



New South Wales

Election Funding, Expenditure and Disclosures Act 1981 No 78

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New South Wales

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New South Wales

Election Funding, Expenditure and Disclosures Act 1981 No 78

An Act to constitute the Election Funding Authority of New South Wales, to make provision for the public funding of Parliamentary election campaigns and to require the disclosure of certain political donations and electoral expenditure for Parliamentary or local government election campaigns; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Election Funding, Expenditure and Disclosures Act 1981*.

2 Commencement

- (1) This Part shall commence on the date of assent to this Act.
- (2) Parts 2 and 8, sections 24 and 25 and Schedule 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.
- (3) Except as provided in subsections (1) and (2), this Act shall commence on such day (being not earlier than the day appointed and notified under subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.
- (4) For the purpose only of enabling the Election Funding Authority of New South Wales to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments may be made under Part 2, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act.

3 (Repealed)

4 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:
 - Administration Fund* means the fund established under Division 2 of Part 6A.
 - agent* means a party agent or official agent.
 - alternate* means a person appointed as an alternate under Part 2.
 - appointed member* means a member of the Authority appointed by the Governor.
 - Assembly* means the Legislative Assembly of New South Wales.
 - Assembly general election* means an election held for the return of members of the Assembly pursuant to writs issued by the Governor upon the dissolution or expiry of the Assembly.
 - auditor* means a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth.
 - Authority* means the Election Funding Authority of New South Wales constituted by this Act.

by-election means:

- (a) in relation to State elections—a by-election for the Assembly, or
- (b) in relation to local government elections—a by-election for a councillor (including the mayor) of the council of a local government area.

candidate, in relation to an election, means a person nominated as a candidate at the election in accordance with the *Parliamentary Electorates and Elections Act 1912* or in accordance with the *Local Government Act 1993* (as the case requires) and includes a person applying for registration as, or registered as, a candidate in the Register of Candidates for the election.

Chairperson means the Chairperson of the Authority.

Commissioner means the Electoral Commissioner for New South Wales appointed under the *Parliamentary Electorates and Elections Act 1912* and includes a person duly acting as the Electoral Commissioner.

Council means the Legislative Council of New South Wales.

day of nomination, in relation to an election, means the day by which all nominations in the election must be made.

disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes:

- (a) the allotment of shares in a company,
- (b) the creation of a trust in property,
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property,
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property,
- (e) the exercise by a person of a general power of appointment of property in favour of any other person, and
- (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person.

donor—see section 84.

elected member means:

- (a) a member of Parliament, or
- (b) a councillor (including the mayor) of the council of a local government area,

and includes a person who, during any period after ceasing to be a member of Parliament or a councillor, is entitled to remuneration as such a member or councillor.

election means a State election or a local government election.

Election Campaigns Fund means the fund established under Part 5.

electoral communication expenditure—see section 87.

electoral district means a district for the election of a member to serve in the Assembly.

electoral expenditure—see section 87.

endorsed, in relation to a party, means endorsed, selected or otherwise accredited to stand as a representative of the party.

entity—see section 84.

ex officio official agent means an official agent other than an official agent under paragraph (f), (f1) or (f2) of the definition of **official agent**.

expenditure—see section 84.

functions includes powers, authorities and duties.

general election means:

- (a) in relation to State elections—an Assembly general election and a periodic Council election held or to be held concurrently, or
- (b) in relation to local government elections—a local government election other than a by-election.

gift—see section 84.

group means:

- (a) in relation to State elections—a group of candidates, or part of a group of candidates, for a periodic Council election, or
- (b) in relation to local government elections—a group of candidates, or part of a group of candidates, for a local government election.

interest in property means any estate, interest, right or power whatever, whether at law or in equity, in, under or over any property.

local government election means an election under the *Local Government Act 1993* for the office of councillor or mayor under that Act (other than an election of mayor by councillors).

member means a member of the Authority.

officer, in relation to a party, means a person who is occupying or acting in an office or position concerned with the management of the party.

official agent means:

- (a) in relation to an elected member of Parliament who is a member of a registered party—the party agent of the party (or a person

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- appointed official agent in place of the party agent under section 46A), or
- (b) in relation to any other elected member who is a candidate or member of a group—the official agent of the candidate or group, or
 - (c) in relation to a State election candidate who is a member of a registered party—the party agent of the party (or a person appointed official agent in place of the party agent under section 46), or
 - (d) in relation to a State election group whose members are all members of a registered party—the party agent of the party (or a person appointed official agent in place of the party agent under section 46), or
 - (e) in relation to a candidate or group of a class specified in the regulations for the purposes of this paragraph—the Authority or a government agency so specified, or
 - (f) in relation to any other candidate or group—the official agent registered in the Register of Official Agents for that candidate or group (or the person taken to be the official agent under section 46), or
 - (f1) in relation to an elected member for whom an official agent is registered in the Register of Official Agents—that official agent, or
 - (f2) in relation to a third-party campaigner—the official agent registered in the Register of Official Agents for the third-party campaigner, or
 - (g) in any other case—a person (including the elected member or candidate) designated by the Authority.

For the purposes of this definition, if some of the candidates in a State election group are members of one registered party and other candidates in the group are members of another registered party, the official agent of the group is the party agent of one of those parties as is designated by those candidates.

Note. Except where paragraph (f) applies, the other persons designated as official agents are ex-officio agents who are not entered in the Register of Official Agents. An elected council member or council candidate or group may appoint for entry in the Register of Official Agents the relevant party agent as his or her official agent.

Parliament means the Parliament of New South Wales.

party means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to Parliament or a local council of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.

party agent means a party agent appointed under section 41.

payment includes a loan, advance or deposit.

periodic Council election has the same meaning as it has in section 3 of the *Constitution Act 1902*.

Policy Development Fund means the fund established under Division 3 of Part 6A.

political donation—see section 85.

polling day, in relation to a general election, means the day appointed for the taking of the polls at the election.

property includes money.

registered (except in the case of a party) means registered in accordance with this Act.

registered party means a party registered under Part 4A of the *Parliamentary Electorates and Elections Act 1912*, being a party which stated in its application for registration that it wished to be registered for the purposes of this Act.

regulations means regulations under this Act.

reportable political donation—see section 86.

returning officer means a returning officer appointed as such under the *Parliamentary Electorates and Elections Act 1912*.

State election means an Assembly general election, a periodic Council election or a by-election for the Assembly.

third-party campaigner means an entity or other person (not being a registered party, elected member, group or candidate) who incurs electoral communication expenditure during a capped expenditure period (as defined in Part 6) that exceeds \$2,000 in total.

- (2) A reference in this Act to the exercise of a function includes, where the function is a duty, a reference to the performance of that duty.
- (3) For the purposes of this Act, an Assembly general election and a periodic Council election are held or are to be held concurrently if the day for the taking of the polls for each of the elections named in the writs for the elections is the same day, whether or not the taking of any such poll is adjourned.
- (4) For the purposes of this Act, where the writs for a general election are issued on different days, the day of the issue of the writs for the general election shall be deemed to be the day on which the writ for the periodic Council election is issued.
- (5) For the purposes of this Act, where the days for the return of the writs for a general election are different, the day for the return of the writs

shall be deemed to be the day for the return of the writ for the periodic Council election.

- (6) A reference in this Act to the day for the return of a writ is a reference to the day specified in the writ as the day for the return of the writ.
- (7) A reference in this Act, in relation to a general election, to the periodic Council election is, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the periodic Council election which forms part of the general election.
- (8) For the purposes of this Act, where anything is done by, on behalf of or for the benefit of, or any property is held by, or in trust for or for the members of, a body or organisation, incorporated or unincorporated, being a body or organisation that:
 - (a) forms part of a party,
 - (b) is established by or under the constitution of a party, or
 - (c) has functions conferred by or under the constitution of a party,the thing shall be deemed to be done by, on behalf of or for the benefit of that party or the property shall be deemed to be held by that party, as the case may be.
- (9), (10) (Repealed)
- (11) Notes included in this Act do not form part of this Act.

Part 2 The Election Funding Authority

5 Constitution of the Authority

There is hereby constituted a corporation under the corporate name of the "Election Funding Authority of New South Wales".

6 Members of the Authority

The Authority shall consist of 3 members, of whom:

- (a) one shall be the Commissioner,
- (b) one shall be appointed by the Governor on the nomination of the Premier, and
- (c) one shall be appointed by the Governor on the nomination of the Leader of the Opposition in the Assembly.

7 Chairperson

The Commissioner shall be the Chairperson of the Authority.

8 Alternates

- (1) There shall be an alternate for each appointed member.
- (2) The alternates shall be appointed by the Governor on the same nominations, respectively, as those required for the appointed members.
- (3) A member's alternate may act as the member if the member is absent or if there is a vacancy in the office of the member.
- (4) An alternate, while acting as a member, shall be deemed to be a member and shall have and may exercise the functions of the member for whom he or she is the alternate.
- (5) No person shall be concerned to inquire whether or not any occasion has arisen in which a member's alternate is authorised to act as the member, and all acts or things done or omitted by the alternate while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the member.
- (6) An alternate may be appointed notwithstanding any vacancy in the office of any member and, without affecting section 13, a vacancy in the office of any member does not affect the tenure of office of any alternate.

9 Eligibility for appointment

- (1) A person who:
 - (a) (Repealed)

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- (b) is a member of the Council or Assembly or a candidate or an agent for a candidate,
 - (c) is a member of a legislature other than the Parliament or a candidate for election as such a member,
 - (d) is a councillor or mayor of a council, or chairperson or member of a county council, under the *Local Government Act 1993* or is a candidate for election to such an office,
 - (e) is a member of a public authority constituted by an Act,
 - (f) is an officer of a party,
 - (g) is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act, or
 - (h) is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with the person's creditors, or whose fees and allowances would, upon the person's appointment, be subject to an assignment for their benefit,

is not eligible for appointment as an appointed member or alternate.

- (2) A person is not eligible for appointment as an appointed member or alternate unless:
 - (a) the person consents to his or her nomination by instrument in writing furnished to the Minister, and
 - (b) the person furnishes to the Minister a written statement, verified by statutory declaration, in or to the effect of the prescribed form, that the person is not ineligible for appointment by reason of any of the matters set out in subsection (1).
- (3) For the purposes of making an appointment referred to in subsection (1), and the recommendation to the Governor therefor, the Governor and the Minister are entitled to rely on the information contained in the written statement referred to in subsection (2) and furnished by the appointee.

10 Duty of Minister with respect to appointments

- (1) The Minister shall, as far as practicable, request the appropriate nominations and make the appropriate recommendations to the Governor in sufficient time so as to ensure that:
 - (a) the appointment of appointed members and alternates is, as far as practicable, made within the period of 6 months after the day for the return of the writs for each general election, and
 - (b) the appointment of a person to fill a vacancy under section 14 is made as soon as practicable after the vacancy occurs.

- (2) Where a person has been duly nominated for appointment pursuant to this Part, the Minister shall recommend the person's appointment to the Governor, unless the person nominated is not eligible for appointment.

11 Provisions relating to nominations

Where a nomination of a person for appointment pursuant to this Part is not submitted within 14 days of a request therefor made by the Minister, or in the manner specified by the Minister, by order in writing to the person entitled to make the nomination, the Governor may make the appointment in the absence of the nomination, and the person so appointed shall hold office as if the person had been duly nominated.

12 Term of office of appointed members and alternates

- (1) An appointed member or alternate shall, subject to this Act, hold office:
- (a) from the end of the period of 6 months commencing on and including the day for the return of the writs for the previous general election, and
 - (b) until the end of the period of 6 months commencing on and including the day for the return of the writs for the next general election.
- (2) Nothing in subsection (1) prevents an appointment being made under this Act after the period referred to in subsection (1) (a) has commenced, and an appointment, if so made, takes effect from the date it is made and not from the commencement of that period.
- (3) This section does not affect the appointment of persons to fill vacancies, as referred to in section 14.
- (4) An appointed member or alternate is, if otherwise qualified, eligible for re-appointment.

13 Vacation of office

- (1) An appointed member or alternate shall be deemed to have vacated office:
- (a) if the appointed member or alternate dies,
 - (b) if the appointed member or alternate is absent from 2 consecutive meetings of the Authority of which reasonable notice has been given to him or her personally or in the ordinary course of post, unless:
 - (i) in the case of an appointed member—his or her alternate was present at either or both of those meetings, or

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- (ii) in the case of an alternate—the member for whom he or she is the alternate was present at either or both of those meetings,
 - (c) if the appointed member or alternate becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her estate, remuneration, fees or allowances for their benefit,
 - (d) if the appointed member or alternate becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act,
 - (e) if the appointed member or alternate is convicted in New South Wales of a crime or offence which is punishable by imprisonment for a period of 12 months or more, or if the appointed member or alternate is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable,
 - (f) if the appointed member or alternate resigns his or her office by instrument in writing addressed to the Minister,
 - (g) if the appointed member or alternate becomes a member of the Council or Assembly or a candidate or an agent for a candidate,
 - (h) if the appointed member or alternate becomes a member of a legislature other than the Parliament or a candidate for election as such a member,
 - (i) if the member or alternate becomes a councillor or mayor of a council, or the chairperson or a member of a county council, under the *Local Government Act 1993* or is a candidate for election to such an office,
 - (j) if the appointed member or alternate becomes a member of a public authority constituted by an Act,
 - (k) if the appointed member or alternate becomes an officer of a party,
 - (l) if there is a vacancy in any other office (other than Chairperson) under this Part (whether of appointed member or alternate) and the vacancy exists at any time during the period commencing on and including the date for the return of the writs for the next general election held after the commencement of the term of office of the members determined in accordance with section 12 (1) and ending on the expiration of that term of office so determined, or
 - (m) if:

- (i) in the case of an appointed member—he or she is appointed as an alternate, or
- (ii) in the case of an alternate—he or she is appointed as an appointed member.
- (n) (Repealed)
- (2) Section 21AB (3) of the *Parliamentary Electorates and Elections Act 1912* applies to and in respect of each appointed member and alternate in the same way as it applies to and in respect of the Commissioner.
- (3) Section 47 (1) (b) of the *Interpretation Act 1987* does not apply to, or to the office of, an appointed member or alternate.

14 Filling of casual vacancies

- (1) On the occurrence of a vacancy in the office of an appointed member or alternate, otherwise than by the expiration of his or her term of office, a person shall be appointed by the Governor, on the same nomination as that required for the former appointee, to hold office for the balance of the former appointee's term of office.
- (2) A person may not be appointed to fill a vacancy under this section if the person was a candidate at any election held during the former appointee's term of office.

15 Meetings of the Authority

- (1) The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Authority.
- (2) The Chairperson shall preside at all meetings of the Authority, and a meeting of the Authority shall not be held or continued unless the Chairperson is present at the meeting.
- (3) The Chairperson and one other member shall form a quorum at any meeting of the Authority, and any duly convened meeting of the Authority at which such a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise all the functions of the Authority.
- (4) Meetings of the Authority shall be convened by the Chairperson, who shall give each appointed member and alternate at least 48 hours' notice of each meeting.
- (5) Notwithstanding subsection (4), a meeting of the Authority may be held with less than 48 hours' notice if the Chairperson and each appointed member or his or her alternate agree to its being held.

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- (6) For the purposes of this section, an appointed member or alternate shall be deemed to have been given notice of a meeting if the notice is sent to that member's or alternate's usual place of abode or business.
 - (7) The Authority shall hold at least 2 meetings in each year ending 31 December.

16 Acting Chairperson

- (1) The Governor may appoint an officer of the Public Service to act in the office of Chairperson while the Chairperson is absent from duty through illness or for any other cause or while there is a vacancy in the office of the Chairperson.
- (2) A person appointed under subsection (1) may not act as Chairperson if there is a person who is appointed to act as Commissioner and who is available to exercise his or her functions as Chairperson.
- (3) A person appointed under this section, while acting as Chairperson, shall be deemed to be the Chairperson and shall have and may exercise the functions of the Chairperson.
- (4) No person shall be concerned to inquire whether or not any occasion has arisen in which a person appointed under this section is authorised to act as Chairperson, and all acts or things done or omitted by the person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairperson.

17 Voting

- (1) A decision supported by a majority of the votes of the members present and voting at a meeting of the Authority shall be the decision of the Authority.
- (2) In the event of an equality of votes in relation to a matter at a meeting of the Authority, the matter shall be adjourned to another meeting of the Authority.
- (3) If at the meeting to which a matter was adjourned under subsection (2) there is still an equality of votes in relation to the adjourned matter, the Chairperson shall have in addition to a deliberative vote a second or casting vote in relation to that matter.

18 Minutes

The Authority shall cause full and accurate minutes to be kept of its proceedings at meetings.

19 Fees and allowances

- (1) An appointed member or alternate is entitled to be paid such fees and allowances as the Minister may from time to time determine.
- (2) The fees and allowances determined under this section shall be payable at the same rate for both appointed members and for both alternates.

20 Public Service Act 1979 not to apply

The *Public Service Act 1979* does not apply to or in respect of the appointment of any person as a member or alternate, and a person is not, in his or her capacity as a member or alternate, subject to that Act.

21 Members not personally liable

No matter or thing done by the Authority, and no matter or thing done by any member or by another person acting under the direction of or as delegate of the Authority, shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act conferring or imposing functions on the Authority, subject the member or person personally to any action, liability, claim or demand.

Part 3 Responsibilities of the Authority

22 General functions

- (1) The Authority shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.
- (2) It is the duty of the Authority to exercise its functions under this Act in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations.
- (3) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

23 Particular functions

- (1) Without affecting the generality of section 22, the Authority has the responsibility of dealing with:
 - (a) applications for registration under Part 4, and
 - (b) claims for payments under Part 5, and
 - (c) disclosures of, and caps on, political donations and electoral expenditure under Part 6, and
 - (d) claims for payments under Part 6A.
- (2) For the purpose of ensuring compliance with this Act, the Authority is authorised to make an application to the Supreme Court for an injunction, declaration or other order that is within the jurisdiction of the Court.

24 Guidelines

- (1) The Authority may, from time to time, determine and issue guidelines, not inconsistent with this Act or the regulations, for or with respect to any matters dealt with in this Act (except this Part and Part 2).
- (2) In the operation and application of this Act (except this Part and Part 2), regard shall be had not only to the provisions of this Act and the regulations but also to the guidelines determined under subsection (1), and in particular, the Authority shall have regard to those guidelines when dealing with applications, claims, caps and disclosures referred to in section 23.

25 Research

The Authority may carry out, or arrange for the carrying out of, such research into election funding, political donations, electoral expenditure

and other matters to which this Act relates as the Authority thinks appropriate and may publish the results of any such research.

Part 4 Registration

Division 1 Preliminary

26 Application to registration for State and local government elections

This Part applies to the registration of candidates, groups, third-party campaigners and agents for State elections and local government elections.

27 Qualification of persons to be appointed as party or official agents

- (1) The following persons are not qualified to be appointed as party agents or official agents:
 - (a) a corporation,
 - (b) a person who is not enrolled to vote at State elections,
 - (c) a person who has been convicted of an indictable offence, an offence against this Act, an offence involving dishonesty or an electoral offence,
 - (d) a person whom the Authority determines is not a fit and proper person to be such an agent,
 - (e) a person who has not completed the training prescribed by the regulations for appointment as such an agent (unless the person is of a class of persons recognised by the regulations as a person eligible for appointment without further training).
- (2) A person may be appointed as the official agent of more than one candidate or group.
- (3) The Authority may cancel the registration under this Part of a person as a party agent or an official agent if the person is no longer qualified to be appointed as such an agent.

28–30 (Repealed)

Division 2 Register of Candidates

31 Register of Candidates to be kept

- (1) The Authority shall keep a register, to be called the Register of Candidates, for each general election.
- (1A) The Authority is to keep separate Registers of Candidates for State and local government elections. The register for State elections may be called the State Register of Candidates and the register for local government elections may be called the Local Government Register of Candidates.

- (2) The Register of Candidates for a general election shall be kept as from the polling day for the previous general election.
- (3) Subject to this Act, the Register of Candidates shall be kept in such form and manner as the Authority thinks fit.

32 Registration

- (1) Registration of a candidate shall be effected by the insertion in the Register of Candidates of the name of the candidate.
- (2) Registration of a group of candidates shall be effected by the insertion in the Register of Candidates, in relation to candidates registered therein, of an indication that the candidates form a group.
- (3) There shall be included in the Register of Candidates:
 - (a) such particulars with respect to a candidate or group registered in the Register as are required to be included in the application for registration of the candidate or group,
 - (b) particulars of the platform or objectives of the candidate or group, if the candidate or group requests the Authority to include those particulars, and
 - (c) such other particulars as the Authority thinks fit.

