I certify that this is a copy of the authorised version of this Act as at 13 October 2026, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 13 October 2026.

K Woodward
Chief Parliamentary Counsel
Dated 14 October 2026

TASMANIA

ELECTORAL DISCLOSURE AND FUNDING ACT 2023

No. 37 of 2023

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SCHEDULE 1 – ADJUSTMENT OF AMOUNTS

ELECTORAL DISCLOSURE AND FUNDING ACT 2023

No. 37 of 2023

An Act to make provision for the prohibition of certain donations in relation to elections, for the acceptance, use and disclosure of certain donations in relation to elections, for the disclosure of expenditure on election campaigns, for the public funding of election campaigns for the House of Assembly and of Assembly administrative expenditure, to make consequential amendments to the *Electoral Act 2004*, and for related purposes

[Royal Assent 11 December 2023]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Electoral Disclosure and Funding Act 2023*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

3. Objects of Act

The objects of this Act are –

(a) to establish a scheme for the fair and transparent disclosure of political donations and electoral expenditure; and

(b) to facilitate public awareness of political donations and electoral expenditure; and

(c) to help prevent undue influence, by significant political donors and foreign donors, in the government of the State and to help prevent corruption; and

(d) to establish a scheme for the fair and transparent public funding of participation in Assembly elections, and for funding of Assembly administrative expenditure, recognising the importance of the appropriate use of public revenue for those purposes; and

(e) to promote compliance, with the requirements of this Act, by parties, Members, candidates, intending candidates, party agents, official agents, associated entities, third-party campaigners and donors.

4. Implied freedom of political communication

This Act does not apply to a person to the extent that any constitutional doctrine of implied freedom of political communication would be infringed if this Act were to apply to the person.

PART 2 – INTERPRETATION

5. Interpretation

(1) In this Act, unless the contrary intention appears –

Administration Fund means the Administration Fund established under section 146;

amended Assembly election campaign return means an amended Assembly election campaign return that is lodged with the Commission under section 73;

amended Council election campaign return means an amended Council election campaign return that is lodged with the Commission under section 86;

amended donation declaration means an amended donation declaration that is lodged with the Commission under section 51;

appointed official agent, in relation to a person, means the natural person who is appointed under section 114(4)(a) to be the official agent in relation to the person;

appointed party agent, in relation to a party, means the natural person who is appointed under section 107(4)(a) to be the party agent in relation to the person;

approved means approved by the Commission;

Assembly means the House of Assembly of the Parliament of Tasmania;

Assembly administrative expenditure – see section 14;

Assembly by-election means an election to elect a Member in respect of an Assembly division pursuant to a writ issued under section 64 of the *Electoral Act 2004*;

Assembly candidate means a person who is a candidate in relation to an Assembly election;

Assembly division means a division, determined in accordance with the *Constitution Act 1934*, for the return of Members to represent the electors of that division in the Assembly;

Assembly election means –

(a) an election, forming part of an Assembly general election, to elect an Assembly Member in respect of an Assembly division; and

(b) an Assembly by-election;

Assembly election campaign return means an Assembly election campaign return lodged under section 71;

Assembly general election means the elections held, or to be held, contemporaneously to elect Members in respect of all Assembly divisions pursuant to writs issued under section 63 of the *Electoral Act 2004*;

Assembly Member means a person who is a member of the Assembly;

associated entity means –

(a) an incorporated, or unincorporated, body of persons that is controlled by one or more registered parties; and

(b) an incorporated, or unincorporated, body of persons that operates wholly, or to a significant extent, for the benefit of one or more registered parties; and

(c) an incorporated, or unincorporated, body of persons that is a financial member of a registered party; and

(d) an incorporated, or unincorporated, body of persons on whose behalf another person is

a financial member of a registered party; and

(e) an incorporated, or unincorporated, body of persons that has voting rights in a registered party; and

(f) an incorporated, or unincorporated, body of persons on whose behalf another person has voting rights in a registered party;

auditor means a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth;

campaign account means a campaign account kept in accordance with Part 9;

candidate, in relation to an election, means –

(a) a person who has been publicly announced under section 87 of the *Electoral Act 2004* as a candidate at the election; and

(b) a person to whom section 15 or section 16 applies in relation to the election; and

(c) a person who is registered as a candidate in relation to the election;

Commission means the Tasmanian Electoral Commission established by section 6 of the *Electoral Act 2004*;

Commission website means a website, maintained by the Commission, that is ordinarily available for viewing by members of the public;

Commonwealth Act means the *Commonwealth Electoral Act 1918* of the Commonwealth;

Commonwealth roll means the roll of the electors for the State of Tasmania required by section 81 of the Commonwealth Act;

Council means the Legislative Council of the Parliament of Tasmania;

Council by-election means an election to elect a Council Member in respect of a Council division pursuant to a writ issued under section 66 of the *Electoral Act 2004*;

Council candidate means a person who is a candidate in relation to a Council election;

Council division means a division, determined in accordance with the *Constitution Act 1934*, for the return of a Council Member to represent the electors of that division in the Council;

Council election means –

(a) a Council periodic election; and

(b) a Council by-election;

Council election campaign return means a Council election campaign return lodged with the Commission under section 84;

Council election expenditure has the meaning it has in section 80;

Council Member means a person who is a member of the Council;

Council periodic election means an election held, or to be held, to elect a Council Member in respect of a Council division pursuant to a writ issued under section 65 of the *Electoral Act 2004*;

credit card means –

(a) any article of a kind commonly known as a credit card; or

(b) any similar article intended for use in obtaining cash, goods or services on credit –

and includes any article of a kind that persons carrying on a business commonly issue to their customers, or prospective customers, for use in obtaining goods or services from those persons on credit;

disclosure period end day, in relation to an election, means –

(a) if a poll is required to be conducted in relation to the election and the election is part of an Assembly general election – the day that is 30 days after the polling day for the election; or

(b) if a poll is required to be conducted in relation to the election and the election is an Assembly by-election – the day that is 30 days after the polling day for the Assembly by-election; or

(c) if a poll is required to be conducted in relation to the election and the election is a Council periodic election or a Council by-election – the day that is 30 days after the polling day for the Council periodic election, or Council by-election, respectively; or

(d) if section 88 of the *Electoral Act 2004* applies in relation to the election and the election is a Council election or an Assembly election – the day that is 30 days after a candidate in relation to the election is publicly declared to be duly elected as a Member for a

division to which the election relates;

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

(a) any conveyance, transfer, assignment, settlement, delivery, payment, or other alienation, of money;

(b) the allotment of shares in a company;

(c) the creation of a trust in property;

(d) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;

(e) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract, chose in action or interest in property;

(f) the exercise by a person of a special or general power of appointment of property in favour of any other person (or a hybrid of both powers);

(g) any transaction entered into by any person with intent 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;

division means an Assembly division or a Council division;

division roll means a division roll prepared and kept under section 37 of the *Electoral Act 2004*;

donation declaration means a donation declaration lodged under section 49;

donor means a person who makes a political donation;

election means an Assembly election or a Council election;

Election Campaigns Fund means the Election Campaigns Fund established under section 131;

election campaign period means –

(a) in relation to an Assembly general election – the period beginning on whichever is the earlier of the following days:

(i) the day that is 6 months before the last day by

which, in accordance with the *Constitution Act 1934*, such an election must be held;

(ii) the day on which the dissolution of the Assembly, by virtue of which the Assembly general election is required to be held, occurs –

and ending on the disclosure period end day in relation to the election; and

(b) in relation to an Assembly by-election – the period beginning on the day on which a writ for the holding of the by-election is issued and ending on the disclosure period end day in relation to the election; and

(c) in relation to a Council periodic election – the period beginning on 1 January of the year in which the election is to be held and ending on the disclosure period end day in relation to the election; and

(d) in relation to a Council by-election – the period beginning on the day on which the seat of

the Council Member to which the by-election relates becomes vacant and ending on the disclosure period end day in relation to the election;

election roll means an election roll prepared under section 39 of the *Electoral Act 2004*;

elector means a person whose name appears on a roll;

electoral expenditure – see section 6;

electoral matter has the same meaning as in the *Electoral Act 2004*;

endorsed by a registered party – see section 10;

enrolled has the same meaning as in the *Electoral Act 2004*;

expenditure includes any disposition of property;

federal account means an account in relation to which –

(a) the only amounts deposited into the account are amounts to be used only for a federal purpose; and

(b) the only amounts withdrawn or transferred from the account are amounts –

(i) withdrawn or transferred for a federal purpose; or

(ii) transferred to another federal account;

federal campaign account means a federal account maintained for the purposes of an election campaign under the Commonwealth Act;

federal party means a registered party that has –

(a) a federal branch; and

(b) 2 or more State branches that are registered parties or that are registered political parties, within the meaning of the Commonwealth Act;

federal purpose means the purpose of incurring electoral expenditure, or creating or communicating electoral matter, for the purposes of an election under the Commonwealth Act;

financial institution means a body corporate that carries on a business that consists of, or includes, the provision of financial services, or financial products, and that is one of the following:

(a) an authorised deposit-taking institution;

(b) a person prescribed, or a member of a class of persons that is prescribed, for the purposes of this paragraph, by the regulations;

financial member of a registered party means a person who is a member of a registered party and who has paid a party subscription to the registered party for that purpose;

financial year means the period of 12 months beginning on 1 July of a year;

foreign donor means –

(a) a body politic of a foreign country; and

(b) a body politic of a part of a foreign country; and

(c) a part of a body politic referred to in paragraph (a) or (b); and

(d) a foreign public enterprise; and

(e) a person that does not meet one or more of the following conditions:

(i) the person is incorporated in Australia;

(ii) the person's head office is in Australia;

(iii) the person's principal place of activity is, or is in, Australia; and

(f) a natural person who is not one or more of the following:

(i) an elector;

(ii) an Australian citizen;

(iii) an Australian resident;

(iv) a New Zealand citizen who holds a Subclass 444 (Special Category) visa under the *Migration Act 1958* of the Commonwealth, or, if that Subclass ceases to exist, the kind of visa that replaces that visa;

foreign public enterprise has the meaning given by section 70.1 of the Criminal Code set out in the *Criminal Code Act 1995* of the Commonwealth;

formal first preference, in relation to a vote recorded for a candidate at an election, means the recording of the number "1" in the box next to the candidate's name on a ballot paper, used at the election, that is not informal under section 103 of the *Electoral Act 2004*;

functions includes powers and duties;

gift – see section 11;

gift in kind – see section 11(2);

guidelines means guidelines issued by the Commission under section 173;

independent Assembly candidate means an Assembly candidate who is not endorsed by a registered party;

independent Assembly Member means an Assembly member who is not endorsed by a registered party;

inspector means a person who is, under section 158, an inspector;

intending candidate means a person who has publicly declared his or her intention to become a candidate in relation to an election;

interest in property means any estate, interest, right or power of any kind, whether at law or in equity, in, under or over property;

loan means any of the following:

(a) an advance of money;

(b) a provision of credit or any other form of financial accommodation;

(c) a payment of an amount for, on account of, on behalf of or at the

request of, a person, if there is an express or implied obligation to repay the amount;

(d) a transaction (whatever its terms or form) which in substance effects a loan of money;

Member means an Assembly Member or a Council Member;

minor payment means a payment of an amount of electoral expenditure of less than $50;

monthly period means the period beginning on the first day of a calendar month and ending on the last day of that calendar month;

nomination day, in relation to an election, means the day, fixed under section 67(1)(a) or section 73(1)(a) of the *Electoral Act 2004*, on or before which candidates for election are to be nominated;

