

FACT SHEET

Electoral Disclosure and Funding Act 2021

The Bill implements Recommendations 3 through to 11 of the Final Report of the Electoral Act Review. These recommendations relate to Terms of Reference 2 and 3 of the Review, which were:

- Whether state-based disclosure rules should be introduced, and, if so, what they should include; and
- The level of regulation of third parties, including unions, during election campaigns.

The Bill provides for a new disclosure and funding system in relation to elections in Tasmania.

Parts 1 and 2 – Preliminary and Interpretation – including key definitions used in the Act such as gift, political donation, reportable political donation, and Assembly administrative expenditure. This Part includes provision for the aggregation of political donations and the circumstances in which these meet the threshold of a reportable political donation.

Part 3 – Prohibited political donations – including provisions relating to foreign donors, as well as provisions relating to the acceptance of anonymous donations, acceptance of cash donations, requirements to record details relating to certain loans that are not from a financial institution and a restriction on registered parties and endorsed candidates and members of such parties providing donations to independent candidates. This Part applies to both the Assembly and the Council.

Part 4 – Acceptance and use of political donations – including requirements for political donations to be paid into the relevant Campaign Account or accepted by the party agent or official agent (as appropriate) where they are not money, and for electoral expenditure to be paid out of the relevant Campaign Account. This Part provides that political donations to a registered party or an Assembly candidate or Member of a registered party must be paid into the Campaign Account of the party. It also provides that political donations to an independent candidate or Member or Council candidate or Member must be paid into their Campaign Account. There are similar requirements for associated entities and third party campaigners. It also requires candidates, associated entities and third party campaigners to be registered to receive political donations and incur expenditure under the Act. This Part applies to both the Assembly and the Council.

Part 5 – Disclosure of political donations – including the timeframes for reporting of reportable political donations made and received during the relevant election campaign period or six-monthly reporting period. The requirements apply to registered parties and their Members and candidates, independent Assembly Members and candidates and Council Members and candidates, associated entities, third party campaigners and significant political donors. It includes the details that are required to be disclosed in relation to reportable political donations and the form in which the declaration must be lodged with the Tasmanian Electoral Commission (the Commission). This Part applies to both the Assembly and the Council.

Part 6 – Electoral expenditure in Assembly elections – including the details that are required to be included in an election campaign return for an Assembly election for registered parties and their Members and candidates, independent Assembly Members and candidates, associated entities and third party campaigners. It also includes requirements for payment of electoral expenditure, and offences. This Part applies to the Assembly only.

Part 7 – Assembly election campaign returns – includes the requirements for a party agent to lodge an election campaign return on behalf of a registered party (including its Members and candidates) and for an official agent to lodge a return on behalf of an independent Member,

candidate, associated entity or third party campaigner as the case may be. There is a requirement for nil returns for certain electoral participants. This Part applies to the Assembly only.

Part 8 – Electoral expenditure in relation to Council elections – this Part replaces Part 6 of the current *Electoral Act 2004* (the Electoral Act) which provides for Council election expenditure and returns. It retains key requirements in relation to electoral expenditure caps, restrictions on who can expend for a Council election campaign and the ability to appoint an Election Agent (now called an official agent) while providing for greater consistency with the new Assembly provisions and more contemporary administrative provisions. It includes a definition of Council election expenditure based on the definition in Part 6 of the Electoral Act, restrictions on who may incur expenditure, the expenditure limit, the details required to be included in a Council electoral return (including new requirements to include the details of reportable political donations received during the election campaign period). This Part applies to the Council only and is broadly the equivalent of Parts 5 and 6 of the Bill which relate to the Assembly.

Part 9 – Campaign accounts – includes the requirements for a Campaign Account for a registered party, including what may and may not be paid into the account and provision for political donations to Members and candidates of the registered party including that such Members and candidates may pay their own contributions into the Campaign Account for their own use during the campaign. It also includes the general requirements for Campaign Accounts of independent Members and candidates, Council members and candidates, associated entities and third party campaigners. This Part applies to both the Assembly and the Council.

Part 10 – Registration of electoral participants – including a requirement for the Commission to keep Registers of Candidates for each election (including deemed registration where a candidate is nominated for an election and an ability for intending candidates to register), Members, Party Agents, Official Agents, Associated Entities and Third Party Campaigners in relation to an Assembly election. It also includes eligibility criteria for Party Agents and Official Agents. This Part applies to both the Assembly and the Council.

Part 11 – Public funding of Assembly election campaigns – provides that the Commission is to keep and administer an Election Campaigns Fund and sets out the criteria for eligibility for public funding for Assembly elections for registered parties and their candidates and for independent Assembly candidates, the amount to be paid in each case, entitlements to advance payments, claims and approval of payments, that the Commission may audit claims, a requirement for the Commission to publish claims, and related provisions including where there is a death of a candidate, where deductions can be made (from overpayments and debts owed) and that payments are conditional on matters including lodgement of donation disclosures and election campaign returns in accordance with the Act. This Part applies to the Assembly only.

Part 12 – Administrative funding for Assembly – provides that the Commission is to keep and administer an Administration Fund and sets the amounts of annual payments to registered parties and their Members and for independent Assembly Members. Payments are conditional on matters including lodgement of donation disclosures and election campaign returns in accordance with the Act. The Commission may audit claims and deductions can be made (from overpayments and debts owed). This Part applies to the Assembly only.

Part 13 – Investigation, offences and proceedings – including powers for the Commission to require the provision of documents and information, for the appointment and identification of inspectors by the Commission under the Act and in relation to entry, search and seizure in accordance with a warrant issued by a magistrate in certain limited emergency circumstances. There are offences relating to false or misleading information or funding claims, failure to keep records, continuing offences and other matters. It also includes an ability for infringement notices to be prescribed by regulations.

Part 14 - Miscellaneous – includes the ability for the Commission to issue Guidelines and enter into Compliance Agreements, provides general regulation-making powers, provides for the appropriation of the Consolidated Fund for electoral funding and for related miscellaneous

matters including transitional provisions. Savings and Transitional provisions have not yet all been included in the draft Bill.

Part 15 – Amendments to the Electoral Act 2004 - makes consequential amendments to the Act as a result of this new legislation.

The Bill is to commence on proclamation.