32A Deemed registration of nominated candidates and groups

- (1) A person nominated as a candidate at an election in accordance with the *Parliamentary Electorates and Elections Act 1912* or in accordance with the *Local Government Act 1993* is deemed to be registered as a candidate for the election.
- (2) The candidates who comprise a group at an election are deemed to be registered as a group for the election.
- (3) The Authority is to make appropriate entries in the Register of Candidates for an election to effect the registration of a candidate or group deemed under this section to be registered for the election.

33 Applications for registration of candidates

- (1) Subject to this Act, the Authority shall register a person as a candidate in the Register of Candidates for a general election if:
 - (a) application for registration is made by the person or the person's official agent in the form and manner approved by the Authority, and
 - (b) the application is received by the Authority on or before the day of nomination for the general election and after the polling day for the previous general election.

- (2) An application for registration of a candidate shall set out the following particulars:
- (a) the full name and address of the candidate,
 - (b) the candidate's party or group affiliation (if any),
 - (c) in the case of a State election, the House of Parliament for which the candidate is a candidate,
 - (c1) in the case of a local government election, the council for which the candidate is a candidate,
 - (d) the address of the candidate's campaign headquarters in New South Wales, and
 - (e) such other particulars as may be prescribed.

34 Application for registration of groups

- (1) Subject to this Act, the Authority shall register a group of candidates in the Register of Candidates for a general election if:
- (a) application for registration is made by the candidates or their official agents, or by the official agent for the group, in the form and manner approved by the Authority, and
 - (b) the application is received by the Authority on or before the day of nomination for the general election and after the polling day for the previous general election.
- (2) An application for the registration of a group of candidates shall set out the following particulars:
- (a) the full name (if any) of or used or to be used by the group,
 - (b) the full names of the candidates, and
 - (c) such other particulars as may be prescribed.

35 Lodging of applications

- (1) An application for registration in the Register of Candidates may be lodged with an election official designated by the Authority or with the Authority.
- (2) An application lodged with an election official shall be deemed to have been received by the Authority.
- (3) An election official with whom an application for registration in the Register of Candidates is lodged shall forthwith forward the application to the Authority.

36 Refusal to register candidates

- (1) The Authority shall not register a candidate in the Register of Candidates for a general election if the application for registration of the candidate was received by the Authority after the day of nomination for the general election.
- (2) The Authority may refuse to register a candidate if the Authority believes on reasonable grounds that any particulars in the application for registration of the candidate are incomplete or not correct, but may, if it thinks fit, register the candidate notwithstanding any such defect.
- (3) Where, pursuant to subsection (2), the Authority refuses to register a candidate:
 - (a) the Authority shall forthwith notify the candidate's official agent of the refusal and of the reasons for the refusal,
 - (b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the relevant particulars, and
 - (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

37 Refusal to register groups

- (1) The Authority shall not register a group in the Register of Candidates for a general election if the application for registration of the group was received by the Authority after the day of nomination for the general election.
- (2) The Authority may refuse to register a group if the Authority believes on reasonable grounds that any particulars in the application for registration of the group are incomplete or not correct, but may, if it thinks fit, register the group notwithstanding any such defect.
- (3) Where, pursuant to subsection (2), the Authority refuses to register a group:
 - (a) the Authority shall forthwith notify the group's official agent of the refusal and of the reasons for the refusal,
 - (b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by inserting or substituting the relevant particulars, and
 - (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.
- (4) The Authority may refuse to register a group if, in the opinion of the Authority, the name of the group is obscene or offensive.

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- (5) Where, pursuant to subsection (4), the Authority refuses to register a group:
- (a) the Authority shall forthwith notify the group's official agent of the refusal and of the reasons for the refusal,
 - (b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the name of the group, and
 - (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

38 Amendment of Register

- (1) Where an alteration is made in any of the particulars as stated in the Register of Candidates in relation to a candidate or group, being particulars of the kind required to be stated in the application for registration of the candidate or group, the candidate's or group's official agent shall, within 30 days after the date of the alteration, furnish the Authority with a statement in writing setting out details of the alteration. Maximum penalty: 2 penalty units.
- (2) Where the Authority believes on reasonable grounds that a candidate's or group's official agent has not furnished the Authority with a statement setting out details of any alteration, as referred to in subsection (1), the Authority may, by notice in writing served on the official agent, require the official agent to furnish such a statement before the date specified in the notice, or before the date of expiry of the period of 30 days after service of the notice, whichever is later.
- (3) If a candidate's or group's official agent fails to furnish a statement in accordance with subsection (2), the Authority may cancel the registration of the candidate or group.
- (4) The Authority shall vary the particulars set out in the Register of Candidates in relation to a candidate or group in accordance with a statement furnished in accordance with this section or in accordance with the written request of the candidate's or group's official agent, unless the Authority believes on reasonable grounds that the varied particulars are not correct.
- (5) The Authority may cancel the registration of a candidate or group at the written request of the candidate's or group's official agent.
- (6) The Authority may, of its own accord or on request, omit any particulars from the Register of Candidates if it is satisfied that the particulars are not correct.

- (7) The Authority may, of its own accord or on request, insert any particulars in the Register of Candidates if it is satisfied that the particulars are correct.
- (8) The Authority shall notify the relevant official agent of any alterations made to the Register of Candidates pursuant to this section.
- (9) The provisions of subsections (1)–(4) do not, if the regulations so provide, apply to particulars or alterations of a class or description specified in the regulations for the purposes of this subsection.

Division 2A Register of Third-party Campaigners

38A Register of Third-party Campaigners to be kept

- (1) The Authority is to keep a register, to be called the Register of Third-party Campaigners, for each general election.
- (2) The Authority is to keep separate Registers of Third-party Campaigners for State and local government elections. The register for State elections may be called the State Register of Third-party Campaigners and the register for local government elections may be called the Local Government Register of Third-party Campaigners.
- (3) The Register of Third-party Campaigners for a general election is to be kept as from the polling day for the previous general election.
- (4) Subject to this Act, the Register of Third-party Campaigners is to be kept in such form and manner as the Authority thinks fit.

38B Registration

- (1) Registration of a third-party campaigner is to be effected by the insertion in the Register of Third-party Campaigners of the name of the third-party campaigner.
- (2) There is to be included in the Register of Third-party Campaigners:
 - (a) such particulars as are required to be included in the application for registration of the third-party campaigner, and
 - (b) such other particulars as the Authority thinks fit.

38C Applications for registration

- (1) Subject to this Act, the Authority is to register a person as a third-party campaigner in the Register of Third-party Campaigners for a general election if:
 - (a) application for registration is made by the person or the person's official agent in the form and manner approved by the Authority, and

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- (b) the application is received by the Authority before the 7th day before polling day for the general election and after the polling day for the previous general election.
 - (2) An application for registration of a person as a third-party campaigner must set out the following particulars:
 - (a) the full name and address of the person,
 - (b) such other particulars as may be prescribed.
 - (3) The application for registration is to be accompanied by an appointment of the official agent of the third-party campaigner.

38D Lodging of applications

- (1) An application for registration in the Register of Third-party Campaigners may be lodged with an election official designated by the Authority or with the Authority.
- (2) An application lodged with an election official is deemed to have been received by the Authority.
- (3) An election official with whom an application for registration is lodged must forthwith forward the application to the Authority.

38E Refusal to register

- (1) The Authority must not register a person in the Register of Third-party Campaigners for a general election if the application for registration was received by the Authority on or after the 7th day before polling day for the general election.
- (2) The Authority may refuse to register a person as a third-party campaigner if the Authority believes on reasonable grounds that any particulars in the person's application for registration are incomplete or not correct, but may, if it thinks fit, register the person notwithstanding any such defect.
- (3) Where, pursuant to subsection (2), the Authority refuses to register a person as a third-party campaigner:
 - (a) the Authority must forthwith notify the person's official agent of the refusal and of the reasons for the refusal, and
 - (b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the relevant particulars, and
 - (c) the amended application is deemed to have been received by the Authority when the original application was received by it.

38F Amendment of Register

- (1) Where an alteration is made in any of the particulars as stated in the Register of Third-party Campaigners in relation to a person, being particulars of the kind required to be stated in the application for registration of the person, the person's official agent must, within 30 days after the date of the alteration, furnish the Authority with a statement in writing setting out details of the alteration.
Maximum penalty: 2 penalty units.
- (2) Where the Authority believes on reasonable grounds that a third-party campaigner's official agent has not furnished the Authority with a statement setting out details of any alteration, as referred to in subsection (1), the Authority may, by notice in writing served on the official agent, require the official agent to furnish such a statement before the date specified in the notice, or before the date of expiry of the period of 30 days after service of the notice, whichever is later.
- (3) If a third-party campaigner's official agent fails to furnish a statement in accordance with subsection (2), the Authority may cancel the registration of the third-party campaigner.
- (4) The Authority is to vary the particulars set out in the Register of Third-party Campaigners in relation to a person in accordance with a statement furnished in accordance with this section or in accordance with the written request of the person's official agent, unless the Authority believes on reasonable grounds that the varied particulars are not correct.
- (5) The Authority may cancel the registration of a third-party campaigner at the written request of the person's official agent.
- (6) The Authority may, of its own accord or on request, omit any particulars from the Register of Third-party Campaigners if it is satisfied that the particulars are not correct.
- (7) The Authority may, of its own accord or on request, insert any particulars in the Register of Third-party Campaigners if it is satisfied that the particulars are correct.
- (8) The Authority is to notify the relevant official agent of any alterations made to the Register of Third-party Campaigners pursuant to this section.
- (9) The provisions of subsections (1)–(4) do not, if the regulations so provide, apply to particulars or alterations of a class or description specified in the regulations for the purposes of this subsection.

Division 3 Register of Party Agents

39 Register of Party Agents to be kept

- (1) The Authority shall keep a register, to be called the Register of Party Agents.
- (1A) The Authority is to keep separate Registers of Party Agents for State and local government elections. The register for State elections may be called the State Register of Party Agents and the register for local government elections may be called the Local Government Register of Party Agents.
- (2) The Register of Party Agents shall be kept on a continuous basis.
- (3) Subject to this Act, the Register of Party Agents shall be kept in such form and manner as the Authority thinks fit.

40 Registration

- (1) Registration of a party agent shall be effected by the insertion in the Register of Party Agents of the name of the party agent and the name of the party by which the party agent was appointed.
- (2) There shall be included in the Register of Party Agents the address and occupation of each party agent, and such other particulars as the Authority thinks fit.

41 Appointment etc of party agents

- (1) A party shall appoint one party agent.
- (2) If at any time a party does not have a party agent appointed under this section, the party agent is the person who holds office at that time as the registered officer of the party under Part 4A of the *Parliamentary Electorates and Elections Act 1912* or under the *Local Government Act 1993*, as the case requires.
- (3) The appointment of a party agent may be revoked.
- (4) If a party agent dies or resigns, the party by which the party agent was appointed shall forthwith give notice of that fact in writing to the Authority.
- (5) If a party agent dies or resigns or his or her appointment is revoked, the party by which the party agent was appointed shall appoint another party agent in his or her place.
- (6) The appointment, or the revocation of the appointment, of a party agent shall be made by notice in writing furnished to the Authority, but does not take effect until the appropriate action has been taken under section 42.

- (7) A notice under this section shall be in the form approved by the Authority.
- (8) A notice of the appointment of a party agent shall be deemed not to have been properly given unless it is accompanied by the signed acceptance of appointment of the person appointed.
- (9) A person appointed to any office or position under the *Parliamentary Electorates and Elections Act 1912* is not eligible to be a party agent.
- (10) If a party commits an offence against this section:
 - (a) each person who, at the time the offence is committed, is an officer of the party is guilty of an offence and liable to a penalty not exceeding 100 penalty units, and
 - (b) the party is liable to a penalty not exceeding 200 penalty units.

42 Entries in the Register

- (1) On receipt of a notice of the appointment of a party agent furnished under section 41, the Authority shall register the party agent in the Register of Party Agents.
- (2) On receipt of a notice furnished under section 41 of the death or resignation, or the revocation of the appointment, of a party agent, the Authority shall remove the name of the party agent from the Register of Party Agents.
- (3) The Authority may reject a notice referred to in subsection (1) or (2) if, in its opinion, the notice is not in accordance with this Act.

43 Amendment of Register

The Authority may amend the Register of Party Agents by:

- (a) correcting a mistake or omission, or
- (b) recording a change in the name, address or occupation of a party agent or a change in the name of the party by which a party agent was appointed.

Division 4 Register of Official Agents

44 Register of Official Agents to be kept

- (1) The Authority shall keep a register, to be called the Register of Official Agents, for each general election.
- (2) The Register of Official Agents for a general election shall be kept as from the polling day for the previous general election.

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- (3) Subject to this Act, the Register of Official Agents shall be kept in such form and manner as the Authority thinks fit.

45 Registration

- (1) Registration of an official agent shall be effected by the insertion in the Register of Official Agents of the name of the official agent and the name of the candidate, group, elected member or third-party campaigner by whom the official agent was appointed.
- (2) There shall be included in the Register of Official Agents the address and occupation of each official agent, and such other particulars as the Authority thinks fit.

46 Official agents of candidates and groups

- (1) A candidate or group must appoint one official agent (an *appointed official agent*) unless the candidate or group has an ex officio official agent.
- (2) If a party agent of a party is the ex officio official agent of a candidate or group under paragraph (c) or (d) of the definition of *official agent* in section 4 (1), the candidate or group may with the consent of the party agent appoint an official agent (an *appointed official agent*) to be the official agent of the candidate or group in place of the party agent.
- (3) The appointment of an official agent by a candidate or group may be revoked by the candidate or group and, in the case of the appointment of an official agent in place of a party agent, may also be revoked by the party agent.
- (4) If an appointed official agent of a candidate or group dies or resigns, the candidate or group by whom the official agent was appointed must forthwith give notice of that fact in writing to the Authority.
- (5) If an appointed official agent of a candidate or group dies or resigns or his or her appointment is revoked, the candidate or group by whom the official agent was appointed must appoint another official agent in his or her place unless the appointed official agent was appointed in place of a party agent (in which case the appointment of another official agent is optional and requires the consent of the party agent).
- (6) At any time when a candidate or group required to appoint an official agent under this section does not have an appointed official agent:
- (a) the candidate is deemed to be his or her own official agent, or
 - (b) the candidate whose name first appears on the list of members of the group is deemed to be the official agent of the group.

Note. This does not apply to the optional appointment of an official agent in place of a party agent.

- (7) For the purposes of the disclosure under Part 6 of political donations received and electoral expenditure incurred by or on behalf of a candidate or group:
- (a) a person remains the appointed official agent of a candidate or group despite the candidate or group ceasing to be a candidate or group, and
 - (b) the appointment under this section of an official agent of a candidate or group remains in force despite the candidate or group ceasing to be a candidate or group, and
 - (c) this Division continues to apply after the candidate or group ceases to be a candidate or group, as if the former candidate or group were still a candidate or group for the election concerned.

Note. For example, the former candidate or group will be required to appoint another official agent following the death or resignation of an official agent after the election and before the Part 6 disclosure requirements have been fully complied with.

- (8) If a candidate or group contravenes a provision of this section, the candidate or each member of the group is guilty of an offence.

Maximum penalty: 100 penalty units.

46A Official agents of elected members

- (1) An elected member may appoint one official agent (an *appointed official agent*) but only if the elected member does not have an ex officio official agent under paragraph (b) of the definition of *official agent* in section 4 (1).
- (2) If a party agent is the ex officio official agent of an elected member under paragraph (a) of the definition of *official agent* in section 4 (1), the elected member may with the consent of the party agent appoint one official agent (an *appointed official agent*) to be the official agent of the elected member in place of the party agent.
- Note.** If an elected member does not have an ex officio official agent and does not appoint an official agent, the Authority will designate a person as official agent for the elected member. See paragraph (g) of the definition of *official agent* in section 4 (1).
- (3) The appointment of an official agent by an elected member may be revoked by the elected member and, in the case of the appointment of an official agent in place of a party agent, may also be revoked by the party agent.
- (4) If the appointed official agent of an elected member dies or resigns, the elected member must forthwith give notice of that fact in writing to the Authority.

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- (5) If an appointed official agent of an elected member dies or resigns or his or her appointment is revoked, the elected member may appoint another official agent in his or her place unless the appointed official agent was appointed in place of a party agent (in which case the appointment of another official agent is optional and requires the consent of the party agent).

46B Official agents of third-party campaigners

- (1) A third-party campaigner may appoint one official agent (an *appointed official agent*).
Note. If a third-party campaigner does not appoint an official agent, the Authority can designate a person as official agent. See paragraph (g) of the definition of official agent in section 4 (1).
- (2) The appointment of an official agent may be revoked.
- (3) If the appointed official agent of a third-party campaigner dies or resigns, the third-party campaigner must forthwith give notice of that fact in writing to the Authority.
- (4) If an appointed official agent of a third-party campaigner dies or resigns or his or her appointment is revoked, the third-party campaigner may appoint another official agent in his or her place.

46C Procedure for appointing or revoking appointment of official agents

- (1) The appointment, or the revocation of the appointment, of an official agent is to be made by notice in writing to the Authority.
- (2) A notice under this Division is to be in the form approved by the Authority.
- (3) A notice of the appointment of an official agent is not properly given unless it is accompanied by the signed acceptance of appointment of the person appointed.
- (4) A person appointed to any office or position under the *Parliamentary Electorates and Elections Act 1912* is not eligible to be an official agent.

47 Entries in the Register

- (1) On receipt of a notice of the appointment of an official agent furnished under section 46, the Authority shall register the official agent in the Register of Official Agents.
- (2) On receipt of a notice furnished under section 46 of the death or resignation, or the revocation of the appointment, of an official agent, the Authority shall remove the name of the official agent from the Register of Official Agents.

- (3) The Authority may reject a notice referred to in subsection (1) or (2) if, in its opinion, the notice is not in accordance with this Act.
- (4) The Authority may include in the Register of Official Agents particulars of the persons who are official agents because of the office they hold and not because of an appointment under this Division.

48 Amendment of Register

The Authority may amend the Register of Official Agents by:

- (a) correcting a mistake or omission, or
- (b) recording a change in the name, address or occupation of an official agent or, in the case of an official agent appointed by a group, a change in the composition or name of the group.

49 (Repealed)

Division 5 Registers for by-elections

50 Application of this Division

This Division applies to and in respect of each by-election (referred to in this Division as *the by-election*) at which there are 2 or more candidates for election.

51 Registers for by-elections

- (1) The Authority is to keep 3 registers, to be called the Register of Candidates, the Register of Third-party Campaigners and the Register of Official Agents respectively, for the by-election.
- (2) The registers are to be kept as from:
 - (a) in the case of a State election—the day of the issue of the writ for the by-election, or
 - (b) in the case of a local government election—the day for the close of the roll of electors for the by-election.
- (3) Subject to this Act, the registers shall be kept in such form and manner as the Authority thinks fit.
- (4) The provisions of Divisions 2, 2A and 4 apply to and in respect of the Register of Candidates, the Register of Third-party Campaigners and the Register of Official Agents for the by-election in the same way as they apply to and in respect of the Register of Candidates, the Register of Third-party Campaigners and the Register of Official Agents under those Divisions, and so apply as if:
 - (a) in the case of a State election, references to groups were omitted, and

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- (b) references to a general election were references to the by-election, and
 - (c) any other necessary adaptations were made.

Division 6 General

52 Public access to registers

- (1) Copies of each register kept under this Part shall be retained by the Authority and be available for public inspection during ordinary office hours.
- (2) (Repealed)

53 Statutory declarations

The Authority may require any particulars in an application or notice under this Part to be verified by statutory declaration.

54 False statements

A person who, in any application or statement made or furnished under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence and liable to a penalty not exceeding 100 penalty units.

Part 5 Public funding of State election campaigns

Division 1 Preliminary

54A Application to State elections only

- (1) This Part does not apply in relation to local government elections.
- (2) Accordingly, a reference in this Part to an election is a reference that relates to a State election.

54B Part 6 definitions apply

Words and expressions used in this Part and in Part 6 have the same meaning in this Part as they have in that Part, except where the contrary intention appears.

55 Meaning of electoral communication expenditure for a State election

- (1) For the purposes of this Part, electoral communication expenditure for a State election is electoral communication expenditure incurred during the capped expenditure period for the election within the meaning of section 95H.
- (2) The decision of the Authority as to whether any expenditure is or is not electoral communication expenditure in accordance with this Act, the regulations and the guidelines determined under section 24 is final. The Auditor-General or an auditor is, for the purposes of this Act, entitled to rely on any such decision of the Authority.

