

## CLAUSE NOTES

### Electoral Disclosure and Funding Bill 2022

#### PART 1 – PRELIMINARY

**Clause 1**                    **Short title**  
This clause provides that, once passed, the Bill will be cited as the *Electoral Disclosure and Funding Act 2022*.

**Clause 2**                    **Commencement**  
This clause provides for the amendments to commence on a day or days to be proclaimed.

#### PART 2 – INTERPRETATION

**Clause 5-14**                Provide definitions for a range of terms and phrases in the Act.

**Clause 5**                    **Interpretation**  
Defines a range of terms used within the Bill such as “election campaign period”, “candidate”, “associated entity” and “foreign donor”.  
Clause 5(2) defines when a donation via electronic funds transfer is actually received by the recipient for the purposes of this Act.

**Clause 6**                    **Meaning of electoral expenditure**  
This clause sets out the parameters for what it is and isn’t “electoral expenditure” for the purposes of the Act and enables the Commission to make a final determination as whether expenditure is or isn’t electoral expenditure.

**Clause 7**                    **When electoral expenditure is incurred**  
Sets down at what point electoral expenditure is said to have been incurred for the purpose of reporting.

**Clause 8**                    **Meaning of third-party campaigner**  
Defines what a “third-party campaigner” is for the purpose of the Act

**Clause 9**                    **Meaning of senior office holder**  
Sets out who is a “senior office holder” for the purpose of the Act.

- Clause 10**                      **Endorsement of registered party**
- How and when a candidate in a House of Assembly election or a Member of the House of Assembly is endorsed by a registered party and how this endorsement can be ended.
- Clause 11**                      **Meaning of gift and gift in kind**
- Provides a definition of “gift” for the purpose of the Act. Subsection 5 expressly excludes certain things from this definition. The clause also explains when “gifts in kind”, “dispositions of property” and “uncharged loans” fall within the concept of “gift” for the purpose of the Act.
- Clause 12**                      **Meaning of political donation**
- Defines “political donation” as a specific subset of “gift” for the purpose of the Act.
- Clause 13**                      **Meaning of reportable political donation**
- Defines *reportable political donation*. The threshold for a political donation becoming a reportable political donation is \$5000.
- A reportable political donation can either be a single donation of \$5000 or more or an aggregation of a number of political donations during either a financial year or an election campaign period.
- This includes: aggregating donations made to different candidates of the same registered party during the same reporting period or to a combination of donations to the party and donations to candidates.
- Clause 14**                      **Meaning of Assembly administrative expenditure**
- Defines *Assembly administrative expenditure*. The definition includes a range of types of expenditure that fall within the definition as well as a small number of types of expenditure that is explicitly excluded from the definition. The Tasmanian Electoral Commission has the final decision as to whether any claimed expenditure falls within the definition.
- Clause 15**                      **Gift, or electoral expenditure, in anticipation of person becoming candidate**
- This clause deems a person as a candidate for the purposes of the Act if they receive certain gifts or make certain expenditure in anticipation of becoming a candidate.
- Clause 16**                      **Person taken to be candidate for 30 days after polling day**

Specifies that a candidate remains a candidate for the purposes of the Act for 30 days after polling day.

**Clause 17**                    **Disposition of property other than money taken to be gift of value of property**

Provides for methods of calculating the value of “gifts in kind”

**Part 3 – Prohibited Political Donations**

**Division 1 – Political donations from foreign donors**

**Clause 18**                    **Object of Division 1**

Sets out the object of the provisions prohibiting foreign donations.

**Clause 19**                    **Meaning of acceptable action**

Provides the definition of “appropriate action” under this division. This is the action that can be taken by a donation recipient, where they have received a donation that contravenes the division, so as to avoid committing an offence.

**Clause 20**                    **When appropriate donor information is obtained.**

Sets out the range of information that is “appropriate donor information” in relation to this division. There is different types of information depending on whether the donor is a natural person, a body corporate or an incorporated or unincorporated body.

**Clause 21**                    **Political donations by foreign donors not be accepted in certain circumstances**

Sets down an offence in relation to receiving a donation from a foreign donor where the recipient is a registered party, Member of Parliament, candidate or associated entity or where the recipient is an agent of one of the aforementioned. This is an offence where the relevant donation is \$1000 or more.

