

CLAUSE NOTES

ELECTORAL AMENDMENT (ELECTORAL EXPENDITURE AND POLITICAL DONATIONS) BILL 2020

- Clause 1: Short Title**
Provides that the Act may be cited as the Electoral Amendment (Electoral Expenditure and Political Donations) Act 2020.
- 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”, “property” and “foreign donor”.
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 160 amended**
Amends the expenditure limit for candidates in Legislative Council elections.
- Clause 8: Section 161 amended**
Amends the value of election expenditure requiring invoice accounts or receipts for candidates in Legislative Council elections.
- Clause 9: 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 \$100,000 in the year 2021 for candidates endorsed by a political party, and increases in line with CPI. The expenditure limit is \$120,000 in the year 2021 for candidates not endorsed by a political party, and increases in line with CPI.

165D. Lodgement 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 for a political party at an Assembly election of \$40,000 per candidate, to a maximum of 25 candidates, increasing in line with CPI.

165F. Lodgement of party's election expenditure return

Requires a party secretary or director 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.

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 party secretary or director, a candidate or a member of parliament 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 \$1,000 or more

Within 30 days of receipt of a donation of \$1,000 or more a party secretary or director, a candidate or a member of parliament must disclose the receipt of the donation to the Commission.

165L. Disclosure of donations of \$1,000 or more by same person

When a donor makes cumulative donations that total over \$1,000, the party secretary or director, a candidate or a member of parliament must disclose the donation to the Commission within 30 days of the receipt of the donation that causes the amount of \$1,000 or more to be reached.

165M. Anonymous political donations

A party, Member of Parliament or candidate must not accept a donation of \$1,000 or more from an anonymous donor. If the total of donations received from anonymous donors exceeds \$10,000 in a financial year, the donation that causes the total to exceed \$10,000 cannot be accepted. If a donation is received in contravention of these provisions, the amount is to be paid to the Commission within 30 days of its receipt.

165N. Donations from foreign donors

A party, Member of Parliament or candidate must not accept a donation of \$1,000 or more from a foreign donor. If a donation is received in contravention of these provisions and is unable to be returned to the donor, the amount is to be paid to the Commission within 30 days of its receipt.

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

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

165P. 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 10: **Part 7, Division 6: Heading amended**

Amends the heading by inserting the words “and political donations” after “expenses”.

Clause 11: **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 12: Sections 199A and 199B inserted

These sections create new offenses applicable to the new sections.

199A. Offences relating to electoral expenditure by parties

Creates offences relating to electoral expenditure by parties.

199B. Offences relating to political donations

Creates offences relating to political donations.

Clause 13: Repeal of Act

This 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.