Division 2 Public funding for electoral communication expenditure of parties and candidates

56 Establishment of Election Campaigns Fund

- (1) There is to be an Election Campaigns Fund to be kept by the Authority in respect of State elections.
- (2) Payments from the Election Campaigns Fund are to be distributed in accordance with this Part.

57 Registered parties eligible for public funding of election campaigns

- (1) Parties are, subject to and in accordance with this Act, eligible for payments from the Election Campaigns Fund in respect of a State election (other than a by-election for the Assembly).
- (2) A party is eligible for payments from the Election Campaigns Fund in respect of any such State election if:
 - (a) it is a registered party on polling day for the State election, and

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- (b) it endorses candidates who are duly nominated for the State election and the Authority is satisfied that the candidates claim to be endorsed by the party, and
 - (c) it satisfies at least one of the party eligibility criteria.
- (3) The party eligibility criteria are as follows:
- (a) in the case of an Assembly general election—the total number of first preference votes received by all those candidates endorsed by a party is at least 4% of the total number of first preference votes in all electoral districts in which the candidates were duly nominated for election,
 - (b) in the case of a periodic Council election—the total number of first preference votes received by all those candidates endorsed by a party (and by all other candidates included in the same group) is at least 4% of the total number of first preference votes in that election,
 - (c) in the case of any election—at least one of those candidates endorsed by a party is elected at the State election.

58 Amount of public funding for eligible parties

- (1) In this section:
- actual expenditure* of a party means the total actual electoral communication expenditure incurred by a party, irrespective of whether it was incurred in connection with an Assembly general election or with a periodic Council election or with both of those elections.
- applicable expenditure cap* for a party means the applicable cap on electoral communication expenditure for the party determined under Division 2B of Part 6.
- eligible Assembly party* means a party that is eligible for payment from the Election Campaigns Fund in respect of a State election and that is not an eligible Council party in respect of that election.
- eligible Council party* means a party that is eligible for payment from the Election Campaigns Fund in respect of a periodic Council election because it satisfies the eligibility criteria under section 57 (3) (b) or (c) relating to the Council, but that:
- (a) did not endorse any candidate for election in the Assembly, or
 - (b) only endorsed candidates for election in the Assembly in not more than 10 electorates.
- (2) The amount to be distributed from the Election Campaigns Fund to a party eligible for payment from the Fund in respect of a State election is the amount set out in the Table to this section.

TABLE**Eligible Assembly party**

100% of so much of the actual expenditure of the party as is within 0–10% of the applicable expenditure cap, plus

75% of so much of the actual expenditure of the party as is within the next 10–90% of the applicable expenditure cap, plus

50% of so much of the actual expenditure of the party as is within the last 90–100% of the applicable expenditure cap.

Eligible Council party

100% of so much of the actual expenditure of the party as is within zero to one third of the applicable expenditure cap, plus

75% of so much of the actual expenditure of the party as is within the next one third to two thirds of the applicable expenditure cap, plus

50% of so much of the actual expenditure of the party as is within the last two thirds to 100% of the applicable expenditure cap.

59 Candidates eligible for public funding of election campaigns

- (1) Candidates are, subject to and in accordance with this Act, eligible for payments from the Election Campaigns Fund in respect of a State election.
- (2) A candidate who is duly nominated for a State election is eligible for payments from the Election Campaigns Fund in respect of the election if:
 - (a) the candidate is registered as such a candidate in the Register of Candidates for the election on polling day for the election, and
 - (b) in the case of a candidate for a periodic Council election, the candidate was not included in a group, or was included in a group none of whose members were endorsed by a party, and
 - (c) the candidate satisfies at least one of the candidate eligibility criteria.
- (3) The candidate eligibility criteria are as follows:
 - (a) in the case of an Assembly general election or by-election for the Assembly—the candidate is elected or the total number of first preference votes received by the candidate is at least 4% of the total number of first preference votes in the electoral district in which the candidate was duly nominated for election,
 - (b) in the case of a periodic Council election—the candidate is elected or the total number of first preference votes received by the candidate (and, if included in a group, by all other candidates

included in the same group) is at least 4% of the total number of first preference votes in the election.

60 Amount of public funding for eligible candidates

(1) In this section:

actual expenditure of a candidate means the total actual electoral communication expenditure incurred by the candidate in connection with a State election.

applicable expenditure cap for a candidate means the applicable cap on electoral communication expenditure for the candidate determined under Division 2B of Part 6.

eligible Assembly independent candidate means a candidate at an Assembly election who is eligible for payment from the Election Campaigns Fund and who was not endorsed by a party.

eligible Assembly party candidate means a candidate at an Assembly election who is eligible for payment from the Election Campaigns Fund and who was endorsed by a party.

eligible Council candidate means a candidate at a periodic Council election who is eligible for payment from the Election Campaigns Fund.

(2) The amount to be distributed from the Election Campaigns Fund to a candidate eligible for payment from the Fund in respect of a State election is the amount set out in the Table to this section.

TABLE

Eligible Assembly party candidate

100% of so much of the actual expenditure of the candidate as is within 0–10% of the applicable expenditure cap, plus

50% of so much of the actual expenditure of the candidate as is within the next 10–50% of the applicable expenditure cap.

Eligible Assembly independent candidate

100% of so much of the actual expenditure of the candidate as is within 0–10% of the applicable expenditure cap, plus

50% of so much of the actual expenditure of the candidate as is within the next 10–80% of the applicable expenditure cap.

Eligible Council candidate

100% of so much of the actual expenditure of the candidate as is within zero to one third of the applicable expenditure cap, plus

75% of so much of the actual expenditure of the candidate as is within the next one third to two thirds of the applicable expenditure cap, plus

50% of so much of the actual expenditure of the candidate as is within the last two thirds to 100% of the applicable expenditure cap.

61 Expenditure claimed by both party and candidate

- (1) The same item of electoral communication expenditure cannot, for the purposes of this Division, be included as expenditure of both a candidate and the party that endorses the candidate.
- (2) If any such item of expenditure is claimed by both the candidate and the party, the expenditure is taken to be that of the party and not the candidate.

62 Payments to parties endorsing the same candidate or group

- (1) If the Authority is satisfied that 2 or more registered parties endorse the same candidate or same group of candidates for a State election and that the candidate or candidates each claim to be endorsed by those parties:
 - (a) those parties are taken, for the purposes of this Part, to constitute one registered party instead of 2 or more registered parties in relation to the candidate or candidates at that election, and
 - (b) the amount that would otherwise be payable from the Election Campaigns Fund to that one registered party in respect of the election is payable instead to those 2 or more registered parties as shared funding.
- (2) An amount payable to 2 or more parties as shared funding is payable to them:
 - (a) in equal shares, or
 - (b) in such other shares as the party agents of those parties agree on and as are specified in a direction in writing (a *shared funding direction*) signed by them and served on the Authority.
- (3) If a registered party would, but for this subsection, be entitled to be paid 2 or more amounts by virtue of subsection (1), the party is entitled to be paid only one of those amounts, being the largest amount.
- (4) A shared funding direction remains effective until revoked by the party agents of the parties concerned and notice in writing of the revocation is served on the Authority.

63 Entitlements to advance payments

- (1) A registered party is, subject to and in accordance with this Act, eligible for an advance payment from the Election Campaigns Fund for electoral communication expenditure incurred in connection with a general election of an amount determined in accordance with subsection (2).

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- (2) The amount payable, by way of advance payment, is an amount equal to 30% of the total amount to which the party was entitled under this Part (other than under section 67) in respect of the previous general election.
 - (3) The amount payable by way of an advance payment under this section may be paid, as a lump sum or by way of instalments, at any time after the commencement of the capped expenditure period for the election.
 - (4) Any amount paid to a party by way of advance payment under this section in respect of a general election is to be deducted from the amount payable under this Part to the party from the Election Campaigns Fund in respect of that general election.
 - (5) If a party receives amounts by way of advance payment under this section in respect of a general election in excess of the amount (if any) to which it becomes entitled under this Part from the Election Campaigns Fund in respect of that general election, the amount of the excess must be repaid to the Authority within 60 days after the day for the return of the writs for that general election.
 - (6) Any amount received by a party by way of advance payment under this section in respect of a general election must be repaid, on demand by the Authority, to the Authority if:
 - (a) the party does not contest the general election, or
 - (b) before the polling day for the general election, the party ceases to operate or be registered or it has been, or is being, dissolved or wound up.
 - (7) Any amount required to be repaid under this section may be recovered by the Authority as a debt in any court of competent jurisdiction.
 - (8) This section does not apply to the first general election to be held in 2011.

Division 3 General provisions relating to funding

64 Claims for, and approvals of, payments

- (1) A claim for payment under this Part (other than an advance payment) in respect of a State election must be lodged with the Authority before the expiration of 120 days after the day for the return of the writs for the election.

Note. Section 106 authorises the Authority to extend the time for lodging a claim for payment.
- (2) Subject to this Act, the Authority must:
 - (a) approve the making of the payment under this Part if:

- (i) a claim for the payment is made by the party or party agent for the party, or by the official agent of the candidate, in the form and manner approved by the Authority, and
 - (ii) the claim is reviewed by an auditor in accordance with section 65, and
 - (iii) the Authority is satisfied that the party or candidate is eligible for the payment, or
 - (b) refuse to approve the making of the payment under this Part to the extent that the payment would exceed the amount of electoral communication expenditure for which payment may be made under this Part.
- (3) In assessing a claim for payment under this Part, the Authority may require the applicant to provide the Authority with further or other information relative to the assessment.
- (4) If the Authority is satisfied that it is proper to do so, it may disallow, wholly or in part, any items of expenditure covered by a claim under this Part.

65 Review of claim

A claim under this Part is not validly lodged with the Authority unless it is accompanied by a certificate of an auditor stating:

- (a) that the auditor was given full and free access at all reasonable times to all accounts, records, documents and papers of the agent by whom the claim is to be lodged, and of the party or candidate, as the case may require, relating directly or indirectly to the expenditure referred to in the claim, and
- (b) that the auditor duly examined such of those accounts, records, documents and papers as the auditor considers material for the purpose of giving the certificate, and
- (c) that the auditor received all information and explanations that the auditor asked for with respect to the expenditure referred to in the claim, subject to the qualifications (if any) specified in the certificate, and
- (d) that the auditor is satisfied that, from the information available to the auditor, the expenditure specified in the claim was incurred and is, having regard to this Act, the regulations and the guidelines determined under section 24, expenditure which may properly be the subject of such a claim, and
- (e) that the auditor has no reason to think that any statement in the claim is not correct.

66 Expenditure to be vouched for

A claim under this Part is not validly lodged with the Authority unless all expenditure specified in the claim is vouched for in the manner prescribed by the regulations.

67 Making payments to party at direction of candidate

- (1) A candidate to whom a payment is to be made under this Part in respect of an election may direct the Authority to make the payment to a party that:
 - (a) endorsed the candidate in that election, and
 - (b) was a registered party on the polling day for that election.
- (2) In that case, the party becomes entitled to the payment and the payment is to be made to that party instead of to that candidate.
- (3) A direction under this section:
 - (a) may be made in anticipation of an entitlement to a payment under this Part, and
 - (b) is required to be made in writing, and
 - (c) may be revoked by the candidate by notice to the Authority given with the written consent of the party agent of the party.

68 Making of payments

- (1) Subject to this Act, a payment to be made to a party or candidate under this Part is to be made to the party or party agent of the party or to the official agent of the candidate (as the case requires).
- (2) The Authority may instead, if it thinks it proper to do so in the circumstances, direct that the whole or any part of a payment under this Part be made to a specified account with a financial institution established for or in trust for a party, for the members of a party or for a candidate.
- (3) Despite subsections (1) and (2), payments to be made to a candidate are required to be paid into the campaign account of the candidate if such an account is required to be kept under section 96A.
- (4) Subject to and in accordance with the regulations, the Authority may, if it thinks it proper to do so in the circumstances, direct that the whole or any part of a payment under this Part be made to a person, body or organisation other than the party, party agent or official agent referred to in subsection (1).
- (5) Except as prescribed by the regulations, details of any direction under subsection (4) are to be included in the report of the Authority under

section 107 (2) for the reporting period in which the direction was given.

- (6) Payments may be made under this Part to an agent subject to such reasonable conditions with respect to the disbursement of the amount paid as the Authority determines.
- (7) An agent must comply with any condition determined in accordance with subsection (6) and applicable to the agent or any of his or her predecessors.
Maximum penalty: 100 penalty units.
- (8) It is a defence to a prosecution for an offence arising under subsection (7) if the agent establishes that the agent did not know, and could not reasonably have known, that the condition was applicable as referred to in that subsection.
- (9) Where a payment is made under this Part and the recipient is not entitled to receive the whole or any part of the amount paid, whether because of a false statement in a claim or otherwise, the amount or that part of the amount may be recovered by the Authority as a debt in any court of competent jurisdiction.

69 Prepayment on lodgment of claims

- (1) If the Authority is unable to finalise a claim for payment lodged on behalf of a party within 14 days, the Authority is required to make a preliminary payment within that period of 14 days.
- (2) The preliminary payment is to be of an amount equal to 70 per cent of the total amount estimated by the Authority to be payable to the party (other than under section 67), reduced by the amount of any advance payments made for the election concerned.
- (3) In making an estimate under this section, the Authority may, but need not, rely on information contained in the claim lodged by the party.
- (4) If a party receives a preliminary payment in excess of the amount (if any) to which it becomes entitled under a claim for payment, the amount of the excess must be repaid to the Authority within 60 days after the Authority notifies the party.
- (5) The amount of any such excess may be recovered by the Authority as a debt in any court of competent jurisdiction.

70 Payments conditional on disclosure of political donations etc

- (1) A party or candidate is not eligible for any payment (other than advance payments) under this Part in respect of a general election while any failure to lodge a requisite declaration (or annual financial statement)

under Part 6 for a past period continues in respect of the party or candidate (or of any group of which the candidate is a member).

- (2) If the Authority is authorised under section 96J to recover from a party or candidate (or from the official agent of the party or candidate) an amount relating to the unlawful acceptance of a political donation or other amount, the Authority may deduct the amount from any payment (other than an advance payment) under this Part.

71 Death of a candidate

If a candidate dies and would, but for his or her death, have been entitled to a payment under this Part, the Authority may make the payment to the candidate's legal personal representative or otherwise in accordance with section 68.

71A (Repealed)

72 Deductions from payment for debts owed

The Authority may deduct from any payment due under this Part in respect of a party or candidate all or any overpayment or excess amount that the Authority is authorised by this Part to recover as a debt from the party or candidate.

73 Special provisions relating to groups

- (1) If there is an alteration in the composition of a group at a periodic Council election and the Authority is satisfied that the identity of the group is substantially unaltered, payments may be made under this Part as if its composition had not altered.
- (2) A reference in this Part to the official agent of a candidate or to the campaign account of a candidate is (if a candidate at a periodic Council election) a reference to the official agent or campaign account of the group.

73A (Repealed)

74 Public access to claims etc

- (1) A claim lodged with the Authority for a payment under this Part, together with any documents relating to the assessment of the claim by the Authority, or a copy thereof, must be retained by the Authority for at least 6 years after the polling day for the election to which it or they relate. Any such claim and documents, or a copy thereof, must be available for public inspection during ordinary office hours.
- (2) The Authority may, on application made to it and on payment of a reasonable fee to be determined from time to time by the Authority,

provide copies of or extracts from any claim or documents referred to in subsection (1).

75 False statements

- (1) A person who, in any claim lodged with the Authority for a payment under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence.
- (2) A candidate who, in relation to any matter to be included in a claim for a payment under this Part, gives or withholds giving information to the official agent of the candidate knowing that it will result in the making of a false or misleading claim by the agent is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 2 years, or both.

76–82 (Repealed)

Part 6 Political donations and electoral expenditure

Division 1 Preliminary

83 Application

This Part applies in relation to:

- (a) State elections and elected members of Parliament, and
- (b) local government elections and elected members of councils (other than Divisions 2A and 2B).

Note. Political donations and electoral expenditure are required to be disclosed in connection with both State and local government elections and members but the cap on political donations, the cap on electoral communication expenditure and public funding of election campaigns only apply to State elections and members.

84 Definitions—general

- (1) In this Act:

applicable cap on electoral expenditure—see Division 2B.

applicable cap on political donations—see Division 2A.

capped expenditure period—see section 95H.

disposition of property—see section 4.

Note. A disposition of property includes any transaction that diminishes the value of a person's own property and increases the value of the property of another person. Property includes money.

donor means a person who makes a gift.

entity means:

- (a) an incorporated or unincorporated body, or
- (b) the trustee of a trust.

expenditure includes any disposition of property.

financial year means a financial year ending 30 June.

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

major political donor means an entity or other person (not being a party, elected member, group or candidate) who makes a reportable political donation of or exceeding \$1,000.

relevant disclosure period—see section 89.

- (2) An individual who, or a group of individuals which, accepts a gift for use solely or substantially for a purpose related to the proposed

candidacy of the individual or individuals at a future election is, for the purposes of this Part, taken to be a candidate or group when accepting the gift.

Note. Section 96A (2) makes it unlawful for any such political donations to be accepted unless the individual or group is registered as a candidate or group under this Act.

- (2A) An individual who, or a group of individuals which, makes a payment for electoral expenditure for the election of the individual or individuals at a future election is, for the purposes of this Part, taken to be a candidate or group when making the payment. The guidelines of the Authority may exclude minor payments from the operation of this subsection.

Note. Section 96A (5A) makes it unlawful for any such electoral expenditure to be incurred unless the individual or group is registered as a candidate or group under this Act.

- (3) For the purposes of this Part:

- (a) a person who is a candidate in an election, or
(b) a group of candidates in an election,

is taken to remain a candidate or group for 30 days after the polling day for the election.

Note. A disclosure is still required to be made by candidates and groups after they cease to be candidates or groups following the election if they were a candidate or group during any part of the relevant disclosure period for the disclosure—see section 88 (4).

- (3A) Subsection (3) does not apply to a candidate at a time when the candidate is an elected member.

- (4) For the purposes of this Act:

- (a) the amount of a donation or expenditure consisting of a disposition of property other than money is taken to be the amount equal to the value of the property disposed of, and
(b) the value of property disposed of or the value of a gift may, if the Authority so requires, be determined by valuers appointed or approved by the Authority in accordance with the regulations.

Note. The regulations may make provision for requiring agents to obtain valuations from a valuer approved by the Authority of political donations that are not gifts of money (or enabling the Authority to obtain any such valuations—see section 117 (1) (a1)).

- (5) A reference in this Part to the name and address of a person making a donation or loan is:

- (a) in the case of a donation or loan made by an unincorporated association—a reference to the name of the association and the names and addresses of the members of the executive committee (however described) of the association, and

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- (b) in the case of a donation or loan purportedly made out of a trust fund or out of the funds of a foundation—a reference to the names and addresses of the trustees of the fund or of the funds of the foundation and the title or other description of the trust fund or the name of the foundation.
 - (6) For the purposes of this Part, corporations that are related to each other (as determined in accordance with the *Corporations Act 2001* of the Commonwealth) are taken to be a single corporation.
 - (7) For the purposes of this Part, an amount of electoral expenditure by a candidate for election to the Assembly includes, if the candidate is the endorsed candidate of a registered party, any amount of electoral expenditure that is:
 - (a) incurred by that party for the benefit of the candidate or for the benefit of the candidate and other candidates endorsed by the party at the election (whether or not as an agent for the candidate), and
 - (b) invoiced by that party to the candidate for payment (whether or not the candidate has a legal liability to pay to the party the amount invoiced).

85 Meaning of “political donation”

- (1) For the purposes of this Act, a *political donation* is:
 - (a) a gift made to or for the benefit of a party, or
 - (b) a gift made to or for the benefit of an elected member, or
 - (c) a gift made to or for the benefit of a candidate or a group of candidates, or
 - (d) a gift made to or for the benefit of an entity or other person (not being a party, elected member, group or candidate), the whole or part of which was used or is intended to be used by the entity or person:
 - (i) to enable the entity or person to make, directly or indirectly, a political donation or to incur electoral expenditure, or
 - (ii) to reimburse the entity or person for making, directly or indirectly, a political donation or incurring electoral expenditure.
- (2) An amount paid by a person as a contribution, entry fee or other payment to entitle that or any other person to participate in or otherwise obtain any benefit from a fund-raising venture or function (being an amount that forms part of the proceeds of the venture or function) is taken to be a gift for the purposes of this section.

- (3) An annual or other subscription paid to a party by:
- (a) a member of the party, or
 - (b) a person or entity (including an industrial organisation) for affiliation with the party,

is taken to be a gift to the party for the purposes of this section.

Note. Unless details of any such subscription are required to be disclosed because it is a reportable political donation of or above \$1,000, the total amount of subscriptions and other details are required to be disclosed under section 92 (4).