**Clause 22**                    **Gifts to third-party campaigners by foreign donors**

Sets down an offence in relation to receiving a donation from a foreign donor where the recipient is a third party campaigner. This is an offence where the relevant donation is \$1000 or more.

**Clause 23**                    **Gifts from foreign donors for purpose of incurring electoral expenditure, &c.**

Sets down an offence in relation to knowingly receiving a donation from a foreign donor with the intent to incur electoral expenditure. This is an offence where any amount over \$100 is received. This clause also provides that the

donor also commits an offence if they make such a donation with the intent for it to be used to incur electoral expenditure.

**Clause 24**                    **False statement, or information, that donor is not a foreign donor**

Makes it an offence to provide false or misleading donor information in relation to the foreign donation provisions in this division.

**Division 2 – Other prohibited political donations**

**Clause 25**                    **Political donations to independent candidates by parties, associated entities and persons.**

Makes it unlawful for donations to be made by registered parties and those endorsed by them to independent Members or independent candidates. The recipient of such a donation also commits an offence.

**Clause 26**                    **Prohibition on receiving gifts of unknown source**

Makes it unlawful to accept or make a reportable political donation without knowing the donors name and address.

**Clause 27**                    **Political donations in cash of more than \$100 not to be made or accepted**

Makes it unlawful to accept any donation with a value of over \$100 in cash form.

**Clause 28**                    **Certain loans no to be accepted unless details recorded**

Makes it unlawful for a person to receive a “reportable loan” without recording the details of the loan and the name and address of the person providing the loan. This mirrors the requirements for “reportable political donation”.

**Clause 29**                    **Offence to do act that is unlawful under this Division**

Creates the offence of doing anything unlawful under this Division.

**Division 3 Recovery of unlawful donations**

**Clause 30**                    **Unlawful donation may be recovered**

Enables the Commission to recover gifts unlawfully received.

**Part 4 - Acceptance and Use of Political Donations**

**Division 1 – Unlawful acceptance of political donations**

**Clause 31**                    **Acceptance, by registered party or persons endorsed by registered party, or political donations**

Sets out the legal requirements for acceptance of donations by registered parties.

**Clause 32**                    **Acceptance and use by registered parties of political donations for anticipated candidates**

Sets out how a registered party can legally accept and use donations on behalf of a candidate who is yet to be officially identified.

**Clause 33**                    **Acceptances, by independent Assembly members or candidates or Council members or candidates, of political donations**

Sets out the legal requirements for acceptance of political donations by independent candidates or Members or Legislative Council candidates or Members.

**Clause 34**                    **Acceptance, by associated entities, of political donations**

Sets out the legal requirements for acceptance of political donations by Associated Entities.

**Clause 35**                    **Acceptance, by third-party campaigners, of political donations**

Sets out the legal requirements for acceptance of political donations by third-party campaigners.

**Clause 36**                    **Person accepting reportable political donation must record details**

Sets down the requirement for recording the details of the donor of any political donation over \$100. Clause 33 also requires that any donor donating a reportable political donation be provided with a receipt.

**Division 2 – Use of political donations**

**Clause 37**                    **Registered parties must not use political donations except for certain purposes**

Requires that political donations received by a registered political party can only be used in certain ways.

**Clause 38**                    **Members and candidates must only use political donations for certain purposes**

Requires that political donations received by a Member or candidate can only be used in certain ways.

### Division 3 – Offences

#### Clause 39

#### Offences

Creates a general offence of doing an unlawful act under this Part.

### Part 5 – Disclosure of Political Donations

#### Division 1 – Persons responsible for disclosures of political donations

#### Clause 40

#### Registered parties and their Members and candidates

Sets down the requirements of a party agent to disclose a reportable political donation either made or received by a registered political party or their endorsed candidates or Members.

#### Clause 41

#### Independent Assembly Members, Council members, Independent candidates and Council candidates

Sets down the requirements of an official agent to disclose a reportable political donation made or received by an Independent candidate or Member or Legislative Council candidate or Member.

#### Clause 42

#### Associated entities

Sets down the requirements of an official agent to disclose a reportable political donation made or received by an Associated Entity

#### Clause 43

#### Third-party campaigners

Sets down the requirements of an official agent to disclose a reportable political donation made or received by a third-party campaigner

#### Clause 44

#### Significant political donors

Sets down the requirements of an official agent to disclose a reportable political donation made by a significant political donor

#### Clause 45

#### Disclosure requirements where person ceases to be type of person

Ensures that even if, after a disclosure obligation arises, the recipient of the donation ceases to be a Member, candidate party, associated entity or third party campaigner, there is still an obligation on the agent to make the disclosure. Similarly, if a third party campaigner or significant political donor ceases to be an incorporated or unincorporated body of person or a trustee, the agent continues to have any disclosure obligations that had arisen.

