the registered political party;
- 15 (v) if the sum of all outstanding debts to a person or entity during a financial year is more than the disclosure threshold under section 216(1), the annual return must include the following particulars of that sum—
- 20 (A) the full name and address of the person or entity to whom the amount of the debt is owed;
- 25 (B) the sum of the amount that is owed;
- (C) whether the amount of the debt is to a financial institution or non-financial institution;
- 30 (vi) any other details prescribed by the regulations.

**217J Annual return by associated entities**

35 The registered agent of an associated entity must, within 16 weeks after the end of each financial year beginning on or after 1 July

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2018, provide an annual return to the  
Commission that—

- (a) is in the form determined by the  
Commission; and
- 5 (b) in relation to the State campaign  
account of the associated entity, sets  
out the following—
  - (i) the total amount received by, or  
on behalf of, the associated entity;
  - 10 (ii) if the sum of all amounts received  
from a person or entity during a  
financial year is more than the  
disclosure threshold under  
15 section 216(1), the following  
particulars of that sum—
    - (A) the full name and address  
of the person or entity  
from whom the amount  
was received;
    - 20 (B) the sum of the amount  
received;
    - (C) whether the amount is  
a political donation or a  
receipt for another purpose;
  - 25 (iii) the total amount paid by, or on  
behalf of, the associated entity  
during the financial year;
  - (iv) the total outstanding amount as at  
30 the end of the financial year, of all  
debts incurred by, or on behalf of,  
the associated entity;
  - (v) if the sum of all outstanding debts  
35 to a person or entity during a  
financial year is more than the  
disclosure threshold under

section 216(1), the following  
particulars of that sum—

- 5 (A) the full name and address of  
the person or entity to whom  
the amount of the debt is  
owed;
- (B) the sum of the amount that is  
owed;
- 10 (C) whether the amount of  
the debt is to a financial  
institution or non-financial  
institution;
- (vi) any other details prescribed by  
the regulations.

15 **217K Annual return by third party  
campaigners**

The registered agent of a third party  
campaigner must, within 16 weeks after the  
end of each financial year beginning on or  
after 1 July 2018, provide an annual return  
to the Commission that—

- 20 (a) is in the form determined by the  
Commission; and
- 25 (b) in relation to the State campaign  
account of the third party campaigner,  
sets out the following—
- (i) the total amount received by,  
or on behalf of, the third party  
campaigner;
- 30 (ii) if the sum of all amounts received  
from a person or entity during a  
financial year is more than the  
disclosure threshold under  
section 216(1), the following  
particulars of that sum—
- 35

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- 5
- (A) the full name and address of the person or entity from whom the amount was received;
- (B) the sum of the amount received;
- (C) whether the amount is a political donation or a receipt for another purpose;
- 10
- (iii) the total amount paid by, or on behalf of, the third party campaigner during the financial year;
- 15
- (iv) the total outstanding amount as at the end of the financial year, of all debts incurred by, or on behalf of, the third party campaigner;
- 20
- (v) if the sum of all outstanding debts to a person or entity during a financial year is more than the disclosure threshold under section 216(1), the following particulars of that sum—
- 25
- (A) the full name and address of the person or entity to whom the amount of the debt is owed;
- (B) the sum of the amount that is owed;
- 30
- (C) whether the amount of the debt is to a financial institution or non-financial institution;
- 35
- (vi) any other details prescribed by the regulations.
-

**217L Annual return by nominated entities**

The registered agent of a nominated entity must, within 16 weeks after the end of each financial year beginning on or after 1 July 2018, provide an annual return to the Commission that—

5

(a) is in the form determined by the Commission; and

10

(b) in relation to the State campaign account of the nominated entity, sets out the following—

15

(i) the total amount received by, or on behalf of, the nominated entity;

(ii) if the sum of all amounts received from a person or entity during a financial year is more than the disclosure threshold under section 216(1), the following particulars of that sum—

20

(A) the full name and address of the person or entity from whom the amount was received;

25

(B) the sum of the amount received;

(C) whether the amount is a political donation or a receipt for another purpose;

30

(iii) the total amount paid by, or on behalf of, the nominated entity during the financial year;

35

(iv) the total outstanding amount as at the end of the financial year, of all debts incurred by, or on behalf of, the nominated entity;



- 5 (v) if the sum of all outstanding debts to a person or entity during a financial year is more than the disclosure threshold under section 216(1), the following particulars of that sum—
- 10 (A) the full name and address of the person or entity to whom the amount of the debt is owed;
- (B) the sum of the amount that is owed;
- 15 (C) whether the amount of the debt is to a financial institution or non-financial institution;
- (vi) any other details prescribed by the regulations.

20 **217M Annual return by registered agent of a candidate, group or elected member**

- 25 (1) The registered agent of a candidate, group or elected member must, within 16 weeks after the end of each financial year beginning on or after 1 July 2018, provide an annual return to the Commission that—
- (a) is in the form determined by the Commission; and
- 30 (b) sets out the following particulars of political donations received by the candidate, group or elected member during the financial year from a person or entity that when aggregated, are equal to or greater than the disclosure threshold under section 216(1)—

- 5
- (i) the full name and address of the person or entity from whom the political donations were received;
- (ii) the sum of the political donations received from that person or entity.
- 10
- (2) The registered agent of a candidate, group or elected member is not required to provide an annual return under subsection (1) in respect of a financial year if the return would not include any particulars referred to in subsection (1)(b).