- (3A) The following dispositions of property are taken to be a gift for the purposes of this section:

- (a) a disposition of property to a NSW branch of a party from the federal branch of the party,
- (b) a disposition of property to a NSW branch of a party from another State or Territory branch of the party,
- (c) a disposition of property from a party to another associated party (whether associated because of common membership, coalition arrangements or otherwise).

Note. Any such disposition will be a political donation that is required to be disclosed and subject to the cap on political donations under this Part, but will not be subject to the cap to the extent that it is paid into (or held as the assets of) an account of a party that is used only for the purposes of expenditure incurred for federal election campaigns or local government election campaigns—see section 95B (2).

- (3B) Uncharged interest on a loan to an entity or other person is taken to be a gift to the person for the purposes of this section. Uncharged interest is the additional amount that would have been payable by the person if:

- (a) the loan had been made on terms requiring the payment of interest at the generally prevailing interest rate for a loan of that kind, and
- (b) any interest payable had not been waived, and
- (c) any interest payments were not capitalised.

- (4) The following are not political donations:

- (a) a gift to an individual that was made in a private capacity to the individual for his or her personal use and that the individual has not used, and does not intend to use, solely or substantially for a purpose related to an election or to his or her duties as an elected member,
- (b) a payment under Part 5 (Public funding of election campaigns) or Part 6A (Political Education Fund).

Note. Even though an election funding payment to a group or candidate is not a donation required to be disclosed, the amount is required to be paid into the

separate campaign account that is established for donations to and electoral expenditure by the group or candidate—see section 77 (2A).

- (5) However, if any part of a gift referred to in subsection (4) (a) is subsequently used to incur electoral expenditure, that part of the gift becomes a political donation.

86 Meaning of “reportable political donation”

- (1) For the purposes of this Act, a *reportable political donation* is:
- (a) in the case of disclosures under this Part by a party, elected member, group, candidate or third-party campaigner—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group, candidate or third-party campaigner, or
 - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000 made by the major political donor to or for the benefit of a party, elected member, group, candidate or third-party campaigner.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate, third-party campaigner or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

87 Meaning of “electoral expenditure” and “electoral communication expenditure”

- (1) For the purposes of this Act, *electoral expenditure* is expenditure for or in connection with promoting or opposing, directly or indirectly, a party or the election of a candidate or candidates or for the purpose of influencing, directly or indirectly, the voting at an election.

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- (2) For the purposes of this Act, *electoral communication expenditure* is electoral expenditure of any of the following kinds:
- (a) expenditure on advertisements in radio, television, the Internet, cinemas, newspapers, billboards, posters, brochures, how-to-vote cards and other election material,
 - (b) expenditure on the production and distribution of election material,
 - (c) expenditure on the Internet, telecommunications, stationery and postage,
 - (d) expenditure incurred in employing staff engaged in election campaigns,
 - (e) expenditure incurred for office accommodation for any such staff and candidates (other than for the campaign headquarters of a party or for the electorate office of an elected member),
 - (f) such other expenditure as may be prescribed by the regulations as electoral communication expenditure,
- but is not electoral expenditure of the following kinds:
- (g) expenditure on travel and travel accommodation,
 - (h) expenditure on research associated with election campaigns,
 - (i) expenditure incurred in raising funds for an election or in auditing campaign accounts,
 - (j) such other expenditure as may be prescribed by the regulations as not being electoral communication expenditure.
- (3) Electoral expenditure (and electoral communication expenditure) does not include:
- (a) expenditure incurred substantially in respect of an election of members to a Parliament other than the NSW Parliament, or
 - (b) expenditure on factual advertising of:
 - (i) meetings to be held for the purpose of selecting persons for nomination as candidates for election, or
 - (ii) meetings for organisational purposes of parties, branches of parties or conferences, committees or other bodies of parties or branches of parties, or
 - (iii) any other matter involving predominantly the administration of parties or conferences, committees or other bodies of parties or branches of parties.

Note. Division 2B caps electoral communication expenditure during a State election campaign (and Part 5 limits public funding for such expenditure at State election campaigns to part of that capped amount). Division 2 (section 93) requires disclosure of the above electoral expenditure incurred at any time for State and local government elections. Section 96N also requires the annual

disclosure under this Part by a party of donations and electoral expenditure to be accompanied by an audited annual financial statement of the party.

Division 2 Disclosure of political donations and electoral expenditure

88 Disclosures required to be made

(1) Parties, members, groups and candidates

Disclosure is required under this Part of political donations received or made, and electoral expenditure incurred, by or on behalf of the following during the relevant disclosure period:

- (a) a party (whether or not a registered party),
- (b) an elected member,
- (c) a group,
- (d) a candidate.

(1A) Third-party campaigners

Disclosure is required under this Part of:

- (a) electoral communication expenditure incurred by a third-party campaigner in a capped expenditure period during the relevant disclosure period, and
- (b) political donations received by the third-party campaigner during the relevant disclosure period for the purposes of incurring that expenditure.

(2) Major political donors

Disclosure is required under this Part of reportable political donations made by a major political donor who has, during the relevant disclosure period, made a reportable political donation of or exceeding \$1,000.

(3) Single declaration of disclosures by party and its members

The regulations may provide for a single declaration of disclosures by an agent of a party relating to the party and to elected members and candidates (and groups of candidates) who are members of the party. The disclosures relating to the party and to each member, candidate or group are to be separately identified.

- (4) Disclosure is required even if the entity or person has ceased to be a party, elected member, candidate or group (as the case requires) at the time the disclosure is required to be made, so long as the entity or person was a party, elected member, candidate or group at any time during the relevant disclosure period.

Note. See section 84 (2) for extension of disclosure and other requirements to individuals who accept donations before they nominate or register as candidates or groups.

89 Relevant disclosure period

- (1) For the purposes of this Part, the *relevant disclosure period* is each 12-month period ending on 30 June.
- (2) In the case of a candidate, the first relevant disclosure period for the candidate registered for an election (the current election) includes the period commencing on:
 - (a) if the candidate was registered at any time in the Register of Candidates for the previous general election—the 31st day after polling day for that previous general election, or
 - (b) if the candidate was registered at any time in the Register of Candidates for a by-election (not being the current election) following the previous general election—the 31st day after polling day for that by-election, or
 - (c) the day that is 12 months before the day on which the candidate was nominated for election at the current election,whichever first occurs, but not including a period during which he or she was an elected member.

Note. The transitional provisions (Part 5 of Schedule 2) make special provision for the first relevant disclosure period.

90 Person responsible for making disclosures

The person who is responsible for making a disclosure required under this Part is as follows:

- (a) in the case of a party—the party agent,
- (b) in the case of an elected member—the official agent of the member,
- (c) in the case of a group or candidate—the official agent of the group or candidate,
- (d) in the case of a third-party campaigner—the official agent of the third-party campaigner,
- (e) in the case of a major political donor—the political donor.

91 When and how disclosures to be made

- (1) Disclosures under this Part are to be made within 8 weeks after the end of each relevant disclosure period (or within such other period as may be prescribed by the regulations).

Note. Unless otherwise prescribed, disclosures are to be made before 26 August for the period ending on 30 June in that year. See section 96L for the

extension of the due date for making disclosures in particular cases, and section 96M for the amendment of disclosures that have been made.

- (2) Disclosures are to be made in a declaration lodged with the Authority in the form and manner approved by the Authority (except as provided by this section).
- (3) A particular political donation is not required to be disclosed in such a declaration if the disclosure of the donation has been made on a website maintained by the Authority for that purpose, but only if:
 - (a) the donation is of a category that is authorised to be so disclosed according to the directions on that website, and
 - (b) the disclosure is made in accordance with those directions.The regulations may make provision with respect to any such website.
- (4) A declaration lodged under this section is to contain a statement to the effect that all disclosures required to be made in relation to the relevant disclosure period have been made.
- (5) A declaration is required to be lodged under this section even if it does not contain any disclosures (unless all the disclosures required to be made have been made under subsection (3) on the website maintained by the Authority).
- (5A) Disclosures by a third-party campaigner who is also a major political donor in a relevant disclosure period may be made in a single declaration.
- (6) Disclosures in a declaration lodged under this section, or made on a website maintained by the Authority, are required to be vouched for in the manner prescribed by the regulations.

Note. Sections 110 and 110A contain investigative powers to enable the Authority to investigate compliance with the disclosure requirements under this Part.

92 Political donations required to be disclosed

(1) General

Political donations are to be disclosed in accordance with this section.

(2) Reportable political donations

Disclosure of reportable political donations is to include disclosure of the following details of each such donation made during the relevant disclosure period:

- (a) the party, elected member, group or candidate to or for whose benefit the donation was made (or, if the case requires, the third-party campaigner to whom the donation was made),

- (b) the date on which the donation was made,
- (c) the name of the donor,
- (d) the residential address of the donor (in the case of an individual) or the address of the registered or other official office of the donor (in the case of an entity),
- (e) the amount of the donation,
- (f) in the case of a donor that is an entity and not an individual—the relevant business number of the entity referred to in section 96D.

(3) **Small donations**

Disclosure of political donations (that are not reportable political donations) is to include disclosure of:

- (a) the total amount of those donations during the relevant disclosure period, and
- (b) the total number of persons who made those donations.

This subsection does not apply to disclosures by third-party campaigners or major political donors.

(4) **Annual party membership or affiliation subscriptions**

Disclosure by a party of political donations is to include disclosure of:

- (a) the total amount of annual or other subscriptions paid to the party by members or affiliates of the party during the relevant disclosure period, and
- (b) each subscription rate, and
- (c) the number of members who paid the subscriptions at each such rate.

Disclosure of any such subscription is not required if it is disclosed as a reportable political donation.

(5) **Fund-raising ventures or functions**

Disclosure of political donations is to include, in connection with fund-raising ventures or functions during the relevant disclosure period:

- (a) either the net or gross proceeds of each such venture or function (together with a disclosure as to whether the amount is the net or gross proceeds), and
- (b) details of each such venture or function (including a brief description of its nature and the date on which or period in which it was held),

but not including any amount of those proceeds that is separately disclosed as a political donation.

(6) **Loans**

Disclosure of reportable political donations is to include disclosure of the amount and lender of any reportable loan under section 96G.

(7) **Discretionary disclosures**

Details of a political donation may be disclosed under this Part even if they are not required to be disclosed under this section.

93 Electoral expenditure required to be disclosed

- (1) All electoral expenditure is required to be disclosed under this Part (whether or not it is incurred during the capped expenditure period for an election).
- (2) The obligation under this Part to disclose any such expenditure of a party in relation to any period can be complied with by lodging with the Authority a copy of a return furnished to the Electoral Commission by the agent of the party under section 314AB of the *Commonwealth Electoral Act 1918* of the Commonwealth in respect of that period.

94 Separate disclosures not required of same item

- (1) An item disclosed under this Part in relation to an elected member need not be also disclosed in the member's capacity as a candidate or as a member of a group, and an item disclosed under this Part in relation to a candidate or a group that includes the candidate need not be also disclosed in the candidate's capacity as an elected member.
- (2) An item disclosed under this Part in relation to a group need not be also disclosed in relation to a member of the group, and an item disclosed under this Part in relation to a candidate need not be also disclosed in relation to the group of which the candidate is a member.

95 Public access to disclosures, expenditure etc

- (1) The Authority is to publish on a website maintained by the Authority the disclosures of reportable political donations and electoral expenditure under this Part (and other information it considers relevant).
- (2) The disclosures are to be published on the website as soon as practicable after the due date for the making of the disclosures.
- (3) The Authority may decline to publish on the website any disclosure of political donations by a major political donor that the Authority has reason to suspect is vexatious, false or misleading.
- (4) Copies of disclosures made in a declaration under this Part are to be kept by the Authority for at least 6 years after the period to which they relate and are to be available for public inspection during ordinary office hours.

- (5) The Authority may, on application made to it and the payment of a reasonable fee determined by the Authority, provide copies of or extracts from any such disclosures kept by the Authority.

Division 2A Caps on political donations for State elections

95AA Application to State elections only

- (1) This Division does not apply to donations in relation to local government elections and elected members of councils.
- (2) Accordingly, a reference in this Division:
- (a) to an election is a reference that relates to a State election, and
 - (b) to an elected member or to a candidate or other person is a reference that relates to a member of Parliament or to a candidate or other person in connection with a State election.

95A Applicable cap on political donations

(1) **General cap**

The applicable cap on political donations is as follows:

- (a) \$5,000 for political donations to or for the benefit of a registered party,
- (b) \$2,000 for political donations to or for the benefit of a party that is not a registered party,
- (c) \$2,000 for political donations to or for the benefit of an elected member,
- (d) \$5,000 for political donations to or for the benefit of a group,
- (e) \$2,000 for political donations to or for the benefit of a candidate,
- (f) \$2,000 for political donations to or for the benefit of a third-party campaigner.

(2) **Aggregation of donations during financial year**

A political donation of or less than an amount specified in subsection (1) made by an entity or other person is to be treated as a donation that exceeds the applicable cap on political donations if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or third-party campaigner within the same financial year would, if aggregated, exceed the applicable cap on political donations referred to in subsection (1).

(3) **Aggregation of donations to elected members, groups or candidates of same party**

A political donation of or less than an amount specified in subsection (1) made by an entity or other person to an elected member, group or candidate is to be treated as a donation that exceeds the applicable cap on political donations if that and other separate political donations made by that entity or person to elected members, groups or candidates of the same party within the same financial year would, if aggregated, exceed the applicable cap on political donations referred to in subsection (1).

(4) **Non-aggregation of contributions to candidate's own campaign**

For the avoidance of doubt, a candidate's contribution to finance his or her own election campaign is not a political donation and is not included in the applicable cap on political donations to the candidate.

Note. Political donations in relation to separately registered parties that are in coalition or otherwise associated are not aggregated and, accordingly, the applicable cap applies separately in relation to each such registered party.

(5) **Indexation of capped amounts**

Each of the amounts referred to in subsection (1) is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.

(6) **Meaning of candidates etc of same party**

For the purposes of this section, elected members, groups and candidates are of the same party if the same party endorsed the elected members, members of the group or candidates at the last election (including any subsequent by-election) or are to be endorsed by the same party at the next election. If any such person ceases to be a member of that party after being elected or endorsed as a candidate, the person ceases to be of the same party for the purposes of this section.

95B Prohibition on political donations that exceed applicable cap

(1) **General prohibition**

It is unlawful (subject to this section) for a person to accept a political donation to a party, elected member, group, candidate or third-party campaigner if the donation exceeds the applicable cap on political donations.

(2) **Exception—federal or local government campaign donations**

It is not unlawful for a person to accept a political donation that exceeds the applicable cap if the donation (or that part of the donation that exceeds the applicable cap) is to be paid into (or held as an asset of) an account kept exclusively for the purposes of federal or local government election campaigns.

(3) A political donation of property (not being money) that is held as an asset of an account kept for federal or local government election campaigns ceases to be excluded by subsection (2) from the prohibition under this section if the proceeds of the disposal of the property are paid into any other account.

(4) **Exception for third-party campaigner**

It is not unlawful for a person to accept a political donation to a third-party campaigner that exceeds the applicable cap if the donation (or that part of the donation that exceeds the applicable cap) is not to be paid into (or held as an asset of) the campaign account of the third-party campaigner under section 96AA.

(5) **Defence—aggregation**

If a political donation to a person exceeds the applicable cap because of the aggregation of political donations made to other persons, the acceptance of the donation is not unlawful if the person did not know and could not reasonably have known of the political donations made to the other persons.

(6) **Donors required to disclose related corporation donors**

It is unlawful for an individual to make a political donation on behalf of a corporation that is related to another corporation (referred to in section 84 (6)) that has made a political donation to the same party, elected member, group, candidate or third-party campaigner in the same financial year unless the individual complies with the requirements of the regulations relating to the disclosure to the person accepting the donation of particulars of the other corporation and its political donations.

(7) **Transitional—donations before 1 January 2011**

In calculating whether a political donation made after 1 January 2011 exceeds the applicable donation cap, a political donation made at any time after 30 June 2010 is to be taken into account as a donation made during the 2010–2011 financial year.

95C Prohibition on donations to more than 3 third-party campaigners

- (1) It is unlawful for a person to make or accept political donations to more than 3 third-party campaigners in the same financial year.
- (2) This section applies only to a political donation to a third-party campaigner that is to be paid into (or held as an asset of) the campaign account of the third-party campaigner under section 96AA.
- (3) A political donation to a third-party campaigner in contravention of this section is not unlawful if the person making or accepting the donation

did not know and could not reasonably have known of the political donations to which this section applies made to the other third-party campaigners.

95D Exemption from donation cap for party subscriptions and party levies

- (1) A party subscription paid to a party is to be disregarded for the purposes of this Division, except so much of the amount of the subscription as exceeds the relevant maximum subscription under subsection (3).
- (2) A *party subscription* is:
 - (a) an annual or other subscription paid to the party by a member of the party, or
 - (b) an annual or other subscription paid to the party by an entity or other person (including an industrial organisation) for affiliation with the party.
- (3) For the purposes of this section:
 - (a) the maximum subscription in respect of membership of a party is \$2,000, and
 - (b) the maximum subscription in respect of affiliation with a party is:
 - (i) if the amount of the subscription is not calculated by reference to the number of members of the affiliate—\$2,000, or
 - (ii) if the amount of the subscription is calculated by reference to the number of members of the affiliate—\$2,000 multiplied by the number of those members of the affiliate.
- (4) A party levy paid to a party by an elected member endorsed by the party is to be disregarded for the purposes of this Division.

Note. Bequests are not donations for the purposes of this Part (see definition of *gift* in section 84) and accordingly are not subject to the political donation cap.

Division 2B Caps on electoral communication expenditure for State election campaigns

95E Application to State elections only

- (1) This Division does not apply in relation to local government elections.
- (2) Accordingly, a reference in this Division:
 - (a) to an election is a reference to a State election, and
 - (b) to a candidate or other person is a reference that relates to a candidate or other person in connection with a State election.

95F Applicable caps on electoral communication expenditure on State election campaigns

(1) **General**

The applicable caps on electoral communication expenditure for a State election campaign are as provided by this section, as modified by section 95G.

(2) **Parties with Assembly candidates in a general election**

For a State general election, the applicable cap for a party that endorses candidates for election to the Assembly is \$100,000 multiplied by the number of electoral districts in which a candidate is so endorsed.

(3) Subsection (2) does not apply to a party that endorses candidates in a group for election to the Council and endorses candidates for election to the Assembly in not more than 10 electoral districts.

Note. The total cap for a party that endorses candidates in all 93 electorates at a general election is \$9.3 million.

(4) **Other parties with Council candidates in a general election**

For a State general election, the applicable cap for a party that endorses candidates in a group for election to the Council, but does not endorse any candidates for election to the Assembly or does not endorse candidates in more than 10 electoral districts, is \$1,050,000.

(5) **Independent groups of candidates in Council general elections**

For a periodic Council election, the applicable cap for a group of candidates who are not endorsed by any party is \$1,050,000.

(6) **Party candidates in Assembly general election**

For a State general election, the applicable cap for a candidate endorsed by a party for election to the Assembly is \$100,000.

(7) **Independent candidates in Assembly general election**

For a State general election, the applicable cap for a candidate not endorsed by any party for election to the Assembly is \$150,000.

(8) **Non-grouped candidates in Council general election**

For a periodic Council election, the applicable cap for a candidate who is not included in a group is \$150,000.

(9) **Candidates in Assembly by-election**

For a by-election for the Assembly, the applicable cap for a candidate (whether or not endorsed by a party) is \$200,000.

(10) **Third-party campaigners**

For a State general election, the applicable cap for a third-party campaigner is:

- (a) \$1,050,000 if the third-party campaigner was registered under this Act before the commencement of the capped expenditure period for the election, or
- (b) \$525,000 in any other case.

(11) For a by-election for the Assembly, the applicable cap for a third-party campaigner is \$20,000 for each by-election.

(12) **Additional cap for individual Assembly seats**

The applicable cap for parties and third-party campaigners is subject to an additional cap (within the overall applicable cap) in relation to State general elections, or by-elections in more than one electorate, for electoral communication expenditure incurred substantially for the purposes of the election in a particular electorate, being:

- (a) in the case of a party—\$50,000 in respect of each such electorate, or
- (b) in the case of a third-party campaigner—\$20,000 in respect of each such electorate.

(13) For the purposes of subsection (12), electoral communication expenditure is only incurred for the purposes of the election in a particular electorate if the expenditure is for advertising or other material that:

- (a) explicitly mentions the name of a candidate in the election in that electorate or the name of the electorate, and
- (b) is communicated to electors in that electorate, and
- (c) is not mainly communicated to electors outside that electorate.