## Division 2 – Requirements in relation to disclosure of reportable political donations

- Clause 46**      **Details, of reportable political donations, that are required to be disclosed**
- Sets out the information that is required to be provided as part of a disclosure.
- Clause 47**      **Donation disclosure by significant political donor also to include disclosure of certain gifts received**
- Ensures that a significant cannot be used as a front for a donation from another person in order for that person to avoid obligations under the Act.
- Clause 48**      **Separate disclosures not required of same item**
- Specifies that duplicate disclosures are not required where a person in both a candidate and a Member.
- Clause 49**      **Donation declarations**
- Sets out requirements in relation to the form of donation declarations under the Act.
- Clause 50**      **Extension of date for making disclosures**
- Provides the Commission with the discretion to extend the deadline for lodging a disclosure by up to 30 days.
- Clause 51**      **Amendment of donation declarations**
- Provides the ability for a party agent or official agent to amend a disclosure in the approved manner and form.
- Clause 52**      **Commission may audit donation declarations**
- Enables the Commission to audit donation declarations (other than declarations by significant political donors) or to appoint an auditor to undertake the audit of its behalf.
- Clause 52(5) enables regulations to be made specifying how an audit is to be conducted.
- Clause 53**      **Publication on Commission website of disclosures**
- Outlines the requirement on the Commission to publish disclosures online as well as make them available in hard copy at their office during business hours.

## Division 3 - Offences

## **Part 6 – Electoral expenditure in Assembly elections**

This part deals with electoral expenditure in relation, exclusively, to House of Assembly elections

### **Clause 54                    Offence to fail to lodge a complete donation declaration**

Creates an offence of failing to make a required disclosure under Part 5.

### **Clause 55                    Offences relating to assisting others lodging donation declarations**

Ensures that others assisting party agents or official agents in meeting disclosure requirements are held accountable if they give or withhold information that the person ought to know would lead to a false statement. This clause makes the actions of this person an offence.

## **Division 1 - Preliminary**

### **Clause 56                    Electoral expenditure endorsed Assembly candidate or member where incurred by party, &c.**

Sets out the requirements for attributing expenditure of parties to specific candidates.

## **Division 2 – Responsibility for disclosure of electoral expenditure**

### **Clause 57                    Registered parties and endorsed Members or candidates**

Creates a requirement for party agent, on behalf of a registered party, endorsed Member or candidate, to lodge an Assembly election campaign return within 60 days of the election campaign period.

### **Clause 58                    Independent Assembly Members and Independent Assembly candidates**

Creates a requirement for an official agent, on behalf of an Independent Assembly Member or Independent Assembly candidate, to lodge an Assembly election campaign return within 60 days of the election campaign period.

### **Clause 59                    Associated entities**

Creates a requirement for an official agent, on behalf of an Associated Entity, to lodge an Assembly election campaign return within 60 days of the election campaign period.

### **Clause 60                    Third-party campaigners**



Creates a requirement for an official agent, on behalf of a third-party campaigner, to lodge an Assembly election campaign return within 60 days of the election campaign period.

**Clause 61**                    **Election expenditure disclosure requirements where person or entity ceases to be type of person or entity**

Ensures that obligations in relation to disclosure requirements are not affected by certain changes in the nature of the person or entity.

**Division 3 – Requirements in relation to disclosure of electoral expenditure**

**Clause 62**                    **Details required in disclosure of electoral expenditure**

Requires that, if electoral expenditure was targeted at a specific electoral division or divisions, details to this effect must be included in the disclosure.

**Clause 63**                    **Separate disclosures not required of same item**

Duplicate disclosures are not required where a Member is also a candidate and has disclosure obligations as both.

**Division 4 – Requirements for payment of electoral expenditure**

**Clause 64**                    **Restricts the payment of registered party electoral expenditure. Electoral expenditure must be paid by the Party Agent (or a person authorised under s.65) and from the Party Campaign Account.**

**Clause 65**                    **Requirements of electoral expenditure to be made from party campaign account**

Requires that the sole source of electoral expenditure for a registered party or an endorsed Member or candidate in an Assembly election is the party campaign account. It is also required that the account is operated only by the party agent or a person authorised by the party agent under s.65(6).