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

official agent, in relation to a person, means a person who is –

(a) the appointed official agent in relation to the person; or

(b) by virtue of section 116, the official agent in relation to the person;

parliamentary allowance means a payment to a Member under the *Parliamentary Salaries, Superannuation and Allowances Act 2012*;

party means an incorporated, or unincorporated, body of persons that exists for political purposes, and includes any branch in Tasmania of such a body that is established outside Tasmania;

party agent, in relation to a registered party, means a person who is –

(a) an appointed party agent in relation to the registered party; or

(b) by virtue of section 109, a party agent in relation to the registered party;

party register means the register prepared and maintained by the Commission pursuant to section 52 of the *Electoral Act 2004*;

party subscription means –

(a) an annual subscription of less than $1 000, or other subscription of less than $1 000 in total during a financial year, that is paid to a registered party for membership,

or continuing membership, of the registered party; or

(b) an annual subscription of less than $1 000, or other subscription of less than $1 000 in total during a financial year, that is paid to a registered party by a person (including an industrial organisation) for affiliation with the party;

payment includes a loan, advance or deposit;

person means –

(a) a natural person; and

(b) an incorporated body of persons; and

(c) an unincorporated body of persons; and

(d) a trustee;

political donation – see section 12;

polling day, in relation to an election, means –

(a) unless paragraph (b) applies to the election – the day, fixed or specified under section 67(1)(b) of the *Electoral Act 2004*, on which polling for that election is to be held in the event of the election being contested; or

(b) if a later day, on which polling for the election is to be held in the event of the election being contested, is fixed under section 73 of the *Electoral Act 2004* – that later day;

property includes money;

publish means publish by any means, and includes by publication on the internet;

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December;

registered means registered under this Act;

registered officer means a person whose name appears in the party register as the registered officer of a registered party;

registered party means a party, the name of which appears in the party register as a registered party;

registered party in relation to an associated entity means –

(a) the registered party, or registered parties, that control the associated entity; and

(b) the registered party for the benefit of which the associated entity operates wholly or to a significant extent; and

(c) the registered party of which the associated entity is a financial member; and

(d) the registered party of which a person is a financial member on behalf of the associated entity; and

(e) the registered party in which the associated entity has voting rights; and

(f) the registered party in relation to which another person has voting rights on behalf of the associated entity;

Register of Assembly Members means the Register of Assembly Members established under Division 2 of Part 10;

Register of Associated Entities means the Register of Associated Entities established under Division 5 of Part 10;

Register of Candidates means the Register of Candidates established under Division 1 of Part 10;

Register of Official Agents means the Register of Official Agents established under Division 4 of Part 10;

Register of Party Agents means the Register of Party Agents established under Division 3 of Part 10;

Register of Third-party Campaigners means the Register of Third-party Campaigners established under Division 6 of Part 10;

regulations means regulations under this Act;

relevant business number, in relation to a person, means –

(a) the Australian Business Number (ABN) in relation to the person; or

(b) any other number allocated or recognised by the Australian Securities and Investments Commission for the purposes of identifying the person;

relevant disclosure period means –

(a) an election campaign period; and

(b) a monthly period;

relevant document or thing means a document (whether in writing, in electronic form or in another form), or a thing, held by or on behalf of, or that relates to –

(a) a registered party or former registered party; or

(b) a person who is or was a Member, candidate, intending candidate, third-party

campaigner, associated entity, party agent or official agent;

reportable political donation – see section 13;

roll means the State roll, a division roll or an election roll;

senior office holder, in relation to a party – see section 9;

significant political donor means a person (not being a registered party, Member or candidate) who makes a reportable political donation;

small contribution means a political donation of less than $100;

State roll means the State roll prepared and kept under section 30 of the *Electoral Act 2004*;

third-party campaigner – see section 8.

(2) For the purposes of this Act, if a gift from a person to another person occurs by means of an electronic transfer of funds, the gift is taken to be made by the person, and received by the other person, on the day on which the funds are electronically received in the account of the other person.

6. Meaning of *electoral expenditure*

(1) In this Act, electoral expenditure means, subject to this section, expenditure incurred for the

dominant purpose of creating or communicating electoral matter in relation to an election.

(2) Electoral expenditure includes expenditure that is to be paid or reimbursed by the State by way of payment under Part 11 from the Election Campaigns Fund.

(3) Electoral expenditure does not include expenditure to the extent that the expenditure is, or is to be, otherwise paid or reimbursed by the State (including by way of payment under Part 12 from the Administration Fund) to or in relation to a person who is or was an Assembly Member or a Minister, because that person is or was an Assembly Member or Minister.

(4) Electoral expenditure does not include expenditure to the extent that the expenditure is incurred by a person –

(a) in providing a communication service, or communication platform, that is used to create or communicate electoral matter; or

(b) in providing a service for another person who engaged the person, on a commercial basis, to create or communicate electoral matter.

(5) Expenditure may be electoral expenditure whether the expenditure is incurred for the dominant purpose of creating or communicating particular electoral matter, or electoral matter generally, in relation to an election.

(6) In addition, but subject to subsection (3), any expenditure (including expenditure that is to be paid or reimbursed by the State by way of payment under Part 11 from the Election Campaigns Fund) that is incurred, in relation to an Assembly election, by or with the authority of –

(a) a registered party, Assembly Member or Assembly candidate; or

(b) an associated entity; or

(c) a third-party campaigner in relation to the election –

is electoral expenditure.

(7) The Commission may determine whether any expenditure is or is not electoral expenditure in accordance with this Act, the regulations and the guidelines.

(8) A determination of the Commission as to whether any expenditure is or is not electoral expenditure in accordance with this Act, the regulations and the guidelines, is final.

(9) The Auditor-General or an auditor is, for the purposes of this Act, entitled to rely on any determination of the Commission referred to in subsection (7).

7. When electoral expenditure is incurred

(1) For the purposes of this Act, electoral 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, that is within a class of expenditure that is prescribed by the regulations, is incurred at the time prescribed in relation to the class.

8. Meaning of *third-party campaigner*

For the purposes of this Act, a person is a third-party campaigner in relation to an election if the election is an Assembly election and the person is –

(a) a person who –

(i) is not a registered party, Member, candidate or associated entity; and

(ii) incurs, during the election campaign period in relation to the election, more than $5 000 of electoral expenditure; or

(b) registered under section 127 as a third-party campaigner in relation to the election.

9. Meaning of *senior office holder*

(1) For the purposes of this Act, a person is a senior office holder in relation to a party if the person is significantly involved in the management or control of the party or the operations of the party.

(2) Guidelines may provide guidance as to when a senior office holder in relation to a party is to be taken to be significantly involved in the management or control of the party or the operations of the party.

10. Endorsement by registered party

(1) For the purposes of this Act, an Assembly candidate in relation to an election is endorsed by a registered party if the candidate is registered, on the Register of Candidates in relation to the election, as being endorsed by the registered party.

(2) For the purposes of this Act, an Assembly Member is endorsed by a registered party if the Assembly Member is registered, on the Register

of Assembly Members, as being endorsed by the registered party.

(3) A registered party may give to the Commission notice in writing that the party intends an Assembly candidate, or an Assembly Member, to be registered as endorsed by the registered party.

(4) A notice by a registered party to the Commission under subsection (3) in relation to an Assembly candidate, or Assembly Member, must be accompanied by a statement, signed by the candidate or Member, that the candidate or Member accepts endorsement by the registered party.

(5) A registered party may give to the Commission notice in writing that an Assembly candidate, or an Assembly Member, is to cease to be registered as endorsed by the registered party.

(6) A notice by a registered party to the Commission under subsection (5) in relation to an Assembly candidate, or Assembly Member, must be accompanied by a statutory declaration, signed by a senior office holder of the registered party, declaring that the Assembly candidate, or Assembly Member, has been notified by the registered party that the candidate or Member is to cease to be registered as endorsed by the registered party.

(7) An Assembly candidate or Assembly Member may give to the Commission notice in writing

that the candidate, or the Member, has ceased to accept endorsement by the registered party.

(8) A notice to the Commission under subsection (7) from an Assembly candidate, or Assembly Member, is to be accompanied by a statutory declaration, signed by the candidate or Member, declaring that the registered party has been notified that the candidate or Member has ceased to accept endorsement by the registered party.

(9) If the Commission is notified under subsection (5) or (7) that a candidate or Member –

(a) is to cease to be registered as endorsed by a registered party; or

(b) has ceased to accept endorsement by the registered party –

the Commission is, within 3 business days, to vary the particulars of registration of the candidate or Member under the Register of Candidates, or the Register of Assembly Members, so that the person ceases to be registered as endorsed by the registered party.

11. Meaning of *gift* and *gift in kind*

(1) In this Act –

gift means any disposition of property, made by a person to another person (otherwise than by a will), that is a disposition made –

(a) without consideration in money or money's worth; or

(b) with inadequate consideration –

and includes a gift in kind.

(2) For the purposes of this Act, the following are gifts in kind:

(a) a gift of the use of facilities, by or at the direction of the person receiving the gift, solely or substantially for election campaign purposes, including the use of a room and anything reasonably necessary for the conduct of a meeting in the room, but does not include any food, drink or other gift associated with the use of the facilities;

(b) the provision, for no consideration or inadequate consideration, of accommodation, vehicles, computers, or other equipment, for use solely or substantially for election campaign purposes;

(c) the full or part payment by a person (other than a registered party, Member, or candidate) of electoral expenditure for advertising or other purposes incurred, or to be incurred, by the party, Member or candidate, or an agreement to make such a payment;

(d) the waiving of all or any part of payment, to the person, by a registered party,

Member, or candidate, of electoral expenditure for advertising incurred, or to be incurred, by the party, Member or candidate;

(e) the provision of a service, for no consideration or for inadequate consideration, solely or substantially for election campaign purposes, other than the provision –

(i) by any person, of voluntary labour, that does not constitute the provision of voluntary professional services; and

(ii) to a registered party, by an officer in relation to the registered party or by an Assembly Member who is endorsed by the registered party, of a service (which may be, but is not required to be, a voluntary professional service).

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

(a) a disposition of property, to a Tasmanian branch of a registered party, from the federal branch of the party;

(b) a disposition of property, to a Tasmanian branch of a registered party, from another State or Territory branch of the party;

(c) a disposition of property, to a registered party, from another registered party.

(4) Uncharged interest on a loan to a person, being 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 –

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

(5) For the purposes of this section, the following are not taken to be a gift:

(a) a party subscription paid to a registered party, a branch of a registered party or a division of a registered party;

(b) a levy that –

(i) is required by a registered party to be paid by a Member who is a member of the registered party; and

(ii) is paid by the Member to the registered party, a branch of the registered party or a division of the registered party;

(c) a fundraising contribution of $200 or less, or, if a fundraising contribution is an amount of more than $200, the first $200 of that fundraising contribution;

(d) a payment under Part 11 or 12;

(e) any other goods or services of a kind prescribed by the regulations.

(6) For the purposes of subsection (5) –

fundraising contribution means an amount paid by a person as a contribution, entry fee or other payment to entitle the person or another person to participate in, or otherwise obtain, a benefit from a fundraising or other venture or function (whether or not the venture or function raises funds for a person) and includes an amount paid for a ticket in a raffle or for an item at a fundraising auction.