(14) **Indexation of capped amounts**

Each of the amounts referred to in this section is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.

95G Aggregation of applicable caps

- (1) For the purposes of this section, registered parties are *associated* if:
 - (a) they endorse the same candidate for a State election, or
 - (b) they endorse candidates included in the same group in a periodic Council election, or

- (c) they form a recognised coalition and endorse different candidates for a State election or endorse candidates in different groups in a periodic Council election.

(2) **Aggregation of expenditure of associated parties**

If 2 or more registered parties are associated:

- (a) the amount of \$100,000 of electoral communication expenditure in respect of any electoral district in which there are candidates endorsed by the associated parties is, for the purpose of calculating the applicable cap on electoral communication expenditure by those parties under section 95F (2), to be shared by those parties (and is not a separate amount for each of those parties), and
- (b) the amount of \$1,050,000 of electoral communication expenditure in respect of any group of candidates endorsed by those parties is, for the purpose of calculating the applicable cap on electoral communication expenditure by those parties under section 95F (4), to be shared by those parties (and is not a separate amount for each of those parties).

(3) **Aggregation of expenditure of multiple endorsed candidates in Assembly electorate**

The amount of \$100,000 of electoral communication expenditure in respect of an election in an electoral district in which there are 2 or more candidates endorsed by the same party (or by associated parties) is, for the purpose of calculating the applicable cap on electoral communication expenditure by the candidates under section 95F (6), to be shared by those candidates (and is not a separate amount for each of those candidates).

(4) **Aggregation of expenditure of parties and endorsed Council candidates**

Electoral communication expenditure incurred by a party for a State election campaign that is of or less than the amount specified in section 95F for the party (as modified by subsection (2) in the case of associated parties) is to be treated as expenditure that exceeds the applicable cap if that expenditure and any other electoral communication expenditure incurred by a candidate for election to the Council who is endorsed by the party (or associated party) exceed the applicable cap so specified for the party.

(5) **Aggregation of expenditure of endorsed candidates and parties for Assembly by-elections**

Electoral communication expenditure incurred by a candidate endorsed by a party for an Assembly by-election campaign that is of or less than

the amount specified in section 95F for the candidate is to be treated as expenditure that exceeds the applicable cap if that expenditure and any other electoral communication expenditure incurred by the party (or by any associated party) for that by-election exceed the applicable cap so specified for the candidate.

95H Capped expenditure period

The applicable cap on electoral communication expenditure for a State election applies to electoral communication expenditure during each of the following periods (the *capped expenditure period*):

- (a) in the case of the first general election to be held in 2011—the period from and including 1 January 2011 to the end of polling day for the election,
- (b) in the case of a subsequent general election to be held following the expiry of the Legislative Assembly by the effluxion of time—the period from and including 1 October in the year before which the election is to be held to the end of polling day for the election,
- (c) in any other case—the period from and including the day of the issue of the writ or writs for the election to the end of polling day for the election.

95I Prohibition on incurring electoral communication expenditure exceeding applicable cap during State campaigns

- (1) It is unlawful for a party, group, candidate or third-party campaigner to incur electoral communication expenditure for a State election campaign during the capped expenditure period for the election if it exceeds the applicable cap on electoral communication expenditure.
- (2) If the electoral communication expenditure of any party, group, candidate or third-party campaigner is less than the applicable cap, the balance is not transferrable so as to increase the applicable cap of any other party or person.
- (3) The applicable cap for a candidate or group of candidates is for electoral communication expenditure directed at the election of the candidate or group.

95J When is electoral communication expenditure incurred

- (1) For the purposes of this Division, electoral communication expenditure is taken to be incurred when the services for which the expenditure is incurred are actually provided or the goods for which the expenditure is incurred are actually delivered.
- (2) In particular:

- (a) expenditure on advertising is incurred when the advertising is broadcast or published, and
- (b) expenditure on the production and distribution of election material is incurred when the material is distributed, and
- (c) expenditure on the employment of staff is incurred during the period of their employment, and
- (d) expenditure of a class prescribed by the regulations is incurred at the time so prescribed.

Division 3 Management of donations and expenditure

96 Requirements for parties

- (1) It is unlawful for political donations to a party to be used otherwise than for the objects and activities of the party, including the administration of the party and community activities.
- (2) In particular, it is unlawful for political donations to be used for the personal use of an individual acting in a private capacity.
- (3) It is unlawful for a party to make payments for electoral expenditure for a State election campaign unless the payment is made from the State campaign account of the party kept in accordance with this section.
- (4) The State campaign account of a party is to be a separate account with a bank, credit union, building society or other entity prescribed by the regulations.
- (5) The following may be paid into the State campaign account of a party:
 - (a) political donations made to the party after 1 January 2011 (including the proceeds of the investment or disposal of any political donation of property after that date that is held as an asset of the account),
 - (b) payments made to the party under Part 5 at any time,
 - (c) money borrowed by the party at any time,
 - (d) a bequest to the party,
 - (e) money belonging to the party on 1 January 2011 (including the proceeds of the investment or disposal of any other property belonging to the party on or before that date),
 - (f) any other money of a kind that is prescribed by the regulations for the purposes of this subsection.
- (6) However, the following may not be paid into the State campaign account of a party:

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- (a) a party subscription referred to in section 95D, other than any amount that exceeds the maximum subscription referred to in that section and that constitutes a political donation to the party,
 - (b) any amount of a political donation to the party that exceeds the applicable cap on political donations to the party under Division 2A,
 - (c) any money paid to the party under Part 6A,
 - (d) any other money of a kind that is prescribed by the regulations for the purposes of this subsection.
- (7) This section does not prevent payments being made out of the State campaign account that are in addition to the payments for electoral expenditure referred to in subsection (3).

96A Requirements for political donations to, and electoral expenditure by, elected member, group or candidate

- (1) It is unlawful for political donations to an elected member to be accepted unless:
 - (a) the member has an official agent, and
 - (b) the donations are made to that agent.
- (2) It is unlawful for political donations to a group or candidate to be accepted unless:
 - (a) the group or candidate is registered under this Act, and
 - (b) the group or candidate has an official agent, and
 - (c) the donations are made to that agent.
- (3) It is unlawful for political donations to an elected member, group or candidate to be used to incur electoral expenditure or reimburse a person for incurring electoral expenditure unless:
 - (a) the donations were paid by the official agent into a campaign account of the member, group or candidate kept in accordance with section 96B, and
 - (b) the payment for that electoral expenditure is made by that agent from that campaign account.
- (4) Subject to the regulations, a person (other than an elected member or candidate) may be appointed in writing by an official agent to accept political donations to be made to the official agent or to make payments for electoral expenditure from a campaign account by the official agent, or both.
- (5) It is unlawful for an elected member to make payments for electoral expenditure for their own election or re-election unless the payments are

made from their campaign account kept in accordance with section 96B. The guidelines of the Authority may exclude minor payments from the operation of this subsection.

- (5A) It is unlawful for a candidate or group to make payments for electoral expenditure for their own election or re-election unless the group or candidate is registered under this Act and the payments are made from their campaign account kept in accordance with section 96B. The guidelines of the Authority may exclude minor payments from the operation of this subsection.
- (6) It is unlawful for political donations to an elected member, group or candidate to be used otherwise than:
- (a) to incur electoral expenditure or reimburse a person for incurring electoral expenditure, or
 - (b) for any other purpose authorised by this Act.
- Note.** See section 96B (5).
- (7) Despite anything to the contrary in this section, it is not unlawful for an elected member, group or candidate to accept political donations and incur electoral expenditure without a campaign account if:
- (a) the political donations are not reportable political donations and the total amount of those donations for the election period does not exceed \$1,000, or
 - (b) the political donations are not reportable political donations and the total amount of electoral expenditure for the election period does not exceed \$1,000, or
 - (c) the regulations authorise the member, group or candidate to do so.

The election period includes the period ending 30 days after the polling day for the election and also includes the period commencing 30 days after polling day for the previous general election for the State or local government area, as the case requires.

Note. See also section 49 which provides for the candidate to be his or her own official agent when a campaign account is not required. Disclosure of political donations and electoral expenditure is still required even if a campaign account is not required under this subsection.

96AA Requirements for third-party campaigners

- (1) It is unlawful for a third-party campaigner to make payments for electoral communication expenditure incurred during a capped expenditure period, or to accept political donations for the purposes of incurring that expenditure, unless:
- (a) the third-party campaigner is registered under this Act, and

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- (b) the third-party campaigner has an official agent, and
 - (c) the payments are made by, and the donations are made to, that agent.

Note. Section 38C prevents registration of third-party campaigners in the period of 7 days before any State election.

- (2) It is unlawful for third-party campaigners to make payments for any such electoral communication expenditure, or to use political donations for any such purpose, unless:
 - (a) the payments for that expenditure are made by the official agent of the third-party campaigner from a campaign account of the third-party campaigner kept in accordance with this section, and
 - (b) the donations were paid by the official agent into the campaign account of the third-party campaigner kept in accordance with this section.
- (3) Subject to the regulations, a person may be appointed in writing by the official agent of a third-party campaigner to make payments for electoral communication expenditure from a campaign account by the official agent or to accept political donations to be made to the official agent, or both.
- (4) The campaign account of a third-party campaigner is to be a separate account with a bank, credit union, building society or other entity prescribed by the regulations.
- (5) The following may not be paid into the campaign account of a third-party campaigner:
 - (a) any amount of a political donation to the third-party campaigner that exceeds the applicable cap on political donations to the campaigner under Division 2A,
 - (b) any other amount of a kind that is prescribed by the regulations.
- (6) This section does not prevent payments being made out of the campaign account of the third-party campaigner that are in addition to the payments for electoral communication expenditure referred to in this section.

96B Campaign accounts of elected members, groups or candidates

- (1) The campaign account of an elected member, group or candidate is to be a separate account with a bank, credit union, building society or other entity prescribed by the regulations.
- (2) The official agent for the time being of the elected member, group or candidate to whom the account belongs is to be authorised to operate the account, and that member, group or candidate is not to operate the account.

- (3) A single account may be kept for a number of elected members, groups or candidates with the same official agent if the funds of (and relevant transactions relating to) each member, group or candidate are accounted for separately. This subsection has effect despite subsection (1) but subject to the regulations under subsection (7).
- (4) In addition to political donations, money may be paid into a campaign account by the elected member, group or candidate to whom the account belongs. In that case, the amount paid and the terms on which the payment was made are to be disclosed in the relevant declaration lodged under this Part for the period in which the amount was paid.
- Note.** Section 77 (2A) requires election funding payments under Part 5 for a candidate or group to be paid into the relevant campaign account.
- (5) Payments out of a campaign account may only be made:
- (a) for the purposes of electoral expenditure incurred by or on behalf of the elected member, group or candidate to whom the account belongs, or
 - (b) with the approval of the elected member, group or candidate to whom the account belongs, for the purposes of lawful expenditure referred to in section 96 incurred by or on behalf of the party of which they are a member, or
 - (c) to reimburse the elected member, group or candidate for money paid into the account by the member, group or candidate, or
 - (d) for the purpose of the elected member, group or candidate to whom the account belongs to make political donations to elected members, groups or candidates who are members of the same party, or
 - (e) for the purposes of expenditure incurred in connection with parliamentary or council duties of the person to whom the account belongs or in connection with community activities.
- (6) Any amount remaining in a campaign account after the elected member, group or candidate to whom the account belongs ceases to be an elected member, group or candidate and no longer requires the account is to be paid:
- (a) to any party of which any such person was a member at the time the person last became an elected member or last contested an election to become an elected member, or
 - (b) in the case of a group—to the campaign accounts (if any) belonging to the candidates who were members of the group (the amount being divided equally among the candidates), or

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- (c) subject to paragraphs (a) and (b)—to a charity nominated by the person or by the Authority (if the person cannot be contacted after due inquiry).
 - (7) The regulations may make provision for or with respect to campaign accounts (including the control of accounts, the keeping of joint accounts and the provision of information to and the audit of accounts by the Authority).

96C Person accepting reportable political donations to record details

- (1) It is unlawful for a person to accept a reportable political donation that is required to be disclosed under this Part unless the person:
 - (a) makes a record of the details required to be disclosed under this Part in relation to the donation, and
 - (b) provides a receipt for the donation (being a receipt that includes a statement required by the regulation as to the circumstances in which the donor is obliged to disclose the donation under this Part).

Note. Section 96I (2) requires the above record to be kept for at least 3 years.

- (2) This section does not apply to a political donation that is not a reportable political donation at the time it is made.

Note. Political donations of less than \$1,000 may become reportable political donations if separate donations by the same person in the same financial year exceed \$1,000.

Division 4 Prohibition of certain political donations etc**96D Restrictions on persons from whom donations can be accepted**

- (1) It is unlawful for a political donation to a party, elected member, group, candidate or third-party campaigner to be accepted unless the donor is:
 - (a) an individual who is enrolled on the roll of electors for State elections, the roll of electors for federal elections, or the roll of electors for a local government election, or
 - (b) an entity that has a relevant business number.
- (2) A relevant business number is:
 - (a) an Australian Business Number (ABN), or
 - (b) any other number allocated or recognised by the Australian Securities and Investments Commission for the purposes of identifying the entity.

96E Prohibition on certain indirect campaign contributions

- (1) It is unlawful for a person to make any of the following indirect campaign contributions to a party, elected member, group or candidate:
- (a) the provision of office accommodation, vehicles, computers or other equipment for no consideration or inadequate consideration for use solely or substantially for election campaign purposes,
 - (b) the full or part payment by a person other than the party, elected member, group or candidate of electoral expenditure for advertising or other purposes incurred or to be incurred by the party, elected member, group or candidate (or an agreement to make such a payment),
 - (c) the waiving of all or any part of payment to the person by the party, elected member, group or candidate of electoral expenditure for advertising incurred or to be incurred by the party, elected member, group or candidate,
 - (d) any other goods or services of a kind prohibited by the regulations.

Electoral expenditure for advertising is taken to be incurred by a party, elected member, group or candidate if the advertising is authorised by the party, elected member, group or candidate.

- (2) It is unlawful for a person to accept any such indirect campaign contribution.
- (3) However, an *indirect campaign contribution* prohibited by this section does not include:
- (a) the provision of volunteer labour or the incidental or ancillary use of vehicles or equipment of volunteers or other things authorised by the guidelines of the Authority, or
 - (b) anything provided or done by a party for the candidates endorsed by the party in accordance with arrangements made by the party agent of the party, or
 - (c) anything provided or done whose value as a gift does not exceed \$1,000 unless the total value of all such things provided or done by the same person over the same financial year (ending 30 June) exceeds \$1,000, or
 - (d) a payment under Part 5 or 6A, or
 - (e) any other thing of a kind permitted by the regulations.

96EA Prohibition on political donations by parties etc to independent candidates

- (1) It is unlawful for a party (or a candidate or elected member endorsed by a party) to make a political donation to a candidate, or a group of candidates, not endorsed by that or any other party.
- (2) It is unlawful for such a candidate or candidates to accept the political donation.

96F Prohibition on receiving gifts of unknown source

It is unlawful for a person to accept a reportable political donation that is required to be disclosed under this Part unless:

- (a) the name and address of the person who made the donation are known to the person accepting the donation, and
- (b) when the donation is made, the person making the donation gives to the person accepting the donation his or her name and address, and the person accepting the donation has no grounds to believe that the name and address so given are not the true name and address of the person making the donation.

96G Prohibition on receiving loans unless details recorded

- (1) It is unlawful for a person to receive a reportable loan (other than a loan from a financial institution), unless the person makes a record of the following:
 - (a) the terms and conditions of the loan,
 - (b) the name and address of the entity or other person making the loan.
- (2) A *reportable loan* is a loan that, if it had been a gift, would be a reportable political donation that is required to be disclosed under this Part.
- (3) For the purposes of this section:
 - (a) separate loans made by one entity or other person to the same party, elected member, group, candidate or person within a relevant disclosure period are to be aggregated and treated as a single loan, and
 - (b) each transaction in which credit is provided by the use of a credit card is taken to be a separate loan.
- (4) In this section:
financial institution means an entity whose principal business is the provision of financial services or financial products, and includes a

bank, credit union, building society or other entity prescribed by the regulations.

loan means an advance of money, the provision of credit or any other transaction that in substance effects a loan of money.

Division 4A Prohibition of property developer donations

96GAA Meaning of “prohibited donor”

For the purposes of this Division, a *prohibited donor* is:

- (a) a property developer, or
- (b) a tobacco industry business entity, or
- (c) a liquor or gambling industry business entity,

and includes any industry representative organisation if the majority of its members are such prohibited donors.

96GA Political donations by prohibited donors unlawful

- (1) It is unlawful for a prohibited donor to make a political donation.
- (2) It is unlawful for a person to make a political donation on behalf of a prohibited donor.
- (3) It is unlawful for a person to accept a political donation that was made (wholly or partly) by a prohibited donor or by a person on behalf of a prohibited donor.
- (4) It is unlawful for a prohibited donor to solicit another person to make a political donation.
- (5) It is unlawful for a person to solicit another person on behalf of a prohibited donor to make a political donation.

Note. Section 96I makes it an offence to do any act knowing that it is unlawful under this Division. Section 96J also provides for the recovery by the Authority of unlawful political donations.

96GB Meaning of “property developer”, “tobacco industry business entity” and “liquor or gambling industry business entity”

- (1) Each of the following persons is a *property developer* for the purposes of this Division:
 - (a) a corporation engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the corporation in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit,

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- (b) a person who is a close associate of a corporation referred to in paragraph (a).
- (2) Any activity engaged in by a corporation for the dominant purpose of providing commercial premises at which the corporation or a related body corporate of the corporation will carry on business is to be disregarded for the purpose of determining whether the corporation is a property developer unless that business involves the sale or leasing of a substantial part of the premises.
- (2A) Each of the following persons is a ***tobacco industry business entity***:
- (a) a corporation engaged in a business undertaking that is mainly concerned with the manufacture or sale of tobacco products,
- (b) a person who is a close associate of a corporation referred to in paragraph (a).
- (2B) Each of the following persons is a ***liquor or gambling industry business entity***:
- (a) a corporation engaged in a business undertaking that is mainly concerned with either or a combination of the following, but only if it is for the ultimate purpose of making a profit:
- (i) the manufacture or sale of liquor products,
- (ii) wagering, betting or other gambling (including the manufacture of machines used primarily for that purpose), or
- (b) a person who is a close associate of a corporation referred to in paragraph (a).
- (3) In this section:
- close associate*** of a corporation means each of the following:
- (a) a director or officer of the corporation or the spouse of such a director or officer,
- (b) a related body corporate of the corporation,
- (c) a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person,
- (d) if the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled security—the other stapled entity in relation to that stapled security,
- (e) if the corporation is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust).

officer has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

related body corporate has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

relevant planning application has the same meaning as in section 147 (Disclosure of political donations and gifts) of the *Environmental Planning and Assessment Act 1979*.

spouse of a person includes a de facto partner of that person.

Note. “De facto partner” is defined in section 21C of the *Interpretation Act 1987*.

stapled entity means an entity the interests in which are traded along with the interests in another entity as stapled securities and (in the case of a stapled entity that is a trust) includes any trustee, manager or responsible entity in relation to the trust.

voting power has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

96GC Loans included as political donations

(1) A loan that, if it had been a gift, would be a political donation is to be regarded as a political donation for the purposes of this Division unless the loan is from a financial institution.

(2) In this section:

financial institution means an entity whose principal business is the provision of financial services or financial products, and includes a bank, credit union, building society or other entity prescribed by the regulations.

loan means an advance of money, the provision of credit or any other transaction that in substance effects a loan of money.

96GD Exception for membership contributions

An annual or other subscription paid to a party by an individual as a member of the party or for the individual’s affiliation with the party is not a political donation for the purposes of this Division unless it is a reportable political donation.

Note. A political donation of \$1,000 or more is a reportable political donation—see section 86.

96GE Determination by Authority that person not a prohibited donor

(1) A person (**the applicant**) may apply to the Authority for a determination by the Authority that the applicant or another person is not a prohibited donor for the purposes of this Division.

(2) The Authority is authorised to make such a determination if the Authority is satisfied that it is more likely than not that the person is not

a prohibited donor. The Authority is to make its determination solely on the basis of information provided by the applicant.