**Clause 66**                    **Requirements in relation to independent Assembly members and independent Assembly candidates**

Requires that the sole source of electoral expenditure for an independent Assembly Member or an independent Assembly candidate is the designated campaign account of that candidate or Member. It is also required that the account is operated only by the official agent or a person authorised by the official agent under s.66(5).

- Clause 67**                    **Requirements for associated entity in relation to expenditure**
- Requires that electoral expenditure of an associated entity must be sourced from the campaign account of the associated entity.
- Clause 68**                    **Requirements for payment of electoral expenditure by third-party campaigner**
- Division 5 – Offences**
- Clause 69**                    **Offence to do act that is unlawful under this Part**
- Creates a general offence of doing an unlawful act under this Part.
- Part 7 – Assembly Election Campaign Returns**
- Division 1 – Requirements in relation to Assembly election campaign returns**
- Clause 70**                    **Certain person to lodge returns even if no political donations or electoral expenditure incurred**
- Requires that a “nil return” is submitted by the agents of certain entities where no electoral expenditure is incurred.
- Clause 71**                    **Assembly election campaign returns**
- Outlines the range of information required to be included in an Assembly election campaign return.
- Clause 72**                    **Extension of date for making return**
- Provides the Commission with the discretion to extend the deadline for lodging an Assembly election campaign return by up to 30 days.
- Clause 73**                    **Amendment of Assembly election campaign return**
- Enables a party agent or an official agent to amend an Assembly election campaign return that they have lodged, in the approved manner and form.
- Clause 74**                    **Commission to check, and may audit, Assembly election campaign return**
- Empowers the Commission to audit (or to appoint an auditor to audit) a return or an amended return. Also creates a legal obligation on parties, candidates, Members, official agents and party agents to assist the Commission in checking and/or auditing returns.
- Clause 75**                    **Publication on Commission website of Assembly election campaign returns, &c.**

Requires the Commission to publish election returns online within 21 days of their lodgement and to provide access to a hard copy during business hours at the office of the Commission.

## Division 2 - Offences

### Part 8 – Registration of Electoral Participants

This part provides for the creation of a number of registers to be kept by the Commission

#### Clause 76                      Offences relating to Assembly election campaign returns

Provides for a range of offences relating to election campaign returns relating to Assembly elections.

#### Clause 77                      Offences relating to assisting others lodging Assembly election campaign returns

Ensures that others assisting party agents or official agents in meeting election campaign return requirements are held accountable if they give or withhold information that the person ought to know would lead to a false statement. This clause makes the actions of this person an offence.

#### Clause 78                      Offence to do act that is unlawful under this Part

Creates a general offence of doing an unlawful act under this Part.

### Part 8 – Electoral Expenditure in relation Council Elections

#### Division 1 - Preliminary

#### Clause 79                      Meaning of *expenditure limit*

Defines expenditure limit with reference to section 82

#### Clause 80                      Meaning of *Council election expenditure*

Outlines what is and is not election expenditure in relation to Legislative Council elections.

## **Division 2 – Incurral of Council election expenditure**

### **Clause 81 Who may incur Council election expenditure**

Limits who can incur electoral expenditure on behalf of a candidate to the official agent.

### **Clause 82 Candidate's expenditure limit**

Sets down an expenditure limit for all Legislative Council candidates and provides for the increase of this limit by \$500 per year.

### **Clause 83 Person not to incur certain election expenditure for or on behalf of registered party**

Registered parties, and those acting on their behalf, are prohibited from incurring any expenditure to promote a Legislative Council candidate.

## **Division 3 – Council election campaign return**

### **Clause 84 Lodgement of Candidate's Council election campaign return**

Provides for the lodgement of an election campaign return in relation to Legislative Council elections. This includes specifics regarding timing and form.

### **Clause 85 Extension of time for Lodging Council election return**

Provides the Commission with the discretion to extend the deadline for lodging an Assembly election campaign return by up to 30 days.

### **Clause 86 Amendment of Council election campaign return**

Enables a candidate to amend a Legislative Council election campaign return that they have lodged, in the approved manner and form.