12. Meaning of *political donation*

In this Act –

political donation means –

(a) a gift made to, or for the benefit of, a party; and

(b) a gift made to, or for the benefit of, a Member, the whole or part of which was used, or is intended by the Member to be used, by the Member –

(i) solely or substantially for a purpose related to an election or to the Member's duties as a Member; or

(ii) to enable the Member to make, directly or indirectly, a political donation or to incur electoral expenditure; or

(iii) to reimburse the Member for making, directly or indirectly, a political donation or incurring electoral expenditure; and

(c) a gift made to, or for the benefit of, a candidate in relation to an election, the whole or part of which was used, or is intended by the candidate to be used, by the candidate –

(i) solely or substantially for a purpose related to the election; or

(ii) to enable the candidate to make, directly or indirectly, a political donation or to incur electoral expenditure; or

(iii) to reimburse the candidate for making, directly or

indirectly, a political donation or incurring electoral expenditure; and

(d) a gift made to, or for the benefit of, an associated entity, the whole or part of which was used, or is intended by the associated entity to be used, by the associated entity –

(i) to enable the associated entity to make, directly or indirectly, a political donation or to incur electoral expenditure; or

(ii) to reimburse the associated entity for making, directly or indirectly, a political donation or incurring electoral expenditure; and

(e) a gift made to, or for the benefit of, a third-party campaigner in relation to an Assembly election, the whole or part of which was used, or is intended by the third-party campaigner to be used, by the third-party campaigner –

(i) to enable the third-party campaigner to make, directly or indirectly, a political donation or to

incur electoral expenditure in relation to the election; or

(ii) to reimburse the third-party campaigner for making, directly or indirectly, a political donation or incurring electoral expenditure in relation to the election; and

(f) a loan (other than from a financial institution) that, if it had been a gift, would be a political donation.

13. Meaning of *reportable political donation*

(1) For the purposes of this Act, a reportable political donation is a political donation of $1 000 or more.

(2) If –

(a) a political donation (the ***first donation***) of less than $1 000 is made –

(i) by a person (the ***donor***), within a financial year or an election campaign period in relation to an election; and

(ii) to, or for the benefit of, a person (the ***gift recipient***) who is an

independent Assembly Member, Council Member, independent Assembly candidate or Council candidate; and

(b) after the first donation is made, one or more other political donations (the ***other donations***) of less than $1 000 are made by the same donor, to or for the benefit of the same gift recipient, and within the same financial year, or the same election campaign period, respectively; and

(c) the amount of the first donation, when combined with the other donations, is $1 000 or more –

the first donation and the other donations are taken to be reportable political donations made by the donor, to the gift recipient, on the first day on which the combined amount of the first donation and the other donations is $1 000 or more, except that any of the other donations that is made after that first day is not taken to be part of that combined amount.

(3) If –

(a) a political donation (the ***first donation***) of less than $1 000 is made –

(i) by a person (the ***donor***), within a financial year or an election campaign period in relation to an election; and

(ii) to, or for the benefit of, a person (the ***gift recipient***) who is a registered party, an Assembly Member who is endorsed by that registered party or an Assembly candidate who is endorsed by that registered party; and

(b) after the first donation is made, one or more other political donations (the ***other donations***) of less than $1 000 are made by the same donor, to or for the benefit of the same gift recipient and within the same financial year, or the same election campaign period, respectively; and

(c) the amount of the first donation, when combined with the other donations, is $1 000 or more –

the first donation and the other donations are taken to be reportable political donations made by the donor, to or for the benefit of the same gift recipient, on the first day on which the combined amount of the first donation and the other donations is $1 000 or more, except that any of the other donations that is made after that first day is not taken to be part of that combined amount.

(4) If –

(a) a political donation (the ***first donation***) of less than $1 000 is made –

(i) by a person (the ***donor***), within a financial year or an election

campaign period in relation to an election; and

(ii) to, or for the benefit of, a registered party, an Assembly Member who is endorsed by that registered party or an Assembly candidate who is endorsed by that registered party; and

(b) after the first donation is made, one or more other political donations (the ***other donations***) of less than $1 000 –

(i) are made by the same donor; and

(ii) are made to or for the benefit of the same registered party, any Assembly Member who is endorsed by that registered party or any Assembly candidate who is endorsed by that registered party; and

(iii) are made within the same financial year or the same election campaign period, respectively; and

(c) the amount of the first donation, when combined with the other donations, is $1 000 or more; and

(d) subsection (3) does not apply –

the first donation and the other donations are taken to be reportable political donations made

by the donor, to or for the benefit of that registered party, on the first day on which the combined amount of the first donation and the other donations is $1 000 or more, except that any of the other donations that is made after that first day is not taken to be part of that combined amount.

(5) If –

(a) a political donation (the ***first donation***) of less than $1 000 is made by a person (the ***donor***), within a financial year or an election campaign period in relation to an election, to or for the benefit of an associated entity; and

(b) after the first donation is made, one or more other political donations (the ***other donations***) of less than $1 000 are made by the same donor, to or for the benefit of the same associated entity and within the same financial year or the same election campaign period, respectively; and

(c) the amount of the first donation, when combined with the other donations, is $1 000 or more –

the first donation and the other donations are taken to be reportable political donations made by the donor, to or for the benefit of the associated entity, on the first day on which the combined amount of the first donation and the other donations is $1 000 or more, except that

any of the other donations that is made after that first day is not taken to be part of that combined amount.

(6) If –

(a) a political donation (the ***first donation***) of less than $1 000 is made by a person (the ***donor***), within an election campaign period in relation to an Assembly election, to, or for the benefit of, a person (the ***gift recipient***); and

(b) the gift recipient is, or becomes, a third-party campaigner in relation to the election; and

(c) after the first donation is received by the gift recipient, one or more other political donations (the ***other donations***) of less than $1 000 are made by the same donor, to the same gift recipient and within the same election campaign period; and

(d) the amount of the first donation, when combined with the other donations, is $1 000 or more –

the first donation and the other donations are taken to be reportable political donations made by the donor, to or for the benefit of the gift recipient, on whichever of the following days occurs last:

(e) the first day on which the combined amount of the first donation and the other donations is $1 000 or more;

(f) the day on which the gift recipient becomes a third-party campaigner –

except that any of the other donations that is made after that first day is not taken to be part of that combined amount.

(7) If –

(a) a political donation (the ***first donation***) of less than $1 000 is made by a person (the ***donor***), within a financial year or an election campaign period in relation to an election, to a person (the ***gift recipient***) who is a registered party, Member, candidate or associated entity or a third-party campaigner in relation to the election; and

(b) the donor is, or becomes, a significant political donor; and

(c) one or more other political donations (the ***other donations***) of less than $1 000 are made by the same donor, within the same financial year or election campaign period, to the same gift recipient; and

(d) the amount of the first donation, when combined with the other donations, is $1 000 or more –

the first donation and the other donations to the gift recipient, are taken to be reportable political donations made by the significant political donor to or for the benefit of the gift recipient on whichever of the following days occurs last:

(e) the first day on which the combined amount of the first donation and the other donations is $1 000 or more;

(f) the day on which the donor becomes a significant political donor –

except that any of the other donations that is made after that first day is not taken to be part of that combined amount.

(8) For the purposes of a calculation under this section, a political donation made to or for the benefit of a person who is a Member is, if the person becomes a candidate, taken to have been a donation to or for the benefit of the candidate.

14. Meaning of *Assembly administrative expenditure*

(1) For the purposes of this Act, a reference, in relation to a registered party or Assembly Member, to Assembly administrative expenditure –

(a) is a reference to expenditure for administrative and operating expenses; and

(b) includes a reference to the following:

(i) expenditure for the administration or management of the activities of the party or Member;

(ii) expenditure for conferences, seminars, meetings or similar functions at which the policies of

the party or Member are discussed or formulated;

(iii) expenditure on providing information to the public or a section of the public about the party or Member;

(iv) expenditure on providing information to members of the party and supporters of the party or Member;

(v) expenditure in respect of the audit of the financial accounts of the party or Member;

(vi) expenditure on equipment and training to ensure compliance, with the obligations under this Act, by the party or by Assembly Members, or Assembly candidates, who are endorsed by the party;

(vii) expenditure on the reasonable remuneration of staff engaged in an activity, referred to in this paragraph, for the party or Member (being the proportion of that remuneration that relates to the time spent on those activities);

(viii) reasonable expenditure on equipment or vehicles used for the purposes of an activity,

referred to in this paragraph, for the party or Member (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities);

(ix) expenditure on office accommodation and equipment for staff for the party or Member; but

(c) 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 Tasmanian Parliament;

(iv) expenditure prescribed by the regulations.

(2) The Commission may determine whether any expenditure is or is not Assembly administrative expenditure in accordance with this Act, the regulations and the guidelines.

(3) A determination by the Commission as to whether any expenditure is or is not Assembly administrative expenditure in accordance with this Act, the regulations and the guidelines is final.

(4) The Auditor-General or an auditor is, for the purposes of this Act, entitled to rely on a determination of the Commission under subsection (2).

15. Gift, or electoral expenditure, in anticipation of person becoming candidate

(1) For the purposes of this Act, a person who accepts a gift for use solely or substantially for a purpose related to the proposed candidacy of the person at a future election is taken to be a candidate when accepting the gift.

(2) For the purposes of this Act, a person who makes a payment, during an election campaign period in relation to an election, for electoral expenditure for the election of the person at that election is taken to be a candidate when making the payment, unless the payment is a minor payment that is excluded by the guidelines from the operation of this subsection.

16. Person taken to be candidate for 30 days after polling day

(1) For the purposes of this Act, a person who is a candidate in relation to an election is taken to

remain a candidate for 30 days after the polling day for the election.

(2) Subsection (1) does not apply to a candidate at a time when the candidate is a Member.

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

(1) For the purposes of this Act, 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.

(2) For the purposes of subsection (1) –

(a) if the regulations prescribe how the value of property is to be determined – the value of property disposed of is to be determined in accordance with the regulations; and

(b) if guidelines, not inconsistent with the regulations, prescribe how the value of property is to be determined – the value of property disposed of is to be determined in accordance with the guidelines.

(3) For the purposes of this Act, the amount of a gift that is a gift in kind consisting of the use of facilities is taken to be –

(a) the value of the use of the facilities, determined –

(i) if the regulations prescribe how the value is to be determined – in accordance with the regulations; and

(ii) if guidelines, not inconsistent with the regulations, prescribe how the value is to be determined – in accordance with the guidelines; or

(b) if there are neither regulations, nor guidelines, that prescribe how the value is to be determined – the amount that would have been payable for the lease of the facilities for the period of the use.

(4) For the purposes of this Act, the amount of a gift that is a gift in kind consisting of the provision of a service is taken to be –

(a) the value of the provision of the service, determined –

(i) if the regulations prescribe how the value is to be determined – in accordance with the regulations; and

(ii) if guidelines, not inconsistent with the regulations, prescribe how the value is to be determined – in accordance with the guidelines; or

(b) if there are neither regulations, nor guidelines, that prescribe how the value

is to be determined – the lowest amount that would have been ordinarily payable for the provision of the service by a reasonably competent provider of the service.

(5) For the purposes of this Act –

(a) the Commission may require the value of property disposed of, or the value of a gift, to be determined by a valuer appointed or approved by the Commission; and

(b) if the Commission requires the value of property disposed of, or the value of a gift, to be determined by a valuer appointed or approved by the Commission, the value of the property or gift is –

(i) to be determined by the valuer in accordance with this section; and

(ii) to be taken to be the value so determined.

