

CLAUSE NOTES

ELECTORAL AMENDMENT (ELECTORAL EXPENDITURE AND POLITICAL DONATIONS) BILL 2013

- Clause 1: Short Title**
Provides that the Act may be cited as the Electoral Amendment (Electoral Expenditure and Political Donations) Act 2013.
- Clause 2: Commencement**
The Act commences on a day or days to be proclaimed.
- Clause 3: Principal Act**
In this Act, a reference to the Principal Act is a reference to the Electoral Act 2004.
- Clause 4: Section 3 amended (Interpretation)**
Inserts a definition of “disposition of property” and of “property”. Amends the definition of “expenditure period”.
- Clause 5: Section 5 amended (Election expenditure)**
Amends section 5(1) of the Principal Act to include “an Assembly election or” in the definition of “election expenditure”.
- Clause 6: Section 5A and 5B inserted**
Are inserted after section 5 of the Principal Act
- 5A. Meaning of gift**
Inserts new section 5A which provides a definition of the term “gift”

5B. Meaning of *political donation*

Inserts a new section 5b which provides a definition of “political donation”.

Clause 7: Section 165 amended (Power of Commission to require information)

Amends section 165 of the Principal Act by replacing the words “a party to” with “involved with”.

Clause 8: Parts 6A and 6B inserted

Are inserted after section 165 of the Principal Act

Part 6A – Electoral Expenditure in respect of Assembly Elections

Division 1 – Candidate’s or intending candidate’s expenditure

165A. Election Agent

Allows a candidate at an Assembly election to appoint a person to be his or her election agent. Only one person may be the election agent for a candidate at any one time, and that election agent may incur or authorise expenditure on behalf of that candidate.

165B. Who may incur expenditure

Prohibits a person other than a candidate or election agent from incurring expenditure in relation to promoting or procuring the election of a candidate. This does not, however, preclude the payment or giving of

any money, security, or equivalent of money directly to a candidate or his or her election agent.

165C. Candidate's expenditure limit

Provides that a candidate is not to incur election expenditure in respect of his or her election campaign which exceeds the expenditure limit. This includes expenditure incurred by an election agent on behalf of a candidate. The expenditure limit is \$75,000 in the year 2014 and increases by an additional \$1,000 each subsequent year.

165D. Lodgment of candidate's election expenditure return

Requires every candidate at an Assembly election to complete an election expenditure return and lodge it with the Commission within 60 days after the day on which the result of a House election is declared. It outlines the details which are to appear in the election expenditure return.

165E. Party's expenditure limit

Sets an expenditure limit at an Assembly election of \$750,000 per party in 2014, increasing by an additional \$10,000 each subsequent year. A party must not contravene this limit.

165F. Lodgment of party's election expenditure return

Requires a party secretary at an Assembly election to complete an election expenditure return and lodge it with the Commission within 60 days after the day on which the

result of a House election is declared. It outlines the details which are to appear in the election expenditure return.

Division 2 – Further provisions relating to expenditure

165G. Commission to check returns

Requires the Commission to satisfy itself as to the authenticity and accuracy of each electoral expenditure return it receives.

165H. Return available for public inspection

Requires the Commission to keep electoral expenditure returns for a period of twelve months, and to make those returns available for public inspection.

165I. Power of Commission to require information relating to election expenditure

Enables the Commission to require, in writing, a person to provide information or “records” (defined in this clause) relating to election expenditure.

Part 6B – Political Donations

165J. Register of political donations

A part secretary, a candidate or a member must keep a register of all political donations made in a financial year and lodge the register with the Commission within 3 months of the end of the financial year to which it relates.

165K. Disclosure of donations of \$1500 or more

Within 14 days of receipt of a donation of \$1500 or more a party secretary, a candidate or a Member must disclose the receipt of the donation to the Commission.

165L. Disclosure of donations of \$1500 or more by same person

When a donor makes cumulative donations that total over \$1500, the party secretary, a candidate or a Member must disclose the donation to the Commission within 14 days of the receipt of the donation that causes the amount of \$1500 or more to be reached.

165M. Anonymous political donations

A party, Member or candidate must not accept a donation of \$1500 or more from an anonymous donor. If the total of donations received from anonymous donors exceeds \$15000 in a financial year, the donation that causes the total to exceed \$15000 cannot be accepted. If a donation is received in contravention of these provisions, the amount is to be paid to the Commission within 14 days of its receipt.

165N. Power of Commission to require information relating to political donations

Gives the commission the power to require various things of a person when there Commission believes that the person is in possession of records or information relating to political donations.

165O. Register and disclosures to be published

Provides that the Commission is to keep the registers for 7 years and publish certain parts of them.

Clause 9: **Part 7, Division 6: Heading amended**
Amends the heading by inserting the words “and political donations” after “expenses”.

Clause 10: **Section 199 amended (Offences relating to electoral expenses by candidates)**
Inserts reference to the new sections in to the Offences section of the Principal Act so as to create offences in relation to the new sections.

Clause 11: **Sections 199A, 199B and 199C inserted**
These sections create new offense applicable to the new sections.

199A. Offences relating to electoral expenditure by parties

Creates a variety of offences relating to electoral expenditure by parties.

199B. Offences relating to political donations

Creates an offence of contravening sections 165J, 165K or 165L

199C. Offences relating to anonymous donations.

Provides an offence in relation to the receipt of anonymous donations.

Clause 12: Repeal of Act

Is a standard clause in all amending legislation which automatically repeals the amending legislation after the Act commences. The provisions that the amending legislation inserts into the Principle Act still remain in force after the repeal of the Amending Act.