### **Clause 87 Commission to check, and may audit, Council election campaign returns**

Empowers the Commission to audit (or to appoint an auditor to audit) a Council election campaign return or an amended return. Also creates a legal obligation on parties, candidates, Members, official agents and party agents to assist the Commission in checking and/or auditing returns.

### **Clause 88 Council election campaign returns to be available for public inspection**

Requires that the Commission is to publish any Legislative Council election campaign returns within 21 days on the Commission website. Returns must also be made available to view at the Commission's office during business hours.

#### Division 4 - Offences

**Clause 89**                    **Official agent must not give or withhold certain information in relation to Council election campaign return**

Provides for an offence where official agents give or withhold information from the candidate that they ought to have known would result in a false statement.

**Clause 90**                    **Offences in relation to Council election expenditure**

Creates a number of offences including the offence of exceeding the Legislative Council election expenditure limit.

#### Part 9 – Campaign Accounts

**Clause 91**                    **Campaign accounts of registered parties**

Sets down the requirements in relation to campaign accounts for registered parties including what can and cannot be deposited in such accounts.

**Clause 92**                    **Campaign accounts of independent Assembly Members, independent Assembly candidates, Council Members and Council candidates**

Sets down the requirements in relation to campaign accounts for independent Assembly Members, independent Assembly candidates, Council Members and Council candidates including what can and cannot be deposited in such accounts and what is to occur to accounts that are no longer required.

**Clause 93**                    **Campaign accounts of associated entities and third-party campaigners**

Sets down the requirements in relation to campaign accounts for Associated Entities and third-party campaigners.

**Clause 94**                    **Person may be authorised to make electoral expenditure payments from campaign account of associated entity or third-party campaigner**

Enables the authorisation of individuals to operate campaign accounts for associated entities and third-party campaigners.

#### Part 10 – Registration of Electoral Participants

##### Division 1 – Register of Candidates

- Clause 95**                    **Register of Candidates**
- Establishes the Register of Candidates.
- Clause 96**                    **Candidates who are taken to be registered**
- Provides for a person who has been officially nominated as a candidate under the *Electoral Act 2004* to be automatically entered onto the Register.
- Clause 97**                    **Applications for registration of candidates**
- Outlines the application process for a person to be registered on the Register of Candidates.
- Clause 98**                    **Determination of applications for registration of candidates**
- Sets out how the Commission should determine an application for registration.
- Clause 99**                    **Registration of Assembly candidates as being endorsed by registered party**
- Provides for when a candidate is to be registered as endorsed by a registered party.
- Clause 100**                  **Commission must be notified of changes in registered particulars**
- Creates a legal obligation to notify the Commission within 30 days of a change to particulars appearing on the register.
- Clause 101**                  **Variation and cancellation of registration**
- Sets out how and when the Commission can vary or cancel registration.
- Division 2 – Register of Assembly Members**
- Clause 102**                  **Register of Assembly Members**
- Creates the Register of Assembly Members and sets out what information the Register is to include.
- Clause 103**                  **Registration of Assembly Member as endorsed by registered party**
- Sets out when a Member on the Register is to be registered as endorsed by a registered party.
- Clause 104**                  **Amendment of registration**
- Enables the Commission to amend the Register in certain circumstances.

### **Division 3 – Register of Party Agents**

**Clause 105 Register of Party Agents**

Creates the Register of Party Agents and sets out what information the Register is to include.

**Clause 106 When registered party must apply for appointment of party agent**

Requires that a registered party must apply for the appointment of a person as party agent within certain timeframes. Failure to do so is an offence.

**Clause 107 Appointment of party Agents**

Provides for the process of application for appointment of a party agent. This clause also outlines what disqualifies someone from being appointed as party agent.

**Clause 108 When person ceases to be appointed party agent**

Establishes the process for revocation of appointment as party agent. The clause also requires that the Commission is notified of the death of an agent within a certain timeframe. Party agents are also legally required to notify the Commission of certain events occurring that affect their ability to be party agent.

**Clause 109 When person taken to be party agent**

This clause deems the registered officer as party agent where there is no appointed party agent.

**Clause 110 Registration of party agent**

Establishes the requirement for the Commission to register or cancel the registration of appointed party agents in the relevant circumstances.