PART 3 – PROHIBITED POLITICAL DONATIONS

Division 1 – Political donations from foreign donors

18. Object of Division 1

(1) The object of this Division is to secure and promote the actual and perceived integrity of elections by reducing the risk of foreign persons and entities exerting (or being perceived to exert) undue or improper influence on the outcomes of elections.

(2) This Division aims to achieve this object by restricting the receipt and use of political donations made by foreign persons or entities that do not have a legitimate connection to Australia.

19. Meaning of *acceptable action*

In this Division –

acceptable action, in relation to a gift, means the taking of any of the following actions in relation to the gift:

(a) transferring to the State, for the purposes of this Division, an amount equal to the amount or value of the gift;

(b) returning the gift to the donor or the person who made the gift;

(c) transferring, to the donor or the person who made the gift, an amount equal to the amount or value of the gift.

20. When appropriate donor information is obtained

(1) For the purposes of this Act, a person (the ***first person***) obtains appropriate donor information in relation to a person (the ***donor***) who is a person making a gift, or a person on whose behalf a gift is made, establishing that the donor is not a foreign donor, if the first person obtains information or a document in accordance with this section.

(2) If the donor is a natural person, the appropriate donor information is –

(a) the particulars relating to the natural person set out in a current Commonwealth roll; or

(b) a copy of a passport, of a certificate evidencing the natural person's naturalisation or of any other document evidencing the natural person's Australian citizenship; or

(c) a copy of a visa evidencing the natural person's permanent residency in Australia; or

(d) a copy of the natural person's Subclass 444 (Special Category) visa under the *Migration Act 1958* of the

Commonwealth (or, if that Subclass ceases to exist, the kind of visa that replaces that visa); or

(e) any information, or a copy of any document, prescribed by the regulations for the purposes of this subsection.

(3) If the donor is a body corporate incorporated in Australia, the appropriate donor information is –

(a) a copy of the certificate of the donor's incorporation in Australia; or

(b) particulars of the donor's registration with the Australian Securities and Investments Commission evidencing the donor's incorporation in Australia; or

(c) any information, or a copy of any document, prescribed by the regulations for the purposes of this subsection.

(4) If the donor is an incorporated or unincorporated body of persons, the appropriate donor information is –

(a) copies of at least 3 recent minutes or other official documents of the donor, in accordance with subsection (5), evidencing that high-level decisions of the donor are made in Australia, such as –

(i) decisions setting the operational policies of the donor; or

(ii) decisions appointing officers of the donor or granting powers to such officers to carry out the donor's activities; or

(iii) directions, to persons appointed to carry out the donor's activities, as to how to perform functions; or

(iv) decisions on matters of finance, such as how profits are to be used; or

(b) copies of at least 3 official documents of the donor establishing that the donor's activities are principally carried out in Australia, such as –

(i) documents recording separately the number of staff or members of the donor in Australia, and overseas, carrying out activities for the donor; or

(ii) documents recording separately the scale or volume of the activities carried out in Australia and overseas (for example by reference to revenue derived in Australia and overseas); or

(c) for a donor that is a trust or foundation – a trust deed or other governing document evidencing –

(i) the governing law of the trust or foundation as the law of an Australian jurisdiction; or

(ii) that the head office is in Australia, or that the principal place of activity is, or is in, Australia; or

(d) any information, or a copy of any document, prescribed for the purposes of this subsection by the regulations.

(5) For the purposes of subsection (4)(a), each of the minutes or other official documents must evidence a different kind of decision.

(6) For the purposes of subsection (4), information may be omitted, redacted or deleted from the minutes, documents or information.

21. Political donations by foreign donors not to be accepted in certain circumstances

(1) A person (the ***gift recipient***) contravenes this subsection if –

(a) the gift recipient is –

(i) a registered party, Member, candidate or associated entity; or

(ii) an agent of a person referred to in subparagraph (i); and

(b) a gift is made to, or for the benefit of, the gift recipient during a financial year; and

(c) the gift is made by, or on behalf of, a person (the ***donor***); and

(d) the donor is a foreign donor; and

(e) at the time when the gift is made, the amount or value of the gift is equal to $1 000 or more; and

(f) acceptable action has not been taken in relation to the gift before the end of the period of 6 weeks after the gift is made.

(2) Subsection (1) does not apply to a gift recipient, in relation to a gift made by a donor, if the gift recipient establishes that –

(a) before the end of the period of 6 weeks after the gift was made, the donor stated in writing to the gift recipient that the donor was not a foreign donor; and

(b) for a gift whose amount or value was, at the time when the gift was made, equal to $100 or more – before the end of the period of 6 weeks after the gift was made –

(i) the gift recipient obtained in accordance with section 20 appropriate donor information establishing that the donor was not a foreign donor; or

(ii) the gift recipient took reasonable steps to verify that the donor was not a foreign donor; and

(c) in any case – the gift recipient, at no time during that period of 6 weeks, knew, or ought to have known, that the donor was a foreign donor.

(3) Subsection (1) does not apply to a gift recipient in relation to a gift if the gift recipient establishes that the gift was made in a private capacity to the gift recipient for the gift recipient's own personal use.

(4) Subsection (1) does not apply to a gift recipient in relation to a gift if the gift recipient establishes that using the gift for the purposes of an election would be inconsistent with the terms of the gift.

(5) A person must not contravene subsection (1).

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

22. Gifts to third-party campaigners by foreign donors

(1) A person (the ***gift recipient***) contravenes this subsection if –

(a) the gift recipient is, or becomes, a third-party campaigner in relation to an Assembly election; and

(b) a gift is made to, or for the benefit of, the gift recipient during an election campaign period in relation to the election; and

(c) the gift is made by, or on behalf of, a person (the ***donor***); and

(d) the donor is a foreign donor; and

(e) at the time when the gift is made, the amount or value of the gift is equal to $1 000 or more; and

(f) the gift recipient uses the gift –

(i) for the purposes of incurring electoral expenditure in relation to the election; or

(ii) for the dominant purpose of creating or communicating electoral matter in relation to the election; and

(g) acceptable action has not been taken in relation to the gift before the end of the period of 6 weeks after the gift recipient becomes a third-party campaigner, or the period of 6 weeks after the gift is made, whichever occurs last.

(2) Subsection (1) does not apply to a gift recipient in relation to a gift if the gift recipient establishes that –

(a) before the end of the period of 6 weeks after the gift recipient becomes a third-party campaigner, or the period of 6 weeks after the gift is made, whichever occurs last, the donor stated in writing to

the gift recipient that the donor was not a foreign donor; and

(b) before the end of the period of 6 weeks after the gift recipient becomes a third-party campaigner, or the period of 6 weeks after the gift is made, whichever occurs last –

(i) the gift recipient obtained in accordance with section 20 appropriate donor information establishing that the donor was not a foreign donor; or

(ii) the gift recipient took reasonable steps to verify that the donor was not a foreign donor; and

(c) in any case – the gift recipient, at no time during that period of 6 weeks, knew, or ought to have known, that the donor was a foreign donor.

(3) A person must not contravene subsection (1).

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

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

(1) A person (the ***relevant person***) contravenes this subsection if –

(a) the relevant person is –

(i) a registered party, Member, candidate or associated entity or a person who is or becomes a third-party campaigner in relation to an Assembly election; or

(ii) the agent of a registered party, Member, candidate or associated entity or of a person who is or becomes a third-party campaigner in relation to an Assembly election; and

(b) a gift is made, by a foreign donor, to, or for the benefit of, the registered party, Member, candidate or associated entity or the person who is or becomes a third-party campaigner; and

(c) the relevant person knows that the donor is a foreign donor; and

(d) the amount or value of the gift is equal to $100 or more; and

(e) either of the following applies:

(i) the relevant person knows that the foreign donor intends the gift to be used for the purposes of incurring electoral expenditure or for the dominant purpose of creating or communicating electoral matter;

(ii) the relevant person accepted the gift intending to use the gift for

the purposes of incurring electoral expenditure or for the dominant purpose of creating or communicating electoral matter; and

(f) acceptable action has not been taken in relation to the gift before the end of the period of 6 weeks after the gift is made.

(2) A person (the ***donor***) contravenes this subsection if –

(a) the donor is a foreign donor; and

(b) the donor makes a gift to, or for the benefit of, another person; and

(c) the other person is –

(i) a registered party, Member, candidate or associated entity or a person who is or becomes a third-party campaigner in relation to an Assembly election; or

(ii) the agent of a registered party, Member, candidate or associated entity or of a person who is or becomes a third-party campaigner in relation to an Assembly election; and

(d) either –

(i) the foreign donor intends the gift to be used for the purposes of

incurring electoral expenditure or for the dominant purpose of creating or communicating electoral matter in relation to the election; or

(ii) the donor knows that the other person accepted the gift intending to use the gift for the purposes of incurring electoral expenditure or for the dominant purpose of creating or communicating electoral matter in relation to the election; and

(e) in any case – acceptable action has not been taken in relation to the gift before the end of the period of 6 weeks after the gift is made.

(3) A person must not contravene subsection (1) or (2).

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

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

A person must not make a statement, or provide appropriate donor information, in relation to a gift if –

(a) the statement or information is for the purposes of section 21(2)(a),

section 21(2)(b)(i), section 22(2)(a) or section 22(2)(b)(i); and

(b) the person knows, or ought to have known, that the statement or information is false.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

Division 2 – Other prohibited political donations

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

(1) It is unlawful for any of the following persons to make a political donation to an independent candidate or an independent Assembly Member:

(a) a registered party;

(b) an Assembly candidate endorsed by a registered party;

(c) an Assembly Member endorsed by a registered party;

(d) an associated entity in relation to which there is a registered party.

(2) It is unlawful for an independent candidate, or an independent Assembly Member, to accept a political donation made to the candidate by any of the following persons:

(a) a registered party;

(b) an Assembly candidate endorsed by a registered party;

(c) an Assembly Member endorsed by a registered party;

(d) an associated entity in relation to which there is a registered party.

26. Prohibition on receiving gifts from unknown source

It is unlawful for a person to accept a reportable political donation that is required to be disclosed under Part 5 unless –

(a) the name and address of the person who made the donation are known to the person accepting the donation; or

(b) when the donation is made –

(i) the person making the donation gives the donor's name and address to the person accepting the donation; and

(ii) 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 donor.

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

(1) It is unlawful for a person to make a political donation in cash that exceeds the value of $100.

(2) It is unlawful for a person to accept a political donation in cash that exceeds the value of $100.

28. Certain loans not to be accepted unless details recorded

(1) In this section –

reportable loan means a loan that is a reportable political donation.

(2) It is unlawful for a person to receive a reportable loan unless the person makes a record of the following:

(a) the terms and conditions of the loan;

(b) the name and address of the person making the loan.

(3) For the purposes of this section –

(a) separate loans made by one person to the same registered party, Member, 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.

29. Offence to do act that is unlawful under this Division

A person must not do any act that is unlawful under this Division, if the person, at the time of the act, knows, or ought to have known, of the facts that result in the act being unlawful.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

Division 3 – Recovery of unlawful donations

30. Unlawful donation may be recovered

(1) If a person –

(a) contravenes Division 1 in relation to a gift; or

(b) accepts a gift that is unlawful because of a provision of Division 2 –

an amount equivalent to the value of the gift is payable by the person to the State.

(2) An amount referred to in subsection (1) may be recovered by the Commission as a debt due and payable to the State.