**217N Annual returns not to include lists of membership**

15

An annual return under this Division must not include lists of membership of registered political parties, associated entities or third party campaigners.

**217O Information to be provided by associated entities and nominated entities**

- 20
- (1) The registered agent of an associated entity or a nominated entity must provide a copy of the following to the Commission as soon as practicable after they have been prepared—
- 25
- (a) a loan, grant or donation statement under section 237 of the Fair Work (Registered Organisations) Act 2009 of the Commonwealth;
- 30
- (b) a general purpose financial statement under section 253 of the Fair Work (Registered Organisations) Act 2009 of the Commonwealth;
- 35
- (c) financial statements under section 102 of the **Associations Incorporation Reform Act 2012**;

- (d) a financial report under section 319  
or 320 of the Corporations Act;
- (e) any financial report prescribed by the  
regulations.
- 5 (2) A person who fails to comply with  
subsection (1) is guilty of an offence.  
Penalty: 200 penalty units.

**217P Commission to publish annual returns**

10 Subject to section 221A, the Commission  
must publish an annual return on its Internet  
site within 6 months of the end of the  
relevant financial year.

**Division 3D—Indexation**

**217Q Indexation of certain amounts—consumer  
price index**

- 15 (1) An amount in dollars specified in column 2  
of an item in the Table to this subsection  
must be varied, in respect of the financial  
year beginning on 1 July 2019 and each  
20 subsequent financial year, in accordance  
with the formula—

$$A \times \frac{B}{C}$$

where—

25 **A** is the amount specified in column 2 of  
that item or, if that amount has been  
varied in accordance with this section,  
that amount as last so varied;

30 **B** is the all groups consumer price index  
for Melbourne in original terms for  
the most recent reference period in the  
preceding calendar year most recently  
published by the Australian Bureau of

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Statistics as at 15 June immediately preceding the date on which the variation is made;

5

C is the all groups consumer price index for Melbourne in original terms for the corresponding reference period one year earlier than the reference period referred to in B published by the Australian Bureau of Statistics as at 15 June immediately preceding the date on which the variation is made.

10

TABLE

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Amount</i>
1	Section 206(1), definition of <b>general cap</b> —\$4000
2	Section 206(1), definition of <b>small contribution</b> —\$50
3	Section 206(1), definition of <b>third-party campaigner</b> —\$2000
4	Section 207G(2)—\$10 000
5	Section 207G(3)—\$10 000
6	Section 207G(4)—\$10 000
7	Section 207G(5)—\$10 000
8	Section 207G(6)—\$10 000
9	Section 211(2A)(a)—\$6.00
10	Section 211(2A)(b)—\$3.00
11	Section 216(1)—\$1000
12	Section 217B—\$1000

15

(2) Where it is necessary for the purposes of this section to calculate an amount, the amount is deemed to have been calculated in accordance with this section if the calculation is made—

- 5
- (a) if the amount is less than \$10, to the nearest whole cent; or
  - (b) if the amount is less than \$1000, to the nearest whole \$1; or
  - (c) if the amount is \$1000 or more, to the nearest whole \$10."

**56 Amendment of section 218—Offences**

- 10
- (1) For the penalty at the foot of section 218(1) of the **Electoral Act 2002 substitute**—  
"Penalty: 300 penalty units or 2 years imprisonment or both."
  - (2) For the penalty at the foot of section 218(2) of the **Electoral Act 2002 substitute**—  
15 "Penalty: 300 penalty units or 2 years imprisonment or both."
  - (3) For the penalty at the foot of section 218(5) of the **Electoral Act 2002 substitute**—  
"Penalty: 300 penalty units or 2 years imprisonment or both."
  - 20 (4) In section 218(5A) of the **Electoral Act 2002**, after "3A" insert "or 3B".

**57 New sections 218A and 218B inserted**

- 25
- After section 218 of the **Electoral Act 2002** insert—
- "218A Offences in relation to disclosure returns and annual returns**
- (1) A person who fails to provide a disclosure return or an annual return as required under this Part is guilty of an offence.
- 30 Penalty: 200 penalty units.

- 5 (2) A person who provides a disclosure return or  
an annual return as required under this Part  
that contains particulars that are, to the  
knowledge of the person, false or misleading  
in a material particular is guilty of an  
offence.
- Penalty: 300 penalty units or 2 years  
imprisonment or both.
- 10 (3) A person who gives to another person who  
is required to provide a disclosure return or  
an annual return as required by this Part any  
information that relates to the disclosure  
return or annual return and that is, to the  
15 knowledge of the first-mentioned person,  
false or misleading in a material particular  
is guilty of an offence.
- Penalty: 300 penalty units or 2 years  
imprisonment or both.
- 20 (4) Subject to subsection (5), a person who  
makes or obtains a document or other thing  
that is or includes a record relating to a  
matter particulars of which are, or could be,  
required to be specified in a disclosure return  
or an annual return must retain that record  
25 for a period of at least 4 years after the  
disclosure return or annual return is provided  
to the Commission.
- Penalty: 200 penalty units.
- 30 (5) Subsection (4) does not apply to a record  
that, in the normal course of business  
administration, would be transferred to  
another person.
- 35 (6) Despite anything to the contrary in this Act  
or any other Act, a prosecution in respect  
of an alleged offence against a provision  
of this section may be started at any time
-

within 3 years after the alleged offence was committed.