**Clause 111 Commission to be notified of change in party agent's particulars**

Creates a legal obligation to notify the Commission within 30 days of a change to particulars appearing on the register

**Clause 112 Amendment of registration**

Enables the Commission to amend the Register in certain circumstances

### **Division 4 – Register of Official Agents**

- Clause 113**                    **Register of Official Agents**
- Creates the Register of Official Agents and sets out what information the Register is to include.
- Clause 114**                    **Appointment of official agents**
- Provides for the process of application for appointment of a party agent. This clause also outlines what disqualifies someone from being appointed as party agent.
- Clause 115**                    **When person ceases to be appointed official agent**
- Sets out the circumstances that result in a person ceasing to be the appointed official agent, including where Commission can revoke the appointment.
- Clause 116**                    **Certain persons taken to be official agent**
- Provides that where an independent Member, can independent candidates or a third party campaigner does not appoint an official agent, they are deemed to be their own official agent.
- Clause 117**                    **Registration of official agent**
- Establishes the requirement for the Commission to register or cancel the registration of appointed official agents in the relevant circumstances.
- Clause 118**                    **Commission to be notified of change in official agent's particulars**
- Creates a legal obligation to notify the Commission within 30 days of a change to particulars appearing on the register.
- Clause 119**                    **Amendment of Register**
- Enables the Commission to amend the Register in certain circumstances.
- Division 5 – Register of Associated Entities**
- Clause 120**                    **Register of Associated Entities**
- Creates the Register of Associated Entities and sets out what information the Register is to include.
- Clause 121**                    **Applications for registration**



Outlines the application process for a person to be registered on the Register of Associated Entities.

**Clause 122**                      **Determination of application for registration of associated entity**

Sets out the process for the Commission in determining whether to approve the application for registration.

**Clause 123**                      **Commission to be notified of changes in registered particulars in relation to associated entity**

Creates a legal obligation to notify the Commission within 30 days of a change to particulars appearing on the register.

**Clause 124**                      **Variation and cancellation of registration**

Enables the Commission to vary particulars in the Register and also to cancel registration in certain circumstances.

**Division 6 – Register of Third-party Campaigners**

**Clause 125**                      **Register of Third-party Campaigners**

Creates the Register of Third-Party Campaigners and sets out what information the Register is to include.

**Clause 126**                      **Applications for registration**

Outlines the application process for a person to be registered on the Register of Third-Party Campaigners.

**Clause 127**                      **Determination of application for registration as third-party campaigner**

Sets out the process for the Commission in determining whether to approve the application for registration.

**Clause 128**                      **Commission to be notified of changes in registered particulars in relation to third-party campaigner**

Creates a legal obligation to notify the Commission within 30 days of a change to particulars appearing on the register.

- Clause 129**                    **Variation and cancellation of registration**
- Enables the Commission to vary particulars in the Register and also to cancel registration in certain circumstances.
- Division 7 – Public access to registers**
- Clause 130**                    **Public to have access to registers**
- Requires that the Commission make all registers under this Part publicly available. The registers must be available to view in hard copy during business hours at the office of the Commission as well as online on the Commission website. Clause 130 (3) and (4) enables the Commission to exclude certain information from the publicly available registers.
- Part 11 – Public Funding of Assembly Election Campaigns**
- Division 1 – Public funding of expenditure of parties and candidates**
- Clause 131**                    **Establishment of Election Campaigns Fund**
- Establishes the Election Campaigns Fund in relation to House of Assembly elections.
- Clause 132**                    **Registered parties eligible for public funding of election campaigns**
- Sets out the eligibility requirements for a registered party for payment out of the fund.
- Clause 133**                    **Amount of public funding for eligible parties**
- Sets the rate for public funding for eligible parties and sets down that this is capped at actual expenditure.
- Clause 134**                    **Independent Assembly candidates eligible for public funding of election campaigns**
- Sets out the eligibility requirements for independent Assembly candidates for payment out of the fund.
- Clause 135**                    **Amount of public funding for eligible independent Assembly candidates**
- Sets the rate for public funding for eligible independent Assembly candidates and sets down that this is capped at actual expenditure.
- Clause 136**                    **Entitlements to advance payments**

Enables the payment of 50% of the entitlement of the registered party from the last election campaign period for a current election period. Also provides for the Commission to recover any amount paid in advance that is in excess of the actual entitlement.

#### **Division 2 – General provisions relating to funding**

**Clause 137**                      **Claims for payment**

Sets down the requirements for claims for payment.

**Clause 138**                      **Approvals of payments**

Obliges the Commission to approve the making of payment where an appropriate claim is made and enables the Commission to refuse payment in certain circumstances.