PART 4 – ACCEPTANCE AND USE OF POLITICAL DONATIONS

Division 1 – Unlawful acceptance of political donations

31. Acceptance, by registered party or persons endorsed by registered party, of political donations

(1) It is unlawful for a political donation, to a registered party or an Assembly Member who is endorsed by a registered party, to be accepted unless –

(a) if the political donation is money – the money is paid to the party agent in relation to the registered party and is paid by the party agent into the campaign account of the registered party; or

(b) if the political donation is not money – the political donation is accepted by the party agent in relation to the registered party.

(2) It is unlawful for a political donation, to an Assembly candidate, in relation to an election, who is endorsed by a registered party, to be accepted unless –

(a) the candidate is registered under this Act in the Register of Candidates in relation to the election; and

(b) if –

(i) the political donation is money – the money is paid to the party

agent in relation to the registered party and is paid by the party agent into the campaign account of the registered party; or

(ii) the political donation is not money – the political donation is accepted by the party agent in relation to the registered party.

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

For the purposes of this Act and despite section 31(2)(a) –

(a) a political donation may be made to a party agent in relation to a registered party, on behalf of a future candidate for election in an Assembly election, before the candidate has been identified, selected, or endorsed, by the registered party; but

(b) it is unlawful for such a political donation to be used otherwise than to incur electoral expenditure for or on behalf of an Assembly candidate, in relation to the Assembly election, who is endorsed by the registered party.

33. Acceptance, by independent Assembly Members or candidates or Council Members or candidates, of political donations

(1) It is unlawful for a political donation to an independent Assembly Member or a Council Member to be accepted unless –

(a) if the political donation is money – the money is paid to the official agent in relation to the Member and is paid, by the official agent in relation to the Member, into the campaign account of the Member; or

(b) if the political donation is not money – the political donation is accepted by the official agent in relation to the Member.

(2) It is unlawful for a political donation to an independent Assembly candidate, or a Council candidate, in relation to an election, to be accepted, unless –

(a) the candidate is registered in the Register of Candidates in relation to the election; and

(b) if –

(i) the political donation is money – the money is paid to the official agent in relation to the candidate and is paid, by the official agent in relation to the candidate, into the campaign account of the candidate; or

(ii) the political donation is not money – the political donation is accepted by the official agent in relation to the candidate.

34. Acceptance, by associated entities, of political donations

It is unlawful for a political donation, to an associated entity, for the purposes of incurring electoral expenditure, or reimbursing a person for electoral expenditure incurred, to be accepted unless –

(a) the associated entity is registered under this Act in the Register of Associated Entities; and

(b) if –

(i) the political donation is money – the money is paid to the official agent in relation to the associated entity and is paid by the official agent into the campaign account of the associated entity; or

(ii) the political donation is not money – the political donation is accepted by the official agent in relation to the associated entity.

35. Acceptance, by third-party campaigners, of political donations

It is unlawful for a political donation, to a person who is or becomes a third-party campaigner in relation to an Assembly election, for the purposes of incurring electoral expenditure during the election campaign period in relation to an Assembly election, or reimbursing a person for electoral expenditure incurred during the election campaign period in relation to an Assembly election, to be accepted unless –

(a) the first-mentioned person is registered under this Act in the Register of Third-party Campaigners in relation to the election; and

(b) if –

(i) the political donation is money – the money is paid to the official agent in relation to the third-party campaigner and is paid by the official agent into the campaign account of the third-party campaigner; or

(ii) the political donation is not money – the political donation is accepted by the official agent in relation to the third-party campaigner.

36. Person accepting reportable political donation must record details

(1) It is unlawful for a person to accept a reportable political donation that is required to be disclosed under Part 5 unless the person –

(a) makes a record of the details required under section 46 in relation to a disclosure in relation to the donation; and

(b) provides, to the person who made the donation, a receipt for the donation, being a receipt that includes a statement required by the regulations as to the circumstances in which the donor is obliged under Part 5 to disclose the donation.

(2) Subsection (1) does not apply to a political donation that is not a reportable political donation at the time when it is made, even if the political donation is later taken, under section 13, to have been a reportable political donation made at a later time.

(3) It is unlawful for a person to accept a political donation unless the person –

(a) records the amount of the donation, the date on which it is made and the person who made the donation; and

(b) provides, to the person who made the donation, a receipt for the donation.

(4) A reference in subsection (3) to a political donation –

(a) includes a political donation that is not a reportable political donation at the time when it is made, but that is later taken, under section 13, to have been a reportable political donation made at a later time; but

(b) does not include –

(i) a small contribution; or

(ii) a political donation that is a reportable political donation at the time at which it is made.

(5) A person must keep for a period of at least 3 years a record made by the person under this section.

Penalty: In the case of –

(a) a party – a fine not exceeding 200 penalty units; or

(b) in any other case – a fine not exceeding 100 penalty units.

Division 2 – Use of political donations

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

(1) It is unlawful for a political donation to a registered party to be used otherwise than for the

objects and activities of the party, including the following:

(a) the administration of the party and community activities;

(b) electoral expenditure for Assembly elections;

(c) electoral expenditure for or on behalf of Assembly Members, or Assembly candidates, who are endorsed by the party.

(2) In particular, it is unlawful for a political donation to be used for the personal use of a natural person acting in a private capacity.

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

It is unlawful for a political donation to a Member or candidate to be used otherwise than –

(a) to incur electoral expenditure or reimburse a person for incurring electoral expenditure; or

(b) in relation to the performance of parliamentary duties by the Member or candidate; or

(c) for any other purpose authorised by this Act.

Division 3 – Offences

39. Offence of doing act that is unlawful under this Part

A person must not do any act that is unlawful under this Part, if the person, at the time of the act, knows, or ought to have known, of the facts that result in the act being unlawful.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

PART 5 – DISCLOSURE OF POLITICAL DONATIONS

Division 1 – Persons responsible for disclosures of political donations

40. Registered parties and their Members and candidates

(1) If a reportable political donation is, during an election campaign period in relation to an Assembly election, received, or made, by or on behalf of –

(a) a registered party; or

(b) an Assembly Member who is, at the time at which the donation is received or made, endorsed by a registered party; or

(c) an Assembly candidate who is, at the time at which the donation is received or made, endorsed by a registered party –

the party agent in relation to the registered party is required to disclose the donation in a donation declaration that is lodged under section 49 within 7 days after the day on which the political donation is received or made.

(2) If a reportable political donation –

(a) is, within a monthly period, received, or made, by or on behalf of –

(i) a registered party; or

(ii) an Assembly Member who is, at the time at which the donation is received or made, endorsed by a registered party; or

(iii) an Assembly candidate who is, at the time at which the donation is received or made, endorsed by a registered party; and

(b) is not received, or made, within an election campaign period, in relation to an election, all or part of which is within that monthly period –

the party agent in relation to the registered party is required to disclose the donation in a donation declaration that is lodged under section 49 within the monthly period after the monthly period in which the political donation was received or made.

41. Independent Assembly Members, Council Members, independent candidates and Council candidates

(1) If a reportable political donation is, during an election campaign period in relation to an election in respect of a division of the Assembly or the Council, received, or made, by or on behalf of –

(a) an Assembly Member who is an independent Assembly Member at the time at which the donation is received or

made and who is a Member in relation to the division; or

(b) an Assembly candidate who is an independent Assembly candidate at the time at which the donation is received or made and who is a candidate in relation to the election; or

(c) a Council Member who is a Member in relation to the division; or

(d) a Council candidate who is a candidate in relation to the election –

the official agent in relation to the Member or candidate is required to disclose the donation in a donation declaration that is lodged under section 49 within 7 days after the day on which the political donation is received or made.

(2) If a reportable political donation –

(a) is, within a monthly period, received, or made, by or on behalf of –

(i) an Assembly Member who is an independent Assembly Member at the time at which the donation is received or made; or

(ii) an Assembly candidate who is an independent Assembly candidate at the time at which the donation is received or made; or

(iii) a Council Member; or

(iv) a Council candidate; and

(b) is not received, or made, within an election campaign period –

(i) in relation to an election in respect of the division in relation to which the Member or candidate is a Member or candidate; and

(ii) all or part of which is within that monthly period –

the official agent in relation to the Member or candidate is required to disclose the donation in a donation declaration that is lodged under section 49 within the monthly period after the monthly period in which the political donation was received or made.

42. Associated entities

(1) If a reportable political donation is, during an election campaign period in relation to an Assembly election, received, or made, by or on behalf of an associated entity, the official agent in relation to the associated entity is required to disclose the donation in a donation declaration that is lodged under section 49 within 7 days after the day on which the political donation is received or made.

(2) If a reportable political donation –

(a) is, within a monthly period, received, or made, by or on behalf of an associated entity; and

(b) is not received, or made, within an election campaign period, in relation to an election, all or part of which is within that monthly period –

the official agent in relation to the associated entity is required to disclose the donation in a donation declaration that is lodged under section 49 within the monthly period after the monthly period in which the political donation was received or made.

43. Third-party campaigners

If a reportable political donation is, during an election campaign period in relation to an Assembly election, received, by or on behalf of a person who is or becomes a third-party campaigner in relation to the election, for the purposes of incurring, during that period, electoral expenditure by the person, the official agent in relation to the person is required to disclose the donation in a donation declaration that is lodged under section 49 within 7 days after whichever of the following days occurs last:

(a) the day on which the person becomes a third-party campaigner in relation to the election;

(b) the day on which the political donation is received.

44. Significant political donors

(1) If a reportable political donation is, during an election campaign period in relation to an election in respect of an Assembly division or a Council division, made, by a significant political donor, to or for the benefit of a Member for the division or a candidate in relation to the election, the official agent in relation to the significant political donor is required to disclose the donation in a donation declaration that is lodged under section 49 within 7 days after the day on which the political donation is made.

(2) If a reportable political donation is, during an election campaign period in relation to an election in respect of an Assembly division, made, by or on behalf of a significant political donor, to a person who is or becomes a third-party campaigner in relation to the election, the official agent in relation to the significant political donor is required to disclose the donation in a donation declaration that is lodged under section 49 within 7 days after whichever of the following days occurs last:

(a) the day on which the person becomes a third-party campaigner in relation to the election;

(b) the day on which the political donation is made.

(3) If a reportable political donation –

(a) is, within a monthly period, made, by a significant political donor, to or for the benefit of a Member for a division or a candidate in relation to an election in respect of a division; and

(b) is not made within an election campaign period, in relation to an election in respect of the division, all or part of which is within that monthly period –

the official agent in relation to the significant political donor is required to disclose the donation in a donation declaration that is lodged under section 49 within the monthly period after the monthly period in which the political donation was received or made.

(4) If a reportable political donation is, during an election campaign period in relation to an election, made by or on behalf of a significant political donor to or for the benefit of –

(a) a registered party; or

(b) an associated entity –

the official agent in relation to the significant political donor is required to disclose the donation in a donation declaration that is lodged under section 49 within 7 days after the day on which the political donation is made.

(5) If a reportable political donation –

(a) is, within monthly period, made by or on behalf of a significant political donor to or for the benefit of –

(i) a registered party; or

(ii) an associated entity; and

(b) is not made within an election campaign period, in relation to an election, all or part of which is within that monthly period –

the official agent in relation to the significant political donor is required to disclose the donation in a donation declaration that is lodged under section 49 within the monthly period after the monthly period in which the political donation was received or made.