- (3) The Authority's determination remains in force for 12 months after it is made but can be revoked by the Authority at any time by notice in writing to the applicant.
- (4) The Authority's determination is conclusively presumed to be correct in favour of any person for the purposes of a political donation that the person makes or accepts while the determination is in force (even if the determination is subsequently found to be incorrect).
- (5) The Authority's determination is not presumed to be correct in favour of any person who makes or accepts a political donation knowing that information provided to the Authority in connection with the making of the determination was false or misleading in a material particular.
- (6) The Authority is to maintain a public register of the determinations made under this section and is to publish the register on a website maintained by the Authority.
- (7) A person who provides information to the Authority in connection with an application for a determination by the Authority under this section knowing that the information is false or misleading in a material particular is guilty of an offence.
Maximum penalty: 200 penalty units or imprisonment for 12 months, or both.
- (8) The Authority may establish and publicise policies as to how the Authority will deal with applications for determinations under this section.

Division 5 Miscellaneous

96H Offences relating to disclosures

- (1) A person who is required to lodge a declaration under section 91 but who fails to do so within the time required by this Part is guilty of an offence.
Maximum penalty: 200 penalty units.
- (2) A person who makes a statement:
 - (a) in a declaration or other disclosure under this Part, or
 - (b) in a request under this Part for an extension of the due date for making the disclosure,that the person knows is false, or that the person does not reasonably believe is true, is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 12 months, or both.

- (3) An elected member, member of a group, candidate or third-party campaigner who, in relation to a matter required to be disclosed under this Part by the official agent of the elected member, group, candidate or third-party campaigner, gives or withholds information to or from the agent knowing that it will result in the making of a false statement in a disclosure or request under this Part by the agent is guilty of an offence.

Maximum penalty: 200 penalty units.

96HA Offences relating to caps on donations and expenditure

- (1) A person who does any act that is unlawful under Division 2A or 2B is guilty of an offence if the person was, at the time of the act, aware of the facts that result in the act being unlawful.
- (2) A person who makes a donation with the intention of causing the donation to be accepted in contravention of Division 2A is guilty of an offence.

Maximum penalty: In the case of a party, 200 penalty units or in any other case, 100 penalty units.

96I Other offences

- (1) A person who does any act that is unlawful under Division 3, 4 or 4A is guilty of an offence if the person was, at the time of the act, aware of the facts that result in the act being unlawful.
- (2) A person who fails to keep for at least 3 years:
 - (a) a record made by the person under section 96C relating to a reportable political donation, or
 - (b) any other record that is required by the regulations to be kept by the person for that period,is guilty of an offence.

Maximum penalty: In the case of a party, 200 penalty units or in any other case, 100 penalty units.

96J Recovery of unlawful donations etc

- (1) If a person accepts a political donation, loan or indirect campaign contribution that is unlawful because of this Part, an amount equal to the amount or value of the donation, loan or contribution (or double that amount if that person knew that it was unlawful) is payable by that person to the State and may be recovered by the Authority as a debt due to the State from:

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- (a) in the case of a donation, loan or contribution received by a party that is a body corporate—the party, or
 - (b) in the case of a donation, loan or contribution received by a party that is not a body corporate—the party agent of the party, or
 - (c) in any other case—the person who received the donation, loan or contribution or the official agent of the person.
- (2) This section extends to a political donation that would be unlawful under this Part but for section 95B (5) or 95C (3).

96K Audit certificate

- (1) A declaration of disclosures under this Part (other than a declaration lodged by a major political donor) is to be accompanied by a certificate of an auditor stating:
- (a) that the auditor was given full and free access at all reasonable times to all accounts and documents of the agent responsible for lodging the declaration and of the party, elected member, group, candidate or third-party campaigner (as the case requires) relating directly or indirectly to any matter required to be disclosed under this Part, and
 - (b) that the auditor duly examined such of those accounts and documents as the auditor considered material for the purposes of giving the certificate, and
 - (c) that the auditor received all information and explanations that the auditor asked for with respect to any matter required to be set out in the declaration, subject to the qualifications (if any) specified in the certificate, and
 - (d) that the auditor has no reason to think that any statement in the declaration is not correct.
- (2) Subsection (1) does not apply to a declaration lodged in relation to a group, candidate or third-party campaigner if the regulations exempt, or the Authority waives, compliance with the audit requirement for the disclosure.
- (3) The Authority may waive compliance with the audit requirement in any of the following cases:
- (a) where the declaration contains a statement to the effect that no political donations were received and no electoral expenditure was incurred,
 - (b) where the group, candidate or third-party campaigner to whom the declaration relates is not eligible to receive a payment under Part 5,

- (c) where the Authority considers the cost of compliance would be unreasonable.
- (4) Such a waiver is at the discretion of the Authority, and may be made before or after the disclosure is made.
- (5) The Authority may revoke the waiver at any time. Revocation does not affect the validity of a declaration already lodged, unless the required certificate of an auditor is not forwarded to the Authority within the time specified by the Authority.
- (6) A declaration that is required by this section to be accompanied by a certificate is not duly lodged under this Part unless it is accompanied by the certificate.

96L Extension of due date for making disclosures

- (1) A person who is required to lodge a declaration of disclosures under this Part but who is unable to lodge a complete declaration by the due date may, before that date, request the Authority to extend the due date for lodging the declaration.
- (2) The Authority may, if satisfied that there is good cause to do so, extend the due date for the lodging of the declaration to a date that the Authority considers appropriate in the circumstances.
- (3) The due date for lodging a declaration cannot be extended or further extended under this section by more than 8 weeks in total.
- (4) The Authority may, as a condition of extending the due date, require the person to lodge a declaration containing disclosures that the person is in a position to make at that time.

96M Amendment of disclosures

- (1) The person who lodged a declaration under this Part (or that person's successor as the agent of the party, elected member, group, candidate or third-party campaigner concerned) may amend the declaration by lodging an amended declaration with the Authority.
- (2) The obligations under section 95 (Public access to disclosures, expenditure etc) and section 96K (Audit certificate) extend to both the original and any amended declaration.
- (3) This section does not affect the liability for an offence in connection with the declaration that is amended.
- (4) In this section:
amend includes alter, omit, add or substitute.
declaration includes a disclosure made in accordance with this Part on the website of the Authority.

96N Annual financial statements of registered parties to accompany disclosures

- (1) A declaration of disclosures by a party under this Part is to be accompanied by a copy of the duly audited annual financial statement of the party in a form approved by the Authority.
- (2) The annual financial statement must set out the following:
 - (a) the total amount received by, or on behalf of, the party during the financial year,
 - (b) the total amount paid by, or on behalf of, the party during the financial year,
 - (c) the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the party,
 - (d) such other details about the amounts (or about particular kinds of the amounts) so received or paid, or debts so incurred, as the regulations require.

97 (Repealed)

Part 6A Administrative and policy development funding

Division 1 Preliminary

97A Application to State members and parties only

- (1) This Part does not apply in relation to councillors.
- (2) Accordingly, a reference in this Part to an elected member (or a party with endorsed elected members) or to an election is a reference that relates to a member of either House of Parliament or to a State election.

97AB (Repealed)

97B Administrative expenditure—payments from Administration Fund

- (1) For the purposes of Division 2, a reference to administrative expenditure is a reference to expenditure for administrative and operating expenses and:
 - (a) includes a reference to the following:
 - (i) expenditure for the administration or management of the activities of the eligible party or elected member,
 - (ii) expenditure for conferences, seminars, meetings or similar functions at which the policies of the eligible party or elected member are discussed or formulated,
 - (iii) expenditure on providing information to the public or a section of the public about the eligible party or elected member,
 - (iv) expenditure on providing information to members and supporters of the eligible party or elected member,
 - (v) expenditure in respect of the audit of the financial accounts of, or claims for payment or disclosures under this Act of, the eligible party or elected member,
 - (vi) expenditure on the remuneration of staff engaged in the above activities for the eligible party or elected member (being the proportion of that remuneration that relates to the time spent on those activities),
 - (vii) expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities),
 - (viii) expenditure on office accommodation for the above staff and equipment,
 - (ix) expenditure on interest payments on loans, but

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- (b) does not include a reference to the following:
- (i) electoral expenditure,
 - (ii) expenditure for which a member may claim a parliamentary allowance as a member,
 - (iii) expenditure incurred substantially in respect of operations or activities that relate to the election of members to a Parliament other than the NSW Parliament,
 - (iv) expenditure prescribed by the regulations.
- (2) The decision of the Authority as to whether any expenditure is or is not administrative expenditure in accordance with this Act, the regulations and the guidelines determined under section 24 is final. The Auditor-General or an auditor is, for the purposes of this Act, entitled to rely on any such decision of the Authority.

97C Policy development expenditure—payments from Policy Development Fund

- (1) For the purposes of Division 3, a reference to policy development expenditure:
- (a) includes a reference to the following:
 - (i) expenditure for providing information to the public or a section of the public about the eligible party,
 - (ii) expenditure for conferences, seminars, meetings or similar functions at which the policies of the eligible party are discussed or formulated,
 - (iii) expenditure on providing information to members and supporters of the eligible party,
 - (iv) expenditure in respect of the audit of the financial accounts of, or claims for payment or disclosures under this Act of, the eligible party,
 - (v) expenditure on the remuneration of staff engaged in the above activities for the eligible party (being the proportion of that remuneration that relates to the time spent on those activities),
 - (vi) expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities),
 - (vii) expenditure on office accommodation for the above staff and equipment,
 - (viii) expenditure on interest payments on loans, but
 - (b) does not include a reference to the following:

- (i) electoral expenditure,
 - (ii) expenditure incurred substantially in respect of activities that relate to the election of members to a Parliament other than the NSW Parliament,
 - (iii) expenditure prescribed by the regulations.
- (2) The decision of the Authority as to whether any expenditure is or is not policy development expenditure in accordance with this Act, the regulations and the guidelines determined under section 24 is final. The Auditor-General or an auditor is, for the purposes of this Act, entitled to rely on any such decision of the Authority.

Division 2 Administrative funding for parties and independent members

97D Establishment of Administration Fund

- (1) There is to be an Administration Fund to be kept by the Authority in respect of parties and elected members.
- (2) Payments from the Administration Fund are to be distributed in accordance with this Division.

97E Public funding of eligible parties for administrative expenditure

- (1) Parties are, subject to and in accordance with this Act, eligible for annual payments, on a calendar year basis, from the Administration Fund.
- (2) A party is eligible for payments from the Administration Fund if:
 - (a) it was a registered party on polling day for the previous State election and continues to be a registered party on the date that the entitlement for an annual payment is determined under this Division, and
 - (b) candidates endorsed by the party were elected at the State election and the Authority is satisfied that the elected members claimed to be endorsed by the party, and
 - (c) the Authority is satisfied that the elected members continue to be members or representatives of the party on the date that the entitlement for an annual payment is determined under this Division.
- (3) The annual amount to be distributed from the Administration Fund to any such eligible party is the amount of actual administrative expenditure incurred by or on behalf of the party during the calendar year to which the payment relates, but not exceeding:
 - (a) \$80,000 for each elected member endorsed by the party, or

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- (b) \$2,000,000,
whichever is the lesser.
 - (4) The number of endorsed elected members of a party in relation to any annual payment is to be determined as at the date that the entitlement for an annual payment is determined under this Division.
 - (5) Each of the amounts referred to in this section is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.

97F Public funding of Independent members for administrative expenditure

- (1) Elected members are, subject to and in accordance with this Act, eligible for annual payments, on a calendar year basis, from the Administration Fund.
- (2) An elected member is eligible for payments from the Administration Fund if:
 - (a) the elected member was not an endorsed candidate of any party at the State election at which the member was elected, and
 - (b) the Authority is satisfied that the elected member is not a member or representative of any party on the date that the entitlement for an annual payment is determined under this Division.
- (3) The annual amount to be distributed from the Administration Fund to any such eligible elected member is the amount of actual administrative expenditure incurred by or on behalf of the elected member during the calendar year to which the payment relates, but not exceeding \$80,000.
- (4) The amount referred to in subsection (3) is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.

97G Parties with the same endorsed elected members

- (1) If the Authority is satisfied that 2 or more registered parties endorsed the same elected members for the State election at which they were elected and that the members each claim to be endorsed by those parties:
 - (a) those parties are taken, for the purposes of this Division, to constitute one registered party instead of 2 or more registered parties in relation to those elected members, and
 - (b) the amount that would otherwise be payable from the Administration Fund to that one registered party in respect of the election is payable instead to those 2 or more registered parties as shared funding.
- (2) An amount payable to 2 or more parties as shared funding is payable to them:
 - (a) in equal shares, or

- (b) in such other shares as the party agents of those parties agree on and as are specified in a direction in writing (a *shared funding direction*) signed by them and served on the Authority.
- (3) If a registered party would, but for this subsection, be entitled to be paid 2 or more amounts by virtue of subsection (1), the party is entitled to be paid only one of those amounts, being the largest amount.
- (4) A shared funding direction remains effective until revoked by the party agents of the parties concerned and notice in writing of the revocation is served on the Authority.

Division 3 Policy development funding for parties not entitled to administrative funding

97H Establishment of Policy Development Fund

- (1) There is to be a Policy Development Fund to be kept by the Authority in respect of parties that are not eligible for payments from the Administration Fund.
- (2) Payments from the Policy Development Fund are to be distributed in accordance with this Division.

97I Public funding of eligible parties for policy development expenditure

- (1) Parties that are not eligible for payments from the Administration Fund are, subject to and in accordance with this Act, eligible for annual payments, on a calendar year basis, from the Policy Development Fund.
- (2) A party is eligible for payments from the Policy Development Fund if:
 - (a) it is a registered party and has been a registered party for at least 12 months on the date the entitlement for an annual payment is determined under this Division, and
 - (b) the Authority is satisfied that it operates as a genuine political party, and
 - (c) it is not entitled to payments from the Administration Fund.
- (3) The annual amount to be distributed from the Policy Development Fund to any such eligible party is the amount of actual policy development expenditure incurred by or on behalf of the party during the calendar year to which the payment relates, but not exceeding the relevant maximum amount of payment in relation to the party.
- (4) The relevant maximum amount of an annual payment in relation to an eligible party is the amount of 25 cents for each first preference vote received by any candidate at the previous State election who was endorsed by the party, being either:

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- (a) votes received by any such candidate at the previous Assembly general election, or
 - (b) votes received by any such candidate (or any candidate included in the same group) at the previous periodic Council election.

The relevant maximum amount is zero if no such first preference votes were received.

- (5) Despite subsection (4), the relevant maximum amount is \$5,000 if the amount referred to in subsection (4) is less than \$5,000, but only:
 - (a) during the first 8 calendar years after the commencement of this Division in the case of a party that was a registered party on that commencement, or
 - (b) during the first 8 calendar years after a party first becomes a registered party after that commencement.
- (6) The amounts referred to in subsections (4) and (5) are adjustable amounts that are to be adjusted for inflation as provided by Schedule 1.

Division 4 General provisions relating to funding

97J Claims for payment

- (1) A party or elected member is entitled to receive a payment under this Part for a calendar year only if the party or member makes a claim for the payment in accordance with this Division.
- (2) A claim must:
 - (a) be lodged with the Authority and be in writing, and
 - (b) be accompanied by a declaration and such information as the Authority may require under this Division, and
 - (c) be made within 6 months after the end of the calendar year for which payment is to be made.
- (3) Entitlement to payments under this Part are to be determined as at the end of the calendar year for which the payment is to be made.
- (4) Payments under this Part are to be made to the agent of the party or elected member concerned.

97K Declarations etc by agents

- (1) An agent of any party or elected member who makes a claim for a payment under this Part is required to make such declarations and provide such information (accompanied by a certificate of an auditor) as the Authority may require in connection with the payment.

- (2) The Authority is to make available to members of the public for inspection the contents of any declaration, certificate or other information it receives under this section.

97L Payments conditional on compliance with other obligations under this Act

- (1) A party or elected member is not eligible for any payment under this Part while any failure to lodge a requisite declaration (or annual financial statement) under Part 6 for a past period continues in respect of the party or member.
- (2) If the Authority is authorised under section 96J to recover from a party or elected member (or from the official agent of the party or member) an amount relating to the unlawful acceptance of a political donation or other amount, the Authority may deduct the amount from any payment under this Part.

97M False statements

- (1) A person who, in any claim lodged with the Authority for a payment under this Part or in any declaration under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence.
- (2) A person who, in relation to any matter to be included in a claim or declaration under this Part, gives or withholds giving information to the party or agent knowing that it will result in the making of a false or misleading claim or declaration in whole or in part is guilty of an offence.

Maximum penalty: 100 penalty units.

Part 7 Financial provisions

98 Appropriation of Consolidated Fund for election funding

There shall be paid from the Consolidated Fund, from time to time, such amounts as are necessary to meet the amount of any payments to be made in accordance with Part 5 or 6A and the Consolidated Fund is to the necessary extent hereby appropriated accordingly.

99 Funding of other expenses

- (1) Expenditure incurred in the administration or execution of this Act (other than payments referred to in section 98 and subsection (2)) shall be deemed to be expenses lawfully incurred under and in the execution of the *Parliamentary Electorates and Elections Act 1912*.
- (2) Expenditure incurred in connection with research referred to in section 25, and the engaging of consultants to assist the Authority, shall be met from money provided by Parliament.

100 Money received by Authority

Any money received or recovered by the Authority shall be paid to the Consolidated Fund.

101 Financial year of the Authority

The financial year of the Authority shall be:

- (a) where no period is prescribed as referred to in paragraph (b)—the year commencing on 1 July, or
- (b) the period (not exceeding 2 years) prescribed for the purposes of this section.

102, 103 (Repealed)

Part 8 Miscellaneous

104 Shortened references to Authority

In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the “Election Funding Authority” shall be read and construed as a reference to the Election Funding Authority of New South Wales.

105 Proof of certain matters not required

In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of:

- (a) the constitution of the Authority,
- (b) any resolution of the Authority,
- (c) the appointment of or holding of office by any member, or
- (d) the presence or nature of a quorum at any meeting of the Authority.

106 Extensions of time

- (1) The Authority may, in any particular case, extend the time for doing anything under this Act, if it is satisfied that proper reasons exist justifying the extension.
- (2) Subsection (1) has effect notwithstanding any other provision of this Act, and whether or not the time for doing the thing under any such provision has expired.

107 Reports to Parliament

- (1) A reference in this section to a reporting period is a reference to each year ending on 30 June or to such other periods (each not exceeding 2 years) as the Governor may from time to time determine.
- (2) As soon as practicable after, but within 3 months after, each reporting period, the Authority shall prepare and forward to the President of the Council and the Speaker of the Assembly a report of its work and activities for that reporting period.
- (2A) The Authority is required to include in the reports required by subsection (2) statistical information about the use of its enforcement powers under this Act.
- (3) The Authority may prepare and forward to the President of the Council and the Speaker of the Assembly reports of its work and activities for such periods and at such times as the Authority thinks fit, in addition to the reports required by subsection (2).

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- (4) The President of the Council shall cause each such report to be laid before the Council as soon as practicable after the receipt by the President of the report.
 - (5) The Speaker of the Assembly shall cause each such report to be laid before the Assembly as soon as practicable after the receipt by the Speaker of the report.

108 (Repealed)

109 Certain persons not to be auditors

An elected member, a candidate, a party agent or an official agent, or a person appointed to any office or position under the *Parliamentary Electorates and Elections Act 1912*, is not qualified to perform any action as an auditor for the purposes of Part 5 or 6.

110 Inspection

- (1) In this section:
bankers' books means books of a bank, building society or credit union, or cheques, orders for the payment of money, bills of exchange or promissory notes in the possession or under the control of a bank, building society or credit union.
inspector means a person:
 - (a) who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service, or
 - (b) who is not so employed but is subject to the control and direction of the Authority in relation to any function under this section, and who is appointed by the Authority as an inspector for the purposes of this section.
- (2) For the purpose of ascertaining whether this Act is being or has been contravened, an inspector may:
 - (a) inspect or make copies of, or take extracts from, any records kept by or on behalf of, or any bankers' books so far as they relate to, a party, elected member, group or candidate or agent for a party, elected member, group or candidate or a former party, elected member, group, candidate or agent, and
 - (b) enter at any reasonable time any place at which the inspector has reasonable grounds for believing that any such records or bankers' books are kept.
- (3) For the purpose of and in connection with an inspection under subsection (2), an inspector may:

- (a) request any person employed or engaged at any place entered pursuant to that subsection to produce to the inspector such records or, as the case may be, such bankers' books, relating to a party, elected member, group, candidate or agent or former party, elected member, group, candidate or agent as are in the custody or under the control of the person so employed or engaged,
 - (b) examine with respect to matters under this Act any person employed or engaged at any place so entered, and
 - (c) make such examination and inquiries as the inspector thinks fit for the purpose of ascertaining whether this Act is being or has been contravened.
- (4) A person shall not:
- (a) refuse or intentionally delay the admission to any place of an inspector in the exercise by the inspector of his or her powers under this section,
 - (b) intentionally obstruct an inspector in the exercise by the inspector of any such power, or
 - (c) fail to comply with a request of an inspector made under any such power.
- Penalty: 100 penalty units.
- (5) Every inspector shall be provided with a certificate of his or her appointment, and on applying for admission to any place where the inspector is empowered by this section to enter, shall, if requested to do so, produce the certificate to the occupier of the place.
- (6)–(8) (Repealed)

110A Power to require provision of documents and information

- (1) The Authority may, by notice in writing to a person, require the person:
- (a) to provide such information as the Authority reasonably requires for the purposes of the enforcement of this Act, or
 - (b) to produce to the Authority, at the place and time specified in the notice, any document that the Authority reasonably requires for the purposes of the enforcement of this Act, or
 - (c) to answer questions about any matters in respect of which information is reasonably required for the purposes of the enforcement of this Act, or
 - (d) to attend at a specified place and time to answer questions under this section if attendance at that place is reasonably required in order that the questions can be properly put and answered.