**218B Offence to enter into or carry out scheme**

5 (1) A person must not enter into, or carry out,  
a scheme, whether alone or with any other  
person, with the intention of circumventing  
a prohibition or requirement under this Part.

Penalty: 10 years imprisonment.

10 (2) Without limiting subsection (1), a person  
commits an offence under that subsection  
if the person enters into, or carries out, a  
scheme under which—

15 (a) an entity that is not a nominated entity  
of a registered political party receives  
one or more gifts at a particular time;  
and

(b) after receiving the gift or gifts, the  
entity becomes the nominated entity  
of a registered political party; and

20 (c) the receiving of the gift or gifts by  
the entity would have constituted an  
offence against this Part if the entity  
had been the nominated entity of the  
registered political party at the time  
25 the gift or gifts were received; and

(d) the person entered into the scheme  
with the intention of circumventing a  
prohibition or requirement under this  
Part."

30 **58 Amendment of section 220—Records to be kept**

In section 220(1) of the **Electoral Act 2002**,  
for "3" substitute "4".

**59 Amendment of section 221 to apply to donation  
returns and annual returns**

- 5
- (1) In the heading to section 221 of the **Electoral Act 2002**, after "statements" insert ", donation returns or annual returns".
- (2) In section 221 of the **Electoral Act 2002**, after "statement" (wherever occurring) insert ", donation return or annual return".
- 10
- (3) After section 221(6) of the **Electoral Act 2002** insert—
- 15
- "(6A) If the Commission is satisfied that a political donation has been returned to a donor after a return has been provided to the Commission in relation to the political donation, the Commission may permit the person who lodged the return to amend the return."

**60 New section 221A inserted—Confidential information**

- 20
- After section 221 of the **Electoral Act 2002** insert—
- "221A Confidential information**
- (1) For the purposes of this Part—
- 25
- (a) the street address (which does not include the suburb and State) of a donor is confidential information; and
- (b) the address (including the street, suburb and State) of a silent elector is confidential information.
- 30
- (2) The regulations may prescribe other information of a type or kind provided to the Commission under this Part to be confidential information.



- 5
- (3) The Commission must not, directly or indirectly, disclose any information which is prescribed to be confidential information unless the Commission is required to provide the confidential information by law or is otherwise permitted to provide the confidential information in accordance with this Act."

**61 Repeal of section 222—Provision of annual returns**

10 Section 222 of the **Electoral Act 2002** is repealed.

**62 New section 222DA inserted—Electronic lodgement of disclosure returns and annual returns**

15 After section 222D of the **Electoral Act 2002** insert—

**"222DA Electronic lodgement of disclosure returns and annual returns**

- 20
- (1) The Commission may determine procedures in relation to the lodging of disclosure returns and annual returns.
- (2) Procedures under subsection (1) must be published by the Commission on its Internet site.
- 25
- (3) A disclosure return or an annual return lodged in accordance with procedures determined under subsection (1) is to be taken to have been provided to the Commission in accordance with this Act."

## **Part 6—Amendment of Public Administration Act 2004**

### **63 Amendment of section 99—Employment of Parliamentary advisers**

5

(1) For section 99(1) and (2) of the **Public  
Administration Act 2004 substitute—**

10

"(1) Subject to the directions of the Premier in respect of conditions of employment and termination of employment, a person may be employed as a Parliamentary adviser for a term, not exceeding 4 years, specified in the person's contract of employment.

15

(2) Without limiting the generality of subsection (1), the Leader of any party represented in the Parliament of Victoria which is not a party forming Government and each independent elected member of the Parliament of Victoria is entitled to be provided with one Parliamentary adviser.

20

(2A) Without limiting the generality of subsection (1), the Leader of any party represented in the Parliament of Victoria which is not a party forming Government is also entitled to be provided with—

25

(a) for elected members of the party up to 9, one Parliamentary Adviser for each 3 elected members; and

30

(b) for elected members of the party above 9, one Parliamentary adviser for each 2 elected members."

(2) After section 99(3) of the **Public Administration Act 2004** insert—

"(4) In this section—

*elected member* has the same meaning as it has in section 206(1) of the **Electoral Act 2002**;

*independent elected member* has the same meaning as it has in section 207G(14) of the **Electoral Act 2002**."

5

## **Part 7—Repeal of amending Act**

### **64 Repeal of amending Act**

This Act is **repealed** on 1 July 2019.

#### **Note**

5

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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## **Endnotes**

### **1 General information**

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.