45. Disclosure requirements where person ceases to be type of person

If –

(a) a party agent, or official agent, was required under this Part to make a disclosure of a reportable political donation made, or received, during a relevant disclosure period, by or on behalf of a registered party, Member, candidate, associated entity, third-party campaigner or significant political donor; and

(b) the –

(i) registered party, Member, candidate or associated entity has ceased to be a registered party, a Member, a candidate or an associated entity; or

(ii) Member, or candidate, is an Assembly Member or Assembly candidate and has become, or has ceased to be, endorsed by a registered party; or

(iii) third-party campaigner or significant political donor has ceased to be an incorporated or unincorporated body of persons or a trustee –

the party agent, or official agent, respectively, continues to be required to make the disclosure at the time at which the disclosure is required to be made.

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

46. Details, of reportable political donations, that are required to be disclosed

(1) Disclosure of reportable political donations received, or made, during a relevant disclosure period is to include disclosure of the following details of each such donation:

(a) the registered party, Member, or candidate, to, or for whose benefit, the

donation was made (or, if the case requires, the third-party campaigner or associated entity to whom the donation was made);

(b) the date on which the donation was received or made;

(c) the name of the donor;

(d) the residential address of the donor (in the case of a natural person or an unincorporated body of persons) or the address of the registered or other official office of the donor (in the case of a person who is an incorporated body of persons);

(e) the amount of the donation;

(f) in the case of a donor that is not a natural person – the relevant business number, if any, of the donor;

(g) in relation to the disclosure of a political donation that is a reportable political donation by operation of the provisions of section 13 other than section 13(1) – details that separately identify that political donation and the earlier political donation, or political donations, with which it is aggregated.

(2) Disclosure of reportable political donations received, or made, during a relevant disclosure period is to include disclosure of the following

information in relation to any reportable loan under section 28:

(a) the amount of the loan;

(b) the name and address of the person making the loan;

(c) the terms and conditions of the loan;

(d) the total loan repayments made under the loan during the relevant disclosure period.

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

47. Donation disclosure by significant political donor also to include disclosure of certain gifts received

(1) In this section –

relevant gift means –

(a) a gift of $1 000 or more; and

(b) gifts that, if they had been political donations made to or for the benefit of a third-party campaigner, would have been a reportable political donation by operation of the provisions of section 13 (other than section 13(1)).

(2) If –

(a) a significant political donor makes one or more reportable political donations during a relevant disclosure period; and

(b) the significant political donor receives, during the relevant disclosure period, a reportable gift –

the significant political donor is required to include, in a donation disclosure made, in accordance with section 46(1), in relation to one of those donations made by the significant political donor during the relevant disclosure period, a disclosure of the relevant information in relation to the reportable gift.

(3) For the purposes of subsection (2), a significant political donor receives, during a relevant disclosure period, a reportable gift, if, during the relevant disclosure period –

(a) the significant political donor receives a relevant gift made to the donor by a person (the ***gift-maker***); and

(b) the significant political donor knew, or ought to have known, that all or part of the gift was intended by the gift-maker to be used by the significant political donor to make a reportable political donation during the relevant disclosure period.

(4) For the purposes of subsection (2), the relevant information in relation to a reportable gift is the following information:

(a) the date on which the gift was made;

(b) the name of the gift-maker;

(c) the residential address of the gift-maker (in the case of a natural person or an unincorporated body of persons) or the address of the registered or other official office of the gift-maker (in the case of a person who is an incorporated body of persons);

(d) the amount of the gift;

(e) in the case of a gift-maker that is not a natural person – the relevant business number, if any, of the gift-maker;

(f) in relation to the disclosure of a gift to which paragraph (b) of the definition of relevant gift in subsection (1) relates – details that separately identify that gift and the earlier gifts with which it is aggregated.

48. Separate disclosures not required of same item

An item disclosed under this Part –

(a) in relation to a Member need not also be disclosed in the Member's capacity as a candidate; and

(b) in relation to a candidate need not also be disclosed in the candidate's capacity as a Member.

49. Donation declarations

(1) A party agent or official agent may lodge with the Commission, in the approved manner, a donation declaration in an approved form.

(2) The regulations, or the Commission, may make provision for an electronic or internet-based system of lodgment of donation declarations.

(3) A donation declaration lodged under this section in relation to a relevant disclosure period is to contain a statement to the effect that all disclosures that the party agent, or official agent, lodging the declaration is required to make in relation to the period –

(a) have been made; and

(b) are true and correct.

(4) If a person, in a relevant disclosure period, qualifies as more than one of the following:

(a) an associated entity;

(b) a third-party campaigner;

(c) a significant political donor –

an official agent who is required to make, in relation to the relevant disclosure period, a disclosure under this Part in relation to the person may make a single donation declaration under this Part in relation to all the disclosures, during the relevant disclosure period, that the official agent is required to make in relation to the person.

(5) A party agent in relation to a registered party may lodge under this Part, in relation to a relevant disclosure period, a single donation declaration in relation to all the disclosures that the party agent is required under this Part to make, during the relevant disclosure period, in relation to –

(a) the registered party; and

(b) Members or candidates –

but each single donation declaration must separately identify the disclosures relating to the registered party and to each of the Members or candidates.

(6) Disclosures in a donation declaration lodged under this section are required to be vouched for in the manner, if any, prescribed by the regulations, which may include by way of statutory declaration.

50. Extension of date for making disclosures

(1) A party agent, or official agent, who –

(a) is required under this Part to make a disclosure in relation to a monthly period; but

(b) is unable to lodge, by the day (the ***due date***) that is the final day of the subsequent monthly period, a complete donation declaration in relation to the disclosure –

may, before the due date, request the Commission to extend the due date for lodging the donation declaration.

(2) The Commission may, if satisfied that there is good cause to do so, extend the due date for the lodging, by a particular party agent or official agent, of the donation declaration disclosure in relation to a monthly period, to a day that the Commission considers appropriate in the circumstances.

(3) The due date for lodging a donation declaration under this Part cannot be extended by more than 30 days in total.

(4) The Commission may, as a condition of extending the due date for the lodging, by a particular party agent or official agent, of the donation declaration, require the party agent or official agent to lodge a donation declaration containing disclosures under this Part that the agent is able to make at a time specified by the Commission.

(5) If the Commission extends the due date for the lodging by a party agent, or official agent, of a donation declaration in relation to a disclosure, the day by which, under this Part, the disclosure is required to be made by the agent is to be taken to be the due date for lodgment as so extended.

51. Amendment of donation declarations

(1) In this section –

amend includes alter, omit, add and substitute.

(2) The party agent, or official agent, who lodged a donation declaration under this Part (or that agent's successor as the party agent, or official agent, in relation to the party, Member, candidate, associated entity or third-party campaigner concerned) may amend the donation declaration by lodging with the Commission an amended donation declaration.

(3) The amended donation declaration is to be in the approved form and to be lodged in the approved manner.

(4) This section does not affect the liability for an offence in connection with the original donation declaration that is amended.

52. Commission may audit donation declarations

(1) The Commission may audit a donation declaration, or an amended donation declaration, other than a donation declaration lodged by a significant political donor.

(2) A person who is or was a registered party, Member, candidate, associated entity or third-party campaigner must assist the Commission to audit a donation declaration by –

(a) giving the Commission full and free access at all reasonable times to all accounts and documents, relating directly or indirectly to any matter required to be disclosed under this Part, of –

(i) the person required under this Part to make a disclosure of a reportable political donation in the donation declaration; and

(ii) the registered party, Member, candidate, associated entity or third-party campaigner (as the case requires); and

(b) giving the Commission all information and explanations that the Commission reasonably requests in respect of any matter required to be set out in the donation declaration.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) The Commission may appoint an auditor to audit, on the Commission's behalf, donation declarations and amended donation declarations.

(4) For the purposes of subsection (3), the auditor has and may exercise the same functions as the Commission has under this section in relation to an audit of a donation declaration or an amended donation declaration.

(5) An audit under this section is to be conducted in the manner, if any, prescribed in the regulations.

53. Publication on Commission website of disclosures

(1) If a donation declaration relates to a donation that is required under this Part to be disclosed within 7 days after the donation is made or received, the Commission must ensure that –

(a) within 7 days after the donation declaration is lodged with the Commission under section 49, a copy of the donation declaration is published on a Commission website; and

(b) the copy continues to be so published for a period of at least 6 years.

(2) If a donation declaration relates to a donation that is required under this Part to be disclosed within the monthly period following the monthly period in which the donation is made or received, the Commission must ensure that –

(a) within 7 days after the donation declaration is lodged with the Commission under section 49, a copy of the donation declaration is published on a Commission website; and

(b) the copy continues to be so published for a period of at least 6 years.

(3) If an amended donation declaration is lodged with the Commission under section 51, the Commission must ensure that –

(a) within 7 days, a copy of the amended donation declaration is published on a Commission website; and

(b) the copy continues to be so published for a period of at least 6 years.

(4) The Commission may decline to publish on a Commission website, or may remove from a Commission website, any donation declaration, or amended donation declaration, that the Commission has reason to suspect is vexatious, false or misleading.

(5) A copy of each donation declaration, and of each amended donation declaration, lodged under section 49 or section 51 –

(a) is to be kept by the Commission for a period of at least 6 years after the declaration is lodged with the Commission under section 49 or section 51; and

(b) is to be available during that period for public inspection, at the offices of the Commission, during the ordinary office hours of the Commission.

Division 3 – Offences

54. Offence to fail to lodge complete donation declaration

(1) A person who is required under a provision of this Part to disclose a donation in a donation

declaration that is lodged under section 49 within a period specified in the provision must –

(a) make the disclosure in a donation declaration that is lodged under section 49 within the period; and

(b) include in the donation declaration any other disclosure that the person is required under section 46(2) or section 47 to include in the donation declaration.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A person who is required under a provision of this Part to make a disclosure in a donation declaration under section 49 must not fail, without reasonable excuse, to lodge a complete donation declaration containing the disclosure.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

55. Offences relating to assisting others lodging donation declarations

(1) A person must take all reasonable steps to ensure that the disclosures included in a donation declaration lodged by the person under section 49, or in an amended donation declaration lodged under section 51, are not false or misleading in a material particular.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A person acting, or purportedly acting, on behalf of a registered party must not, in relation to a matter required to be disclosed by a party agent in a donation declaration lodged by the agent under section 49, give or withhold information to or from the party agent, if the person knows, or ought to have known, that it will result in the making of a false statement in the donation declaration or in an amended donation declaration.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) A person who is or was an Assembly Member, or Assembly candidate, who is or was endorsed by a registered party must not, in relation to a matter required to be disclosed, by a party agent in relation to the party, in a donation declaration lodged under section 49 by the party agent, give or withhold information to or from the party agent, if the person knows, or ought to have known, that it will result in the making of a false statement in the donation declaration or in an amended donation declaration.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(4) A person who is or was an independent Member or Council Member, or independent candidate or Council candidate, must not, in relation to a matter required to be disclosed, by the official agent in relation to the person, in a donation declaration lodged under section 49 by the official agent, give or withhold information to or from the official agent, if the person knows, or ought to have known, that it will result in the making of a false statement in the donation declaration or in an amended donation declaration.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(5) An associated entity or third-party campaigner must not, in relation to a matter required to be disclosed, by the official agent in relation to the associated entity or third-party campaigner, in a donation declaration lodged under section 49 by the official agent, give or withhold information to or from the official agent, if the associated entity or third-party campaigner knows, or ought to have known, that it will result in the making of a false statement in the donation declaration or in an amended donation declaration.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

PART 6 – ELECTORAL EXPENDITURE IN ASSEMBLY ELECTIONS

Division 1 – Preliminary

56. Electoral expenditure of endorsed Assembly candidate or Member where incurred by party, &c.

For the purposes of this Act, an amount of electoral expenditure by an Assembly candidate, or Assembly Member, in relation to an Assembly election includes (but is not limited to including) if the candidate or Member is or was, during all or part of the election campaign period in relation to the election, endorsed by a registered party, any amount of electoral expenditure that is –

(a) incurred by that party (whether or not as an agent for the candidate or Member) for the direct or indirect benefit of –

(i) the candidate or Member; or

(ii) the candidate or Member and other Assembly candidates, or Assembly Members, in relation to the election, who are endorsed by the registered party; and

(b) invoiced by that party to the candidate or Member for payment (whether or not the candidate or Member has a legal liability to pay to the party the amount invoiced).