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- (2) The place and time at which a person may be required to produce a document, or to attend and answer questions, is to be a place and time nominated by the Authority that is reasonable in the circumstances.
 - (3) A notice under this section that requires a person to produce a document may only require a person to produce existing documents that are in the person's possession or that are within the person's power to obtain lawfully.
 - (4) The Authority may take copies of any documents provided under this section.
 - (5) If the Authority has reason to believe that any documents provided under this section are evidence of an offence against this Act or the regulations, the Authority may retain the documents until proceedings for the offence have been heard and determined.
 - (6) A person who, without reasonable excuse, fails to comply with a requirement made of the person under this section is guilty of an offence.
Maximum penalty: 100 penalty units.
 - (7) A person who provides any document or information, or answers any question, in purported compliance with a requirement made under this section, knowing that the document, information or answer is false or misleading in a material particular, is guilty of an offence.
Maximum penalty: 200 penalty units or imprisonment for 12 months, or both.
 - (8) A function conferred on the Authority by this section may be exercised by any person authorised by the Authority to exercise its functions under this section:
 - (a) who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service, or
 - (b) who is not so employed but is subject to the control and direction of the Authority in relation to any function under this section.

110B Compliance agreements

- (1) The Authority may enter into a written agreement (a ***compliance agreement***) with any person affected by this Act for the purpose of ensuring that the person complies with this Act or remedies an apparent contravention of this Act.
- (2) A person affected by this Act includes a party, a group, an elected member, a candidate and a third-party campaigner.

- (3) A compliance agreement may specify the measures to be taken by the person affected by this Act to ensure that the person complies with this Act or remedies an apparent contravention of this Act.
- (4) A compliance agreement may be varied or terminated by further agreement between the parties.
- (5) The Supreme Court may, on application by the Authority, make a declaration that a person has contravened a compliance agreement, and make ancillary orders to enforce the compliance agreement.
- (6) This section does not affect proceedings for an offence in relation to a contravention of this Act.

111 Proceedings for offences

- (1) Proceedings for an offence against this Act or the regulations may be taken before the Local Court or before the Supreme Court in its summary jurisdiction.
- (2) If proceedings in respect of an offence against this Act or the regulations are brought in the Local Court, the maximum monetary penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, 40 penalty units or the maximum monetary penalty provided by this Act in respect of the offence, whichever is the lesser.
- (3) If proceedings in respect of an offence against this Act or the regulations are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.
- (4) Proceedings in respect of an offence against this Act or the regulations may be commenced within 3 years after the offence was committed and no longer.
- (5) Proceedings in respect of an offence against this Act (section 102 excepted) or the regulations may only be commenced with the consent of the Authority.

111A Penalty notices

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of

the penalty prescribed by the regulations for the offence if dealt with under this section.

- (3) A penalty notice under this section is declared to be a penalty notice for the purposes of the *Fines Act 1996*.
- (4) A penalty notice may be served personally or by post.
- (5) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (6) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (7) The regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (8) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (9) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (10) In this section, *authorised officer* means an inspector within the meaning of section 110.

112 Prosecution of unincorporated bodies

A proceeding in respect of an offence against this Act alleged to be committed by a party that is unincorporated, or in respect of any amount recoverable from such a party under section 71, 71A, 77, 77A, 97I or 97J, may be instituted against an officer or officers of the party as a representative or representatives of the members of the party, and a proceeding so instituted shall be deemed to be a proceeding against all the persons who were members of the party at any relevant time.

113 Recovery of penalties etc from parties

For the purposes of enforcing any judgment or order given or made in a proceeding under this Act against a party that is unincorporated, process

may be issued and executed against any property of the party, or any property in which the party has, or any members of the party have in their capacity as such members, a beneficial interest, whether vested in trustees or however otherwise held, as if the party were a corporation and the absolute owner of the property or interest, but no process shall be issued or executed against any other property of members, or against any property of officers, of the party.

114 Evidence

A certificate signed by the Commissioner or a person authorised generally or specifically by the Commissioner to do so certifying:

- (a) that a specified party, group or candidate was or was not registered in a specified register kept under this Act at a specified time or during a specified period,
- (b) that a specified person was or was not registered as an agent in a specified register kept under this Act at a specified time or during a specified period, or
- (c) that there was no person registered at a specified time or during a specified period as the agent of a specified party, group or candidate,

is admissible in any proceedings and shall be prima facie evidence of the matters so certified.

115 Delegation

- (1) The Authority may, by instrument in writing under seal, delegate to the Chairperson the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Authority by or under this or any other Act as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.
- (2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.
- (4) Notwithstanding any delegation under this section, the Authority may continue to exercise all or any of the functions delegated.
- (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and

effect as if the act or thing had been done or suffered by the Authority and shall be deemed to have been done or suffered by the Authority.

- (6) An instrument purporting to be signed by a delegate of the Authority in his or her capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Authority under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Authority under this section.

116 Transitional provisions

Schedule 2 has effect.

117 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
- (a) requiring the making, keeping and auditing of records of political donations given or received, and electoral expenditure incurred, by parties, elected members, groups, candidates and other persons, and requiring and otherwise providing for the production, examination and copying of those records, and
 - (a1) requiring the agents of parties, elected members, groups or candidates to obtain valuations from a valuer approved by the Authority of political donations that are not gifts of money (or enabling the Authority to obtain any such valuations), and
 - (a2) compliance audits by or on behalf of the Authority in connection with disclosures under Part 6, and
 - (b) the exemption of any class or description of persons, organisations or bodies, or of acts, matters or things, from all or any of the provisions of this Act.
- (2) A regulation may impose a penalty not exceeding 20 penalty units for any contravention thereof.
- (3) A provision of a regulation may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
 - (b) apply differently according to different factors of a specified kind, or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

- (4) The Minister shall, before a regulation is at any time made under this Act, certify to the Governor that the regulation is not unfairly biased against or in favour of any particular parties, elected members, groups, candidates or other persons, bodies or organisations, but nothing in this subsection affects the validity of that or any other regulation.

Schedule 1 **Adjustment for inflation of monetary caps**

1 **Definitions**

In this Schedule:

adjustable amount means an amount that a provision of this Act provides is to be adjusted for inflation under this Schedule.

Consumer Price Index means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

Consumer Price Index number, in relation to a quarter, means the number for that quarter appearing in the Consumer Price Index.

2 **Adjustment of political donation caps**

- (1) Each of the adjustable amounts specified in a provision of Division 2A of Part 6 applies for the first financial year to which the provision applies and is to be adjusted for inflation for subsequent financial years as provided by this clause.
- (2) The adjustable amounts that are to apply for a subsequent financial year are to be determined by multiplying the adjustable amounts that applied for the previous financial year by the annual increase in the Consumer Price Index during that previous financial year.
- (3) The annual increase in the Consumer Price Index during a financial year is to be calculated as B/A where:

A is the Consumer Price Index number for the last quarter for which such a number was published before the start of the financial year.
B is the Consumer Price Index number for the last quarter for which such a number was published before the end of the financial year.
- (4) If B/A is less than 1 (as a result of deflation), B/A is deemed to be 1.
- (5) Before the start of each financial year after the first financial year of the operation of this clause, the Authority is to publish notice on the NSW legislation website and its website of the amount of each adjustable amount for the financial year (as adjusted under this Schedule).

3 **Adjustment of electoral communication expenditure caps**

- (1) Each of the adjustable amounts specified in a provision of Division 2B of Part 6 applies for the first election period that is current when the provision commences and is then to be adjusted for inflation for subsequent election periods as provided by this clause.
- (2) An **election period** is the period between the polling days of successive Assembly general elections.

- (3) The adjustable amounts that are to apply for a subsequent election period are to be determined by multiplying the adjustable amounts that applied for the previous election period by the increase in the Consumer Price Index during that previous election period.
- (4) The annual increase in the Consumer Price Index during an election period is to be calculated as B/A where:
A is the Consumer Price Index number for the last quarter for which such a number was published before the start of the election period.
B is the Consumer Price Index number for the last quarter for which such a number was published before the end of the election period.
- (5) If B/A is less than 1 (as a result of deflation), B/A is deemed to be 1.
- (6) Before the start of each election period after the election period that is current when this clause commences, the Authority is to publish notice on the NSW legislation website and its website of the amount of each adjustable amount for the election period that results from an adjustment under this clause.

4 Adjustment of administrative funding and policy development caps

- (1) Each of the adjustable amounts specified in a provision of Division 2 or 3 of Part 6A applies for the first calendar year to which the provision applies and is to be adjusted for inflation for subsequent calendar years as provided by this clause.
- (2) The adjustable amounts that are to apply for a subsequent calendar year are to be determined by multiplying the adjustable amounts that applied for the previous calendar year by the annual increase in the Consumer Price Index during that previous calendar year.
- (3) The annual increase in the Consumer Price Index during a calendar year is to be calculated as B/A where:
A is the Consumer Price Index number for the last quarter for which such a number was published before the start of the calendar year.
B is the Consumer Price Index number for the last quarter for which such a number was published before the end of the calendar year.
- (4) If B/A is less than 1 (as a result of deflation), B/A is deemed to be 1.
- (5) Before the start of each calendar year after the first calendar year of the operation of this clause, the Authority is to publish notice on the NSW legislation website and on its website of the amount of each adjustable amount for the calendar year (as adjusted under this Schedule).

5 Rounding of adjustments

- (1) If the determination of an adjustable amount for a year or election period under this Schedule results in an amount that is not a whole number multiple of \$100, the amount calculated is to be rounded up to the nearest whole number multiple of \$100 and that amount as so rounded is the adjustable amount for that year or election period.
- (2) In the case of an adjustment of the amount of 25 cents specified in section 97I (4) of this Act, the amount is to be rounded up to the nearest whole number multiple of 0.01 cent if the determination results in an amount that is not a whole number multiple of 0.01 cent.

Schedule 2 Transitional provisions

(Section 116)

Part 1A Regulations

1A Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
Election Funding Amendment (Political Donations and Expenditure) Act 2008
Election Funding and Disclosures Amendment Act 2010
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- (4) The regulations under this clause have effect despite anything to the contrary in this Schedule.

Part 1 Provisions consequent on enactment of this Act

1 Term of office of appointed members and alternates

Each appointed member or alternate first appointed under this Act shall, subject to this Act, hold office:

- (a) from the day appointed and notified under section 2 (2) or from the date the appointment is made, whichever is the later, and
- (b) until the end of the period of 6 months commencing on and including the day for the return of the writs for the next general election.

2 First general election to which Act applies

- (1) If the day appointed and notified under section 2 (3) is later than the day of the issue of the writs for the next general election after that day, this Act does not apply to that election, but applies to the following general election.
- (2) If the day appointed and notified under section 2 (3) occurs during the period of 70 days before the day of the issue of the writs for the first general election to which this Act applies, section 29 (1) shall have no force or effect in relation to that election.
- (3) In relation to the first general election to which this Act applies, references in Part 4 to the polling day for the previous general election shall, except in so far as the Authority otherwise directs, be construed as references to the day appointed and notified under section 2 (3).
- (4) In relation to the first general election to which this Act applies, where the period in respect of which a declaration under Part 6 would, but for this subclause, commence before the day appointed and notified under section 2 (3), the period shall commence on the day so appointed and notified and not at the earlier time.

3 Advance payments

Advance payments may not be made in respect of the first general election to which this Act applies.

4 By-elections

This Act does not apply to any by-elections held or to be held before the first general election to which this Act applies.

Part 2 Provisions consequent on enactment of Election Funding (Amendment) Act 1987**5 Declarations of political contributions**

Section 87 as amended by the *Election Funding (Amendment) Act 1987* applies to and in respect of declarations of political contributions required to be made after the commencement of that Act.

6 Register of Parties

- (1) The Register of Parties kept as from the polling day for the general election held in 1984 shall be the Register of Parties required to be kept under this Act after the commencement of the *Election Funding (Amendment) Act 1987*.

- (2) The amendments made to sections 28 and 29 by the *Election Funding (Amendment) Act 1987* do not apply to the registration of a party effected, or an application to register a party made, before the period of 60 days before the commencement of that Act.

Part 3 Provisions consequent on enactment of Election Funding (Amendment) Act 1991

7 Operation of amendments

- (1) In this clause, *the amendments* means the amendments made by the *Election Funding (Amendment) Act 1991*, other than the amendments made to this Schedule.
- (2) The amendments apply to elections held after the date of assent to the *Election Funding (Amendment) Act 1991*.
- (3) This Act as in force before the date of assent to that Act continues to apply to elections held before that date.
- (4) However, if the date of assent to that Act is later than the day of issue of the writ or writs for the next election held after that day, the amendments do not apply to that election and this Act as in force before the date of assent to that Act applies to it.
- (5) This clause has effect subject to clause 8.

8 Advance payments

- (1) The amendment made to section 69 by the *Election Funding (Amendment) Act 1991* does not apply to advance payments calculated by reference to any previous general election held before the date of assent to that Act.
- (2) Section 69 as in force before the date of assent to the *Election Funding (Amendment) Act 1991* continues to apply to advance payments calculated by reference to any such previous general election.

Part 4 Provisions consequent on the enactment of Election Funding (Amendment) Act 1993

9 Definition

In this Part, *amending Act* means the *Election Funding (Amendment) Act 1993*.

10 Disclosure periods

The amendment made by Schedule 1 (5) to the amending Act does not affect the disclosure period for a party or candidate that has started before, but which finishes after, the commencement of that amendment.

11 Third party disclosures

The amendments made by Schedule 1 (6), (7) (a), (9) (a) and (b), (11), (12) and (16) to the amending Act do not apply to contributions received and expenditure incurred before the commencement of those amendments.

12 Fund-raising events

The amendments made by Schedule 1 (7) (b) and (10) (c) to the amending Act do not apply to contributions or payments made before the commencement of those amendments.

13 Disclosure of political contributions

- (1) The amendments made by Schedule 1 (7) (d)–(g) to the amending Act apply to and in respect of declarations of political contributions required to be made after the commencement of those amendments.
- (2) The amendment made by Schedule 1 (7) (c) to the amending Act does not apply to contributions or payments made before the commencement of that amendment.

14 Annual subscriptions to parties

The amendments made by Schedule 1 (7) (h) and (10) (b) to the amending Act apply to subscriptions paid before the commencement of the amendments in respect of any current disclosure period.

15 Reporting source of gifts

The amendment made by Schedule 1 (8) to the amending Act does not apply to gifts received before the commencement of the amendment.

Part 5 Provisions consequent on enactment of Election Funding Amendment (Political Donations and Expenditure) Act 2008**16 Definitions**

In this Part:

amending Act means the *Election Funding Amendment (Political Donations and Expenditure) Act 2008*.

last disclosure date means:

- (a) in relation to a party registered under the *Parliamentary Electorates and Elections Act 1912* and in relation to State elections—23 April 2007, or
- (b) in relation to a party registered under the *Local Government Act 1993* and in relation to local government elections—the date that is 30 days after the election date for the last ordinary council election.

17 First relevant disclosure period—parties, elected members, groups or candidates

For the purposes of Part 6 of this Act, the first relevant disclosure period in relation to:

- (a) parties, or
- (b) elected members, or
- (c) groups or candidates,

is the period commencing on the day after the last disclosure date and ending on 30 June 2008.

Note. The disclosures for that first relevant disclosure period are to be made, subject to the regulations, within 8 weeks after the end of that period (ie before 26 August 2008). Section 95 (2) requires the Authority to publish the declaration of disclosures for that first relevant disclosure period on the website of the Authority as soon as practicable after that date. Candidates required to make disclosures include persons who have accepted political donations for the 2008 local government elections even if they have not yet nominated for election or registered as a candidate (see section 84 (2)).

18 First relevant disclosure period—major political donors

For the purposes of Part 6 of this Act, the first relevant disclosure period (except where clause 17 applies) is the 6-month period ending on 31 December 2008, and including the period commencing on the day after the last disclosure date and ending at the beginning of that 6-month period.

19 Date on which new requirements for receipt and management of political donations and electoral expenditure have effect

- (1) The requirements of the following provisions do not have effect until 1 August 2008:
 - (a) section 96A (Requirements for political donations to, and electoral expenditure by, elected member, group or candidate),
 - (b) section 96B (Campaign accounts of elected members, groups or candidates),

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- (c) section 96C (Person accepting reportable political donations to record details),
- (d) Division 4 (Prohibition of certain political donations).
- (2) After the date those provisions have effect in relation to a party, elected member, candidate or group, section 96A extends to the use of political donations made before that date to incur electoral expenditure or reimbursing a person for incurring electoral expenditure after that date.
Note. Subclause (2) will operate to require political donations made but not spent before the relevant date for the establishment of campaign accounts to be paid into the relevant campaign account if the money is to be spent on electoral expenditure.
- (3) The Authority may, if satisfied there is good cause to do so, waive compliance with those provisions, in any particular case or class of cases, in relation to matters arising during the period ending on the date that is 30 days after the election date for the ordinary council election in 2008. Any such waiver may be given before or after the date on which the provision is required to be complied with, and may be given subject to any conditions specified by the Authority.

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments

Election Funding, Expenditure and Disclosures Act 1981 No 78 (formerly Election Funding and Disclosures Act 1981 and Election Funding Act 1981). Assented to 2.6.1981. Date of commencement of Part 1, assent, sec 2 (1); date of commencement of Parts 2 and 8, secs 24 and 25 and Sch 2, 17.7.1981, sec 2 (2) and GG No 102 of 17.7.1981, p 3801; date of commencement (Parts 1, 2 and 8, secs 24 and 25 and Sch 2 excepted), 14.8.1981, sec 2 (3) and GG No 115 of 14.8.1981, p 4303. This Act has been amended as follows:

- 1981** No 98 Election Funding (Amendment) Act 1981. Assented to 27.8.1981.
- 1982** No 48 Election Funding (Legislative Assembly) Amendment Act 1982. Assented to 6.5.1982.
Date of commencement, 14.8.1981, sec 2.
- 1983** No 153 Miscellaneous Acts (Public Finance and Audit) Repeal and Amendment Act 1983. Assented to 29.12.1983.
Date of commencement of Sch 2, 6.1.1984, sec 2 (2) and GG No 4 of 6.1.1984, p 19.
- 1984** No 35 Election Funding (Amendment) Act 1984. Assented to 13.6.1984.
No 153 Statute Law (Miscellaneous Amendments) Act 1984. Assented to 10.12.1984.
- 1987** No 48 Statute Law (Miscellaneous Provisions) Act (No 1) 1987. Assented to 28.5.1987.
Date of commencement of Sch 32, except as provided by sec 2 (13), 1.9.1987, sec 2 (12) and GG No 136 of 28.8.1987, p 4809.
No 133 Election Funding (Amendment) Act 1987. Assented to 16.6.1987.
- 1988** No 131 Statute Law (Miscellaneous Provisions) Act (No 3) 1988. Assented to 30.12.1988.
Date of commencement of Sch 7, 3.4.1989, sec 2 (2) and GG No 37 of 31.3.1989, p 1603.