**Clause 139**                      **Commission may audit claims**

Empowers the Commission to audit (or to appoint an auditor to audit) claims under this Part. Also creates a legal obligation on party agents, candidates, Members, to assist the Commission in checking and/or auditing returns.

**Clause 140**                      **Making of payments**

Provides that payments under this Part are to be made to the relevant party agent or official agent and must be paid into the relevant campaign account.

**Clause 141**                      **Prepayment of lodgement of claims**

Enables the Commission to prepay part of a claim pending the finalisation of a claim in certain circumstances. It also then enables the Commission to recover any overpayment.

**Clause 142**                      **Payments conditional on disclosure of political donations, &c**

Makes payments to candidates and parties under this Part contingent on compliance with various disclosure obligations.

**Clause 143**                      **Death of candidate**

Outstanding amounts due to a candidate can be paid to that candidate's legal representative if that candidate dies prior to payment.

**Clause 144                   Deductions from payment for debts owed**

Enables the Commission to deduct amounts owed by a party or candidate from any payment due.

**Clause 145                   Public Access to claims and related documents**

Clause 145 provides that claims for funding under this Part must be made available online by the Commission and also available to view in hard copy during business hours at the office of the Commission.

**Part 12 – Administrative Funding for Assembly**

**Division 1 – Preliminary**

**Clause 146                   Establishment of Administration Fund**

Provides for the Administration Fund to be kept by the Commission as the source of payment of administrative funding under the Act.

**Division 2 – Public funding of Assembly administrative expenditure**

**Clause 147                   Administrative funding of eligible parties for Assembly administrative expenditure**

Sets out the eligibility requirements of registered parties for administrative funding as well as the rates of funding.

**Clause 148                   Administrative funding of independent Assembly members for Assembly administrative expenditure**

Sets out the eligibility requirements and rate for an independent Assembly member for administrative funding.

**Clause 149                   Provisions relating to quarterly payments**

Provides for administrative expenditure to be averaged over quarters in the same calendar year. Also enables the Commission to recover any overpayment.

**Clause 150**      **Quarterly advance payments**

Enables eligible parties and Members to receive payment at the commencement of the relevant quarter. Enables the Commission to then recover any overpayment.

**Division 3 – General**

**Clause 151**      **Claims for payment**

Sets down the requirements for claims for payment.

**Clause 152**      **Payment of claims under this Part**

Sets down the process for the Commission to determine claims for payment.

**Clause 153**      **Commission may audit claims**

Empowers the Commission to audit (or to appoint an auditor to audit) claims under this Part. Also creates a legal obligation on party agents, parties and Assembly Members, to assist the Commission in checking and/or auditing returns.

**Clause 154**      **Payments conditional on compliance with other obligations under this Act**

Makes payments to candidates and parties under this Part contingent on compliance with various disclosure obligations.

**Clause 155**      **Public access to claims and related documents**

Provides that claims for funding under this Part must be made available online by the Commission and also available during business hours at the office of the Commission.

**Part 13 – Investigation, Offences and Proceedings**

**Division 1 – Investigation powers**

**Clause 156**      **Power to require provision of documents and information**

Empowers the Commission to demand certain documents and information. The Commission may authorise an inspector to do this on its behalf.

- Clause 157**                      **Offences and proceedings in relation to notice**
- Provides for inspectors to apply for a warrant under certain circumstances to access and search identified locations. The clause makes it an offence to refuse or intentionally delay access, intentionally obstruct an inspector or fail to comply with a request of an inspector.
- Clause 158**                      **Appointment and identification of inspectors**
- Sets out the capacity of the Commission to appoint inspectors to exercise certain functions on the Commission's behalf. The clause provides the Commission with the ability to revoke the appointment.
- Clause 159**                      **Entry by inspector, &c., under warrant**
- Enables an inspector to apply for a warrant to enter, search and seize. The clause also makes it an offence to refuse to co-operate or intentionally delay or obstruct the inspector in carrying out the warrant.
- Clause 160**                      **Warrant by telephone or other electronic means**
- Facilitates the application for a warrant by phone or through electronic means. This enables the application for a warrant, in limited circumstances, remotely and out of hours.
- Division 2 - Offences**
- Clause 161**                      **Offence relating to scheme to circumvent political donation or expenditure prohibitions or restrictions**
- Creates a "course of conduct" offence where a person enters into a *scheme* to circumvent a prohibition or requirement under the Act.
- Clause 162**                      **Offence to give or withhold certain information that may result in false or misleading funding claim**
- Makes it an offence for a candidate to provide or withhold information that the candidate knows or ought to have known would lead to a false or misleading claim being made by their agent.
- Clause 163**                      **Offence of failing to keep records**

Makes it an offence to fail to keep records that are prescribed to be kept for 3 years.