Division 2 – Responsibility for disclosure of electoral expenditure

57. Registered parties and endorsed Members or candidates

If electoral expenditure is, during an election campaign period in relation to an Assembly election, incurred by or on behalf of any of the following:

(a) a registered party;

(b) an Assembly Member who, at the time at which the expenditure is incurred, is endorsed by a registered party;

(c) an Assembly candidate who, at the time at which the expenditure is incurred, is endorsed by a registered party –

the party agent in relation to the registered party is required to disclose the expenditure in an Assembly election campaign return that is lodged under section 71 before the end of 60 days after the end of the election campaign period.

58. Independent Assembly Members and independent Assembly candidates

(1) If electoral expenditure is, during an election campaign period in relation to an Assembly election, incurred by or on behalf of an Assembly Member who is, at the time at which the expenditure is incurred, an independent

Assembly Member, the official agent in relation to the independent Assembly Member is required to disclose the expenditure in an Assembly election campaign return that is lodged under section 71 before the end of 60 days after the end of the election campaign period.

(2) If electoral expenditure is, during an election campaign period in relation to an Assembly election, incurred by or on behalf of an Assembly candidate who is, at the time at which the expenditure is incurred, an independent Assembly candidate, the official agent in relation to the independent Assembly candidate is required to disclose the expenditure in an Assembly election campaign return that is lodged under section 71 before the end of 60 days after the end of the election campaign period.

59. Associated entities

If electoral expenditure is, during an election campaign period in relation to an Assembly election, incurred by or on behalf of an associated entity, the official agent in relation to the associated entity is required to disclose the expenditure in an Assembly election campaign return that is lodged under section 71 before the end of 60 days after the end of the election campaign period.

60. Third-party campaigners

If electoral expenditure of more than $5 000 is, during an election campaign period in relation to an Assembly election, incurred by or on behalf of a third-party campaigner in relation to the election, the official agent in relation to the third-party campaigner is required to disclose the expenditure in an Assembly election campaign return that is lodged under section 71 before the end of 60 days after the end of the election campaign period.

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

If –

(a) a party agent, or official agent, is or was required under this Part to make a disclosure of electoral expenditure incurred, during an election campaign period in relation to an election, by or on behalf of a registered party, Member, candidate, associated entity or a third-party campaigner in relation to the election; and

(b) the –

(i) registered party, Member, candidate or associated entity has ceased to be a registered party, a Member, a candidate or an associated entity; or

(ii) Member, or candidate, is an Assembly Member or Assembly candidate who has become, or has ceased to be, endorsed by a registered party; or

(iii) third-party campaigner has ceased to be an incorporated or unincorporated body of persons or a trustee –

the party agent, or official agent, respectively, continues to be required to make the disclosure at the time at which the disclosure is required to be made.

Division 3 – Requirements in relation to disclosure of electoral expenditure

62. Details required in disclosure of electoral expenditure

(1) A disclosure of electoral expenditure under this Part by a registered party in relation to an Assembly general election is to include, as far as possible, details of electoral expenditure incurred substantially for the purposes of the election in a particular division.

(2) For the purposes of subsection (1), electoral expenditure is only incurred for the purposes of the election in a particular division if the expenditure is for advertising, or other material, that –

(a) explicitly mentions the name of a candidate in the election in that division or the name of the division; and

(b) is communicated to electors in that division; and

(c) is not mainly communicated to electors outside that division.

63. Separate disclosures not required of same item

An item that is disclosed under this Part –

(a) in relation to a Member need not also be disclosed in the Member's capacity as a candidate; and

(b) in relation to a candidate need not also be disclosed in the candidate's capacity as a Member.

Division 4 – Requirements for payment of electoral expenditure

64. Payments of electoral expenditure to be made from party campaign account

(1) It is unlawful for a registered party to make a payment –

(a) for electoral expenditure in relation to an Assembly election; or

(b) to reimburse electoral expenditure incurred by another person for the

election or re-election, of an Assembly candidate or Assembly Member –

unless the payment is made from the campaign account of the registered party by the party agent in relation to the registered party or a person authorised under section 65(6) by the party agent in relation to a registered party.

(2) This section does not prevent payments, other than for electoral expenditure, being made out of the campaign account of a party for objects and activities of the party that are referred to in section 37(1).

65. Requirements if party agent responsible for disclosure of electoral expenditure

(1) It is unlawful for a party agent in relation to a registered party, or any person authorised under subsection (6) by a party agent in relation to a registered party, to make a payment –

(a) for electoral expenditure for the election or re-election, as an Assembly Member, of an Assembly Member who is endorsed by the registered party or who was endorsed by the registered party at the time at which the electoral expenditure was incurred; or

(b) to reimburse electoral expenditure, incurred by another person, for the election or re-election, as an Assembly Member, of an Assembly Member who is endorsed by the registered party or

who was endorsed by the registered party at the time at which the electoral expenditure was incurred –

unless the payment is made from the campaign account of the registered party.

(2) It is unlawful for a party agent in relation to a registered party, or any person authorised under subsection (6) by a party agent in relation to a registered party, to make a payment –

(a) for electoral expenditure for the election or re-election, as an Assembly Member, of an Assembly candidate who is endorsed by the registered party or who was endorsed by the registered party at the time at which the electoral expenditure was incurred; or

(b) to reimburse electoral expenditure incurred by another person for the election or re-election, as an Assembly Member, of an Assembly candidate, who is endorsed by the registered party or who was endorsed by the registered party at the time at which the electoral expenditure was incurred –

unless the relevant requirements are satisfied in relation to the payment.

(3) For the purposes of subsection (2), the relevant requirements are satisfied in relation to the payment if –

(a) the payment is made from the campaign account of the registered party; and

(b) the candidate was, at the time at which the expenditure to which the payment relates was incurred, registered in the Register of Candidates in relation to the election.

(4) The guidelines may exclude minor payments from the operation of one or more requirements of subsection (3).

(5) This section does not prevent payments, other than for electoral expenditure, being made out of the campaign account of a party for objects and activities of the party that are referred to in section 37(1).

(6) Subject to the regulations, the party agent in relation to a registered party may, in writing, authorise a person to operate a campaign account of the party for the purposes of making, on behalf of the party agent, payments from a campaign account of the party.

66. Requirements in relation to independent Assembly Members and independent Assembly candidates

(1) This section applies to –

(a) an independent Assembly Member; and

(b) an independent Assembly candidate.

(2) It is unlawful for a Member, or candidate, to whom this section applies or applied, the official

agent in relation to such a Member or candidate, or any other person authorised under subsection (5) by the official agent to operate a campaign account on behalf of the Member or candidate, to make a payment –

(a) for electoral expenditure, for the election or re-election, as an Assembly Member, of the Member or candidate, that is incurred at the time at which this section applies or applied to the Member or candidate; or

(b) to reimburse electoral expenditure incurred by another person for the election or re-election, as an Assembly Member, of the Member or candidate that is incurred at the time at which this section applies or applied to the Member or candidate –

unless the relevant requirements are satisfied in relation to the payment.

(3) For the purposes of subsection (2), the relevant requirements are satisfied in relation to the payment if –

(a) the payment is made, from the campaign account of the Member or candidate, by the official agent in relation to that Member or candidate or any person authorised under subsection (5) to operate the campaign account on behalf of the Member or candidate; and

(b) in the case of a candidate – the candidate is registered in the Register of Candidates.

(4) The guidelines may exclude minor payments from the operation of one or more requirements of subsection (3).

(5) Subject to the regulations, a Member or candidate to whom this section applies may, in writing, authorise a natural person (other than a Member or candidate) to operate a campaign account on behalf of the Member or candidate for the purpose of making, on behalf of the official agent in relation to the Member or candidate, payments from the campaign account.

67. Requirements for associated entity in relation to expenditure

(1) It is unlawful for an associated entity, the official agent in relation to an associated entity, or any person authorised under section 94 to operate a campaign account on behalf of the associated entity, to make a payment –

(a) for electoral expenditure for the election or re-election, as an Assembly Member, of a Member or candidate; or

(b) to reimburse electoral expenditure incurred by another person for the election or re-election, as an Assembly Member, of a Member or candidate –

unless the relevant requirements are satisfied in relation to the payment.

(2) For the purposes of subsection (1), the relevant requirements are satisfied in relation to the payment if –

(a) the payment is made, from the campaign account of the associated entity, by the associated entity, the official agent or the person authorised under section 94; and

(b) the associated entity is registered under this Act in the Register of Associated Entities.

(3) The guidelines may exclude minor payments from the operation of one or more requirements of subsection (2).

68. Requirements for payment of electoral expenditure by third-party campaigner

(1) It is unlawful for a third-party campaigner in relation to an Assembly election, the official agent in relation to a third-party campaigner, or any person authorised under section 94 in relation to a third-party campaigner, to make a payment –

(a) for electoral expenditure for the election or re-election, as an Assembly Member, of a Member or candidate; or

(b) to reimburse electoral expenditure incurred by another person for the

election or re-election, as an Assembly Member, of a Member or candidate –

unless the relevant requirements are satisfied in relation to the payment.

(2) For the purposes of subsection (1), the relevant requirements are satisfied in relation to the payment if –

(a) the payment is made, from the campaign account of the third-party campaigner, by the third-party campaigner, the official agent or the person authorised under section 94; and

(b) the third-party campaigner is registered under this Act in the Register of Third-party Campaigners in relation to the election.

(3) The guidelines may exclude minor payments from the operation of one or more requirements of subsection (2).

Division 5 – Offences

69. Offence to do act that is unlawful under this Part

A person must not do any act that is unlawful under this Part if the person, at the time of the act, knows, or ought to have known, of the facts that result in the act being unlawful.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

PART 7 – ASSEMBLY ELECTION CAMPAIGN RETURNS

Division 1 – Requirements in relation to Assembly election campaign returns

70. Certain persons to lodge returns even if no political donations or electoral expenditure incurred

(1) A party agent is required to lodge with the Commission under section 71, before the end of 60 days after the end of the election campaign period in relation to an Assembly election, an Assembly election campaign return in relation to the election campaign period.

(2) If a person was, at any time during an election campaign period in relation to an Assembly election in respect of a division of the Assembly –

(a) an independent Assembly Member in respect of the division; or

(b) an independent Assembly candidate who is a candidate in relation to an election in respect of the division –

the official agent in relation to the person is required to lodge with the Commission under section 71, before the end of 60 days after the end of the election campaign period, an Assembly election campaign return in relation to the election campaign period.

(3) An official agent in relation to an associated entity is required to lodge with the Commission under section 71, before the end of 60 days after the end of the election campaign period in relation to an Assembly election, an Assembly election campaign return in relation to the election campaign period.

(4) A requirement under this section applies, to a party agent or official agent, in relation to an election campaign period even if there are, during the election campaign period, no reportable political donations or electoral expenditure that the party agent, or official agent, respectively, is required under this Act to disclose.