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- 1989** No 34 Public Accountants Registration (Repeal and Amendment) Act 1989. Assented to 10.5.1989.
Date of commencement, 1.7.1989, sec 2 and GG No 81 of 30.6.1989, p 3821.
- 1990** No 111 Constitution and Parliamentary Electorates and Elections (Amendment) Act 1990. Assented to 18.12.1990.
Date of commencement, 29.3.1991, sec 2 and GG No 52 of 28.3.1991, p 2462.
- 1991** No 13 Election Funding (Amendment) Act 1991. Assented to 3.5.1991.
Date of commencement, assent, sec 2.
- No 17 Statute Law (Miscellaneous Provisions) Act 1991. Assented to 3.5.1991.
Date of commencement of the provisions of Sch 1 relating to the Election Funding Act 1981, assent, sec 2.
- 1992** No 112 Statute Law (Penalties) Act 1992. Assented to 8.12.1992.
Date of commencement, assent, sec 2.
- 1993** No 104 Election Funding (Amendment) Act 1993. Assented to 2.12.1993.
Date of commencement, 1.1.1994, sec 2 and GG No 142 of 24.12.1993, p 7415. Amended by Statute Law (Miscellaneous Provisions) Act 1994 No 32. Assented to 2.6.1994. Date of commencement of the provision of Sch 2 relating to the Election Funding (Amendment) Act 1993, assent, Sch 2.
- 1994** No 32 Statute Law (Miscellaneous Provisions) Act 1994. Assented to 2.6.1994.
Date of commencement of the provision of Sch 2 relating to the Election Funding Act 1981, assent, Sch 2.
- No 95 Statute Law (Miscellaneous Provisions) Act (No 2) 1994. Assented to 12.12.1994.
Date of commencement of the provision of Sch 1 relating to the Election Funding Act 1981, assent, Sch 1.
- 1995** No 11 Statute Law Revision (Local Government) Act 1995. Assented to 9.6.1995.
Date of commencement of Sch 1.37, 23.6.1995, sec 2 (1) and GG No 77 of 23.6.1995, p 3279.
- 1996** No 24 Financial Institutions (Miscellaneous Amendments) Act 1996. Assented to 21.6.1996.
Date of commencement, 12.7.1996, sec 2 and GG No 84 of 12.7.1996, p 3984.
- 1997** No 55 Statute Law (Miscellaneous Provisions) Act 1997. Assented to 2.7.1997.
Date of commencement of Sch 3, 3 months after assent, sec 2 (3).

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- No 147 Statute Law (Miscellaneous Provisions) Act (No 2) 1997. Assented to 17.12.1997.
Date of commencement of Sch 3, 3 months after assent, sec 2 (3).
- 1999** No 53 Election Funding Amendment Act 1999. Assented to 22.11.1999.
Date of commencement, assent, sec 2.
- No 85 Statute Law (Miscellaneous Provisions) Act (No 2) 1999. Assented to 3.12.1999.
Date of commencement of Sch 2.14, assent, sec 2 (2).
- 2001** No 34 Corporations (Consequential Amendments) Act 2001. Assented to 28.6.2001.
Date of commencement of Schs 1.2, 2.12 and 4.15, 15.7.2001, sec 2 (1) and Commonwealth Gazette No S 285 of 13.7.2001.
- No 121 Justices Legislation Repeal and Amendment Act 2001. Assented to 19.12.2001.
Date of commencement of Sch 2, 7.7.2003, sec 2 and GG No 104 of 27.6.2003, p 5978.
- 2002** No 101 Election Funding Amendment Act 2002. Assented to 29.11.2002.
Date of commencement, assent, sec 2.
- 2006** No 2 Public Sector Employment Legislation Amendment Act 2006. Assented to 13.3.2006.
Date of commencement, 17.3.2006, sec 2 and GG No 35 of 17.3.2006, p 1378.
- No 68 Parliamentary Electorates and Elections Amendment Act 2006. Assented to 5.10.2006.
Date of commencement of Sch 19.6, 20.10.2006, sec 2 and GG No 124 of 20.10.2006, p 8781.
- No 75 Election Funding Amendment Act 2006. Assented to 27.10.2006.
Date of commencement, 10.11.2006, sec 2 and GG No 135 of 10.11.2006, p 9494.
- 2007** No 27 Statute Law (Miscellaneous Provisions) Act 2007. Assented to 4.7.2007.
Date of commencement of Sch 2, assent, sec 2 (2).
- No 94 Miscellaneous Acts (Local Court) Amendment Act 2007. Assented to 13.12.2007.
Date of commencement of Sch 2, 6.7.2009, sec 2 and 2009 (314) LW 3.7.2009. Amended by Statute Law (Miscellaneous Provisions) Act (No 2) 2008 No 114. Assented to 10.12.2008. Date of commencement of Sch 2.17, assent, sec 2 (2).

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- 2008** No 43 Election Funding Amendment (Political Donations and Expenditure) Act 2008. Assented to 30.6.2008.
Date of commencement, 10.7.2008, sec 2 and GG No 86 of 10.7.2008, p 6857.
- 2009** No 113 Election Funding and Disclosures Amendment (Property Developers Prohibition) Act 2009. Assented to 14.12.2009.
Date of commencement, assent, sec 2.
- 2010** No 19 Relationships Register Act 2010. Assented to 19.5.2010.
Date of commencement of Sch 3, assent, sec 2 (2).
- No 95 Election Funding and Disclosures Amendment Act 2010. Assented to 16.11.2010.
Date of commencement, 1.1.2011, sec 2.
- No 119 Statute Law (Miscellaneous Provisions) Act (No 2) 2010. Assented to 29.11.2010.
Date of commencement of Sch 2, 7.1.2011, sec 2 (2).

This Act has also been amended pursuant to an order under sec 9A of the *Reprints Act 1972* No 48. Order dated 7.5.1985 and published in GG No 80 of 10.5.1985, p 2040.

Table of amendments

No reference is made to certain amendments made by Schedule 3 (amendments replacing gender-specific language) to the *Statute Law (Miscellaneous Provisions) Act 1997* and the *Statute Law (Miscellaneous Provisions) Act (No 2) 1997*.

Long title	Am 2008 No 43, Sch 1 [1].
Sec 1	Am 2008 No 43, Sch 1 [2]; 2010 No 95, Sch 1 [1].
Sec 3	Rep 1991 No 13, Sch 1 (1).
Sec 4	Am 1984 No 153, Sch 16; 1987 No 133, Sch 1 (1); 1989 No 34, Sch 1; 1990 No 111, Sch 3 (1); 1993 No 104, Sch 1 (1); 2001 No 34, Sch 2.12; 2006 No 68, Sch 19.6 [1]; 2007 No 27, Sch 2.15; 2008 No 43, Sch 1 [3]–[6]; 2010 No 95, Schs 1 [2], 2 [1] [2], 3 [1]–[5].
Sec 9	Am 1991 No 17, Sch 1; 1995 No 11, Sch 1.37 [1].
Sec 13	Am 1987 No 48, Sch 32; 1991 No 17, Sch 1; 1995 No 11, Sch 1.37 [2]; 2006 No 68, Sch 19.6 [2].
Sec 22	Am 2006 No 2, Sch 4.15 [1].
Sec 23	Am 1993 No 104, Sch 1 (2); 2008 No 43, Sch 1 [7]; 2010 No 95, Sch 3 [6] [7].
Sec 24	Am 2008 No 43, Sch 1 [8]; 2010 No 95, Sch 3 [8].

Sec 25	Am 2008 No 43, Sch 1 [9].
Part 4, Div 1	Rep 1990 No 111, Sch 3 (2). Ins 2008 No 43, Sch 1 [10].
Sec 26	Am 1987 No 133, Sch 1 (2). Rep 1990 No 111, Sch 3 (2). Ins 2008 No 43, Sch 1 [10]. Am 2010 No 95, Sch 3 [9].
Sec 27	Rep 1990 No 111, Sch 3 (2). Ins 2008 No 43, Sch 1 [10].
Sec 28	Am 1987 No 133, Sch 1 (3). Rep 1990 No 111, Sch 3 (2).
Sec 29	Am 1987 No 133, Sch 1 (4). Rep 1990 No 111, Sch 3 (2).
Sec 30	Am 1987 No 133, Sch 1 (5). Rep 1990 No 111, Sch 3 (2).
Sec 31	Am 2008 No 43, Sch 1 [11].
Sec 32A	Ins 2010 No 95, Sch 3 [10].
Sec 33	Am 2008 No 43, Sch 1 [12] [13].
Sec 35	Am 2006 No 68, Sch 19.6 [3] [4]; 2008 No 43, Sch 1 [14] [15].
Sec 38	Am 1992 No 112, Sch 1.
Part 4, Div 2A (secs 38A–38F)	Ins 2010 No 95, Sch 3 [11].
Sec 39	Am 2008 No 43, Sch 1 [16].
Sec 41	Am 1992 No 112, Sch 1; 2008 No 43, Sch 1 [17].
Sec 45	Am 2010 No 95, Sch 3 [12].
Sec 46	Am 2008 No 43, Sch 1 [18] [19]. Subst 2010 No 95, Sch 3 [13].
Secs 46A–46C	Ins 2010 No 95, Sch 3 [13].
Sec 47	Am 2008 No 43, Sch 1 [20].
Sec 49	Am 2008 No 43, Sch 1 [21]. Rep 2010 No 95, Sch 3 [14].
Sec 51	Am 2008 No 43, Sch 1 [22]–[24]; 2010 No 95, Sch 3 [15].
Sec 52	Am 2008 No 43, Sch 1 [25].
Sec 54	Am 1992 No 112, Sch 1.
Part 5	Subst 2010 No 95, Sch 2 [3].
Part 5, Div 1	Subst 2010 No 95, Sch 2 [3].
Sec 54A	Ins 2008 No 43, Sch 1 [26]. Subst 2010 No 95, Sch 2 [3].
Sec 54B	Ins 2010 No 95, Sch 2 [3].
Sec 55	Subst 2010 No 95, Sch 2 [3].
Part 5, Div 2	Subst 2010 No 95, Sch 2 [3].
Sec 56	Subst 2010 No 95, Sch 2 [3].

Sec 57	Am 1988 No 131, Sch 7 (1); 1990 No 111, Sch 3 (3); 1999 No 53, Sch 1. Subst 2010 No 95, Sch 2 [3].
Sec 58	Subst 2010 No 95, Sch 2 [3].
Sec 59	Am 1981 No 98, Sch 1; 1987 No 133, Sch 1 (6); 1990 No 111, Sch 3 (4); 1991 No 13, Sch 1 (2); 2008 No 43, Sch 1 [27]. Subst 2010 No 95, Sch 2 [3].
Sec 60	Am 1990 No 111, Sch 3 (5); 1991 No 13, Sch 1 (3). Subst 2010 No 95, Sch 2 [3].
Sec 61	Am 1990 No 111, Sch 3 (6); 1991 No 13, Sch 1 (4). Subst 2010 No 95, Sch 2 [3].
Secs 62, 63	Subst 2010 No 95, Sch 2 [3].
Part 5, Div 3	Subst 2010 No 95, Sch 2 [3].
Sec 64	Subst 2010 No 95, Sch 2 [3].
Sec 65	Am 1990 No 111, Sch 3 (7); 1991 No 13, Sch 1 (5). Subst 2010 No 95, Sch 2 [3].
Secs 66, 67	Subst 2010 No 95, Sch 2 [3].
Sec 68	Am 2002 No 101, Sch 1 [1]. Subst 2010 No 95, Sch 2 [3].
Sec 69	Am 1990 No 111, Sch 3 (8); 1991 No 13, Sch 1 (6); 2002 No 101, Sch 1 [2]. Subst 2010 No 95, Sch 2 [3].
Secs 70, 71	Subst 2010 No 95, Sch 2 [3].
Sec 71A	Ins 1993 No 104, Sch 1 (3). Rep 2010 No 95, Sch 2 [3].
Sec 72	Subst 2010 No 95, Sch 2 [3].
Sec 73	Am 1982 No 48, sec 3; 1988 No 131, Sch 7 (2); 1990 No 111, Sch 3 (9). Subst 2010 No 95, Sch 2 [3].
Sec 73A	Ins 1991 No 13, Sch 1 (7). Rep 2010 No 95, Sch 2 [3].
Sec 74	Am 1984 No 35, sec 2; 1994 No 95, Sch 1; 2006 No 75, Sch 1 [1]; 2008 No 43, Sch 1 [28]. Subst 2010 No 95, Sch 2 [3].
Sec 75	Subst 2010 No 95, Sch 2 [3].
Part 5, Div 4	Rep 2010 No 95, Sch 2 [3].
Part 5, Div 6	Rep 2010 No 95, Sch 2 [3].
Part 5, Div 7	Rep 2010 No 95, Sch 2 [3].
Sec 76	Rep 2010 No 95, Sch 2 [3].
Sec 76A	Ins 2002 No 101, Sch 1 [3]. Am 2008 No 43, Sch 1 [29]. Rep 2010 No 95, Sch 2 [3].
Sec 77	Am 1992 No 112, Sch 1; 1996 No 24, Sch 1.33 [1]; 2008 No 43, Sch 1 [30] [31]. Rep 2010 No 95, Sch 2 [3].

Sec 77A	Ins 1991 No 13, Sch 1 (8). Am 2002 No 101, Sch 1 [4]. Rep 2010 No 95, Sch 2 [3].
Sec 78	Subst 2008 No 43, Sch 1 [32]. Rep 2010 No 95, Sch 2 [3].
Secs 79–81	Rep 2010 No 95, Sch 2 [3].
Sec 82	Am 1992 No 112, Sch 1; 1993 No 104, Sch 1 (4); 2008 No 43, Sch 1 [33]. Rep 2010 No 95, Sch 2 [3].
Part 6	Subst 2008 No 43, Sch 1 [34].
Part 6, Div 1, heading	Ins 2008 No 43, Sch 1 [34].
Sec 83	Subst 1993 No 104, Sch 1 (5); 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [3] [4].
Sec 84	Subst 1993 No 104, Sch 1 (5); 2008 No 43, Sch 1 [34]. Am 2010 No 95, Schs 1 [5]–[7], 3 [16] [17].
Sec 85	Subst 1993 No 104, Sch 1 (5); 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [8] [9].
Sec 85A	Ins 1993 No 104, Sch 1 (6). Am 2001 No 34, Sch 4.15 [1]. Rep 2008 No 43, Sch 1 [34].
Sec 86	Subst 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [10] [11].
Sec 87	Am 1987 No 133, Sch 1 (7); 1993 No 104, Sch 1 (7); 1994 No 32, Sch 2; 2001 No 34, Sch 1.2. Subst 2008 No 43, Sch 1 [34]; 2010 No 95, Sch 1 [12].
Sec 87A	Ins 1993 No 104, Sch 1 (8). Am 2001 No 34, Sch 4.15 [2]. Rep 2008 No 43, Sch 1 [34].
Part 6, Div 2, heading	Ins 2008 No 43, Sch 1 [34].
Sec 88	Am 1993 No 104, Sch 1 (9). Subst 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [13] [14].
Sec 89	Am 1993 No 104, Sch 1 (10). Subst 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [15].
Sec 90	Subst 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [16].
Sec 91	Subst 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [17] [18].
Sec 92	Subst 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [19]–[21].
Sec 93	Am 1991 No 13, Sch 1 (9); 1993 No 104, Sch 1 (11). Subst 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [22].
Secs 94, 95	Subst 2008 No 43, Sch 1 [34].
Part 6, Div 2A	Ins 2010 No 95, Sch 1 [23].
Secs 95AA, 95A	Ins 2010 No 95, Sch 1 [23].

Sec 95B	Ins 2010 No 95, Sch 1 [23]. Am 2010 No 119, Sch 2.17.
Secs 95C, 95D	Ins 2010 No 95, Sch 1 [23].
Part 6, Div 2B (secs 95E–95J)	Ins 2010 No 95, Sch 1 [23].
Part 6, Div 3, heading	Ins 2008 No 43, Sch 1 [34].
Sec 96	Am 1992 No 112, Sch 1; 1993 No 104, Sch 1 (12). Subst 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [24].
Sec 96A	Ins 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 3 [18].
Sec 96AA	Ins 2010 No 95, Sch 1 [25].
Secs 96B, 96C	Ins 2008 No 43, Sch 1 [34].
Part 6, Div 4	Ins 2008 No 43, Sch 1 [34].
Sec 96D	Ins 2008 No 43, Sch 1 [34]. Subst 2010 No 95, Sch 1 [26].
Sec 96E	Ins 2008 No 43, Sch 1 [34].
Sec 96EA	Ins 2010 No 95, Sch 1 [27].
Secs 96F, 96G	Ins 2008 No 43, Sch 1 [34].
Part 6, Div 4A	Ins 2009 No 113, Sch 1 [1].
Sec 96GAA	Ins 2010 No 95, Sch 1 [28].
Sec 96GA	Ins 2009 No 113, Sch 1 [1]. Am 2010 No 95, Sch 1 [29].
Sec 96GB	Ins 2009 No 113, Sch 1 [1]. Am 2010 No 19, Sch 3.37; 2010 No 95, Sch 1 [30].
Secs 96GC, 96GD	Ins 2009 No 113, Sch 1 [1].
Sec 96GE	Ins 2009 No 113, Sch 1 [1]. Am 2010 No 95, Sch 1 [29].
Part 6, Div 5	Ins 2008 No 43, Sch 1 [34].
Sec 96H	Ins 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [31].
Sec 96HA	Ins 2010 No 95, Sch 1 [32].
Sec 96I	Ins 2008 No 43, Sch 1 [34]. Am 2009 No 113, Sch 1 [2]. Am 2010 No 95, Sch 1 [33].
Secs 96J	Ins 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [34].
Sec 96K	Ins 2008 No 43, Sch 1 [34]. Am 2010 No 95, Schs 1 [35], 3 [19] [20].
Sec 96L	Ins 2008 No 43, Sch 1 [34].
Sec 96M	Ins 2008 No 43, Sch 1 [34]. Am 2010 No 95, Sch 1 [35].
Sec 96N	Ins 2010 No 95, Sch 1 [36].

Sec 97	Am 1992 No 112, Sch 1; 1993 No 104, Sch 1 (13). Rep 2008 No 43, Sch 1 [34].
Part 6A	Ins 1993 No 104, Sch 1 (14). Subst 2010 No 95, Sch 2 [4].
Part 6A, Div 1, heading	Ins 2010 No 95, Sch 2 [4].
Sec 97A	Ins 1993 No 104, Sch 1 (14). Subst 2010 No 95, Sch 2 [4].
Sec 97AB	Ins 2008 No 43, Sch 1 [35]. Rep 2010 No 95, Sch 2 [4].
Secs 97B, 97C	Ins 1993 No 104, Sch 1 (14). Subst 2010 No 95, Sch 2 [4].
Part 6A, Div 2, heading	Ins 2010 No 95, Sch 2 [4].
Secs 97D–97G	Ins 1993 No 104, Sch 1 (14). Subst 2010 No 95, Sch 2 [4].
Part 6A, Div 3, heading	Ins 2010 No 95, Sch 2 [4].
Secs 97H, 97I	Ins 1993 No 104, Sch 1 (14). Subst 2010 No 95, Sch 2 [4].
Part 6A, Div 4, heading	Ins 2010 No 95, Sch 2 [4].
Secs 97J, 97K	Ins 1993 No 104, Sch 1 (14). Subst 2010 No 95, Sch 2 [4].
Secs 97L, 97M	Ins 2010 No 95, Sch 2 [4].
Sec 98	Am GG No 80 of 10.5.1985, p 2040; 1993 No 104, Sch 1 (15).
Sec 99	Am 2006 No 2, Sch 4.15 [2].
Sec 100	Am GG No 80 of 10.5.1985, p 2040.
Sec 101	Subst 1983 No 153, Sch 2.
Secs 102, 103	Rep 1983 No 153, Sch 2.
Sec 107	Am 2010 No 95, Sch 3 [21].
Sec 108	Rep 2006 No 2, Sch 4.15 [3].
Sec 109	Am 2008 No 43, Sch 1 [36].
Sec 110	Am 1992 No 112, Sch 1; 1993 No 104, Sch 1 (16); 1996 No 24, Sch 1.33 [2] [3]; 2006 No 2, Sch 4.15 [4]; 2008 No 43, Sch 1 [37]–[42]; 2010 No 95, Sch 3 [22] [23].
Sec 110A	Ins 2006 No 75, Sch 1 [2]. Am 2008 No 43, Sch 1 [43] [44]. Subst 2010 No 95, Sch 3 [24].
Sec 110B	Ins 2010 No 95, Sch 3 [24].
Sec 111	Am GG No 80 of 10.5.1985, p 2040; 1992 No 112, Sch 1; 1999 No 85, Sch 2.14; 2001 No 121, Sch 2.92; 2007 No 94, Sch 2.
Sec 111A	Ins 2010 No 95, Sch 3 [25].

Sec 112	Am 1991 No 13, Sch 1 (10); 1993 No 104, Sch 1 (17) (am 1994 No 32, Sch 2).
Sec 117	Am 1992 No 112, Sch 1; 2008 No 43, Sch 1 [45]–[47].
Sch 1	Subst 2010 No 95, Sch 2 [5].
Sch 2	Am 1987 No 133, Sch 1 (8); 1991 No 13, Sch 1 (11); 1993 No 104, Sch 1 (18); 2008 No 43, Sch 1 [48] [49]; 2010 No 95, Sch 3 [25].