**Clause 164**      **False or misleading information**

Creates an offence in providing information to the Commission that is false or misleading. This offence covers a broad range of information provided to the Commission under the Act. This offence does not, however, cover information provided in relation to a Council election expenditure return (Offences relating to Legislative Council election campaign returns are contained in Part 8).

**Clause 165**      **Duties of senior office holders of registered parties to report alleged contraventions of this Act**

Creates an obligation on *senior office holders* of a registered party to report to the Commission any conduct within the party that contravenes this Act.

**Clause 166**      **Continuing offences**

Provides for an offence to be continuing. This means that if an offence has been committed by a failure to do an act or thing, the offender commits a further offence for each day they continue to fail to do the act or thing beyond the day of conviction.

**Division 3 – Nature of proceedings for offences**

**Clause 167**      **Commencement of proceedings for offences**

Provides that proceedings for offences under the Act, except for section 161, must be commenced within 4 years of the committing of the offence. The clause also provides that the Commission must consent to the commencement of any prosecution under this Act.

**Clause 168**      **Penalty notices**

Sets out a range of provisions in relation to the issuing of penalty notices under the Act.

**Clause 169**      **Civil and criminal proceedings against parties that are unincorporated associations**

Outlines how matters are conducted where the party the subject of proceedings is an unincorporated association.

**Clause 170**      **Evidence**

Provides that a certificate signed by a person authorised by the Commission is admissible evidence of a number of identified matters.

#### **Part 14 – Miscellaneous**

**Division 1 – includes a range of provisions relating to the Commission**

**Clause 171 Commission may educate and inform Members and candidates**

Empowers the Commission to undertake education and information programs for individuals and entities regulated by the Act.

**Clause 172 Money received by commission**

Provides that any monies recovered or received under the Act are to be paid into Consolidated Revenue.

**Clause 173 Guidelines**

Empowers the Commission to issue guidelines in accordance with the Act and Regulations. The Commission is to apply these guidelines in relevant decision-making under the Act.

**Clause 174 Compliance agreements**

Empowers the Commission to enter into written compliance agreements with individuals or entities affected by the Act.

#### **Division 2 – Other provisions**

**Clause 175 Action taken on behalf of certain entities related to party taken to be done by party**

Enables the Commission to require certain documentation to be verified by a statutory declaration.

**Clause 176 Advertising**

Deems advertising authorised by the party, Member or candidate to have been paid for by the party, Member or candidate.



**Clause 177**                      **References to name and address of person making donation or loan**

Sets out what name and contact information should be provided for an incorporated association, trust fund or foundation for the purposes of disclosure under this Act.

**Clause 178**                      **Related corporations taken to be single corporation**

Deems related corporations under the *Corporations Act 2001* to be a single corporation for the purposes of the Act.

**Clause 179**                      **Statutory declarations**

Enables the Commission to require certain documentation to be verified by a statutory declaration.

**Clause 180**                      **Appropriation of Consolidated Fund for electoral funding**

Sets down that the funding required in relation to systems and provisions under the Act is reserved by law.

**Clause 181**                      **Regulations**

Sets down the range of matters that are able to be set down in the form of regulations to this Act.

**Clause 182**                      **Transitional provision**

Provides that the requirements of the Act do not operate retrospectively.

**Clause 183**                      **Administration of Act**

Sets down the administrative arrangements in relation to the Act. These can be altered by a subsequent administrative arrangements order.

**Part 15 – *Electoral Act 2004 Amended***

This part sets out a number of provisions of the *Electoral Act 2004* that are amended subsequent to the commencement of this Act. This includes the repeal of Part 6 of the *Electoral Act 2004* that provides for Legislative Council expenditure return. These are now provided for in Part 8 of this Act.

**Schedule 1 – Adjustment of Amounts**

This schedule provides for the adjustment of the amounts provided in the Act for public funding (under Part 11) and Administrative Funding (under Part 12).