71. Assembly election campaign returns

(1) A party agent, or official agent, is to lodge with the Commission, in the approved manner, an Assembly election campaign return in the approved form.

(2) Without limiting subsection (1), the regulations or the Commission may make provision for an electronic or internet-based system of lodgment of an Assembly election campaign return.

(3) An Assembly election campaign return, in relation to an election campaign period, that is lodged by a party agent or official agent is to include –

(a) disclosures of all electoral expenditure that the party agent, or official agent, is

required under Part 6 to disclose in relation to the election campaign period; and

(b) disclosures, in relation to each reportable political donation, that the party agent, or official agent, is required under Part 5 to disclose in relation to the election campaign period; and

(c) disclosure of the total amount of political donations, during the election campaign period, that are not reportable political donations but that are political donations (including small contributions) that the party agent, or official agent, would be required under Part 5 to disclose if the political donations were reportable political donations; and

(d) in the case of an Assembly election campaign return that is –

(i) lodged, in relation to a registered party, by a party agent in relation to the registered party; or

(ii) lodged, in relation to an associated entity, by an official agent in relation to the associated entity –

disclosure of the relevant debt information, in respect of the election campaign period, in relation to the registered party, or associated entity, respectively; and

(e) if there are no political donations, or electoral expenditure, that the party agent, or official agent, is required under Part 5 or Part 6 to disclose – a disclosure to that effect; and

(f) a disclosure of the amount of each contribution, during the election campaign period –

(i) that is made by an Assembly Member, or Assembly candidate, to finance the campaign for the election, as an Assembly Member, of the Member or candidate; and

(ii) that the party agent, or official agent, respectively, would have been required to disclose under Part 5 if the contribution had been a political donation –

and the terms on which the contribution was made.

(4) In subsection (3)(d), a reference to the relevant debt information, in respect of an election campaign period, in relation to a registered party or an associated entity, means the following information:

(a) the total outstanding amount, at the end of the election campaign period, of all debts (other than an obligation to pay interest on a loan) incurred by, or on behalf of, the party or entity, in the 12-

month period before the end of the election campaign period;

(b) if the sum of all debts (other than an obligation to pay interest on a loan) to a person, incurred by, or on behalf of, the party or associated entity, is more than $1 000 –

(i) the name and address of the person; and

(ii) the sum of the debts to the person; and

(iii) a statement as to whether the person is, or is not, a financial institution; and

(iv) any other prescribed information in relation to the debt or the person.

(5) An Assembly election campaign return lodged by a party agent, or official agent, under this section in relation to an election campaign period must contain a statement to the effect that –

(a) all disclosures that the party agent, or official agent, is required under Part 5 or Part 6 to disclose in relation to the period; and

(b) a disclosure consisting of the total amount referred to in subsection (3)(c); and

(c) all disclosures that the party agent, or official agent, is required under subsection (3)(d), (e) or (f) to include in the return –

have been made and are true and correct.

(6) If a person, in an election campaign period in relation to an election, qualifies as more than one of the following:

(a) an associated entity;

(b) a third-party campaigner in relation to the election;

(c) a significant political donor –

the official agent of the associated entity, third-party campaigner or significant political donor may lodge a single Assembly election campaign return under this Act in relation to the election campaign period.

(7) A party agent in relation to a registered party may lodge, in relation to an election campaign period in relation to an Assembly election, a single Assembly election campaign return in relation to –

(a) the registered party; and

(b) Assembly Members who are endorsed by the registered party; and

(c) Assembly candidates who are endorsed by the registered party –

but the single Assembly election campaign return must separately identify the disclosures relating to the party and to each Member or candidate.

(8) An Assembly election campaign return lodged under this section is required to be vouched for in the manner prescribed by the regulations, if any, which may include by way of statutory declaration.

72. Extension of date for making return

(1) A party agent, or official agent, who –

(a) is required under this Act to lodge an Assembly election campaign return in relation to an election; but

(b) is unable to lodge a complete Assembly election campaign return by the day (the ***due date***) that is 60 days after the end of the election campaign period in relation to the election –

may, before the due date, request the Commission to extend the due date for lodging the Assembly election campaign return.

(2) The Commission may, if satisfied that there is good cause to do so, extend the due date for the lodging, by a particular party agent or particular official agent, of the Assembly election campaign return to a day that the Commission considers appropriate in the circumstances.

(3) The due date for lodging an Assembly election campaign return cannot be extended under this section by more than 30 days.

(4) The Commission may, as a condition of extending the due date for the lodging, by a particular party agent or particular official agent, of an Assembly election campaign return, require the party agent or official agent to lodge an Assembly election campaign return containing disclosures that the party agent or official agent is able to make at a time specified by the Commission.

(5) If the Commission extends the due date for the lodging, by a party agent or official agent, of an Assembly election campaign return in relation to a disclosure, the day by which, under this Act, the return is required to be lodged by the agent is to be taken to be the due date for lodgment as so extended.

73. Amendment of Assembly election campaign return

(1) In this section –

amend includes alter, omit, add and substitute.

(2) The party agent, or official agent, who lodged under section 71 an Assembly election campaign return (or that agent's successor as party agent or official agent) may amend the Assembly election campaign return by lodging with the Commission an amended Assembly election campaign return.

(3) The amended Assembly election campaign return is to be in the approved form and lodged with the Commission in the approved manner.

(4) This section does not affect the liability for an offence in connection with the original Assembly election campaign return that is amended.

74. Commission to check, and may audit, Assembly election campaign return

(1) On receiving an Assembly election campaign return lodged under section 71, or an amended Assembly election campaign return lodged under section 73, the Commission is to satisfy itself that all particulars required to be included in the return have been included.

(2) The Commission may audit an Assembly election campaign return or an amended Assembly election campaign return.

(3) A person who is or was a registered party, Member, candidate, associated entity, third-party campaigner in relation to an election, party agent or official agent must assist the Commission by –

(a) giving the Commission full and free access at all reasonable times to all accounts and documents, relating directly or indirectly to any matter required to be disclosed under this Act in an Assembly election campaign return, that are in the

possession of the person or that the person may reasonably obtain; and

(b) giving the Commission all information and explanations that the Commission reasonably requests in respect of any matter required to be set out in the Assembly election campaign return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(4) The Commission may appoint an auditor to audit Assembly election campaign returns, and amended Assembly election campaign returns, on its behalf.

(5) An auditor appointed under subsection (4) has and may exercise the same functions as the Commission has under this section in relation to an audit of an Assembly election campaign return or an amended Assembly election campaign return.

(6) An audit under this section is to be conducted in the manner, if any, prescribed in the regulations.

75. Publication on Commission website of Assembly election campaign returns, &c.

(1) If an Assembly election campaign return, or an amended Assembly election campaign return, is lodged with the Commission under section 71 or section 73, the Commission must ensure that –

(a) within 21 days, a copy of the Assembly election campaign return, or of the amended Assembly election campaign return, respectively, is published on a Commission website; and

(b) the copy continues to be so published for a period of at least 6 years.

(2) The Commission may decline to publish on a Commission website, or may remove from a Commission website, any Assembly election campaign return, or any amended Assembly election campaign return, that the Commission has reason to suspect is vexatious, false or misleading.

(3) A copy of each Assembly election campaign return and each amended Assembly election campaign return –

(a) is to be kept by the Commission for a period of at least 6 years after the return is lodged with the Commission; and

(b) is to be available during that period for public inspection, at the offices of the Commission, during the ordinary office hours of the Commission.

Division 2 – Offences

76. Offences relating to Assembly election campaign returns

(1) A person who is required under a provision of Part 6 to make a disclosure in an Assembly election campaign return under section 71 must make the disclosure within the period specified in that provision as the period within which the disclosure is required to be made in an Assembly election campaign return lodged under section 71 with the Commission.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A person who is required under section 70 to lodge an Assembly election campaign return under section 71 must lodge the Assembly election campaign return within the period specified in section 70 as the period within which the Assembly election campaign return is to be lodged with the Commission.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) A person who is required under a provision of Part 6 to make a disclosure in an Assembly election campaign return under section 71 must not fail, without reasonable excuse, to lodge under section 71 a complete Assembly election campaign return containing the disclosure and

any other disclosures that are required under section 71 to be included in the return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(4) A person who is required under section 70 to lodge an Assembly election campaign return under section 71 must not fail, without reasonable excuse, to lodge under section 71 a complete Assembly election campaign return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

77. Offences relating to assisting others lodging Assembly election campaign returns

(1) A person must take all reasonable steps to ensure that an Assembly election campaign return lodged by the person under section 71, or an amended Assembly election campaign return lodged by the person under section 73, is not false or misleading in a material particular.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A person acting, or purportedly acting, on behalf of a registered party must not, in relation to a matter required to be included in an Assembly election campaign return lodged under section 71 by the party agent in relation to the

party, give or withhold information to or from the party agent if the person knows, or ought to have known, that it will result in the making of a false statement in the Assembly election campaign return or in an amended Assembly election campaign return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) An Assembly Member, or Assembly candidate, who is or was endorsed by a registered party must not, in relation to a matter required to be included in an Assembly election campaign return lodged under section 71 by the party agent in relation to the registered party, give or withhold information to or from the party agent if the Member or candidate knows, or ought to have known, that it will result in the making of a false statement in the Assembly election campaign return or in an amended Assembly election campaign return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(4) A person who is or was an independent Assembly Member or independent Assembly candidate must not, in relation to a matter required to be included in an Assembly election campaign return lodged under section 71 by the official agent in relation to the Member or candidate, give or withhold information to or from the official agent if the Member or

candidate knows, or ought to have known, that it will result in the making of a false statement in the Assembly election campaign return or in an amended Assembly election campaign return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(5) An associated entity or third-party campaigner in relation to an election must not, in relation to a matter required to be included in an Assembly election campaign return lodged under section 71 by the official agent in relation to the associated entity or third-party campaigner, give or withhold information to or from the official agent if the associated entity or third-party campaigner knows, or ought to have known, that it will result in the making of a false statement in the Assembly election campaign return or in an amended Assembly election campaign return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

78. Offence to do act that is unlawful under this Part

A person must not do any act that is unlawful under this Part, if the person, at the time of the act, knows, or ought to have known, of the facts that result in the act being unlawful.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

PART 8 – ELECTORAL EXPENDITURE IN RELATION TO COUNCIL ELECTIONS

Division 1 – Preliminary

79. Meaning of *expenditure limit*

In this Part –

expenditure limit means the expenditure limit referred to in section 82.

80. Meaning of *Council election expenditure*

(1) For the purposes of this Act –

Council election expenditure, in relation to a Council candidate, means, subject to subsection (2), electoral expenditure that –

(a) relates to promoting or procuring the election of the candidate at a Council election; and

(b) is incurred by or with the authority of the candidate –

(i) within the election campaign period in relation to the election; or

(ii) before the election campaign period in relation to the election, in respect of goods, or goods

and services, which are or are to be supplied or provided to, or made use of by or with the authority of, the candidate during the election campaign period in relation to the election.

(2) Council election expenditure, in relation to a Council candidate, does not include electoral expenditure which relates to –

(a) the personal and reasonable living and travelling expenses of the candidate and of the official agent in relation to the Council candidate; or

(b) the renting or hiring of premises for the purposes of the campaign for the election of the candidate; or

(c) the appointment of scrutineers; or

(d) the conveying of electors to and from polling places for the purpose of voting at the Council election.

Division 2 – Incurral of Council election expenditure

81. Who may incur Council election expenditure

(1) The official agent in relation to a Council candidate may incur or authorise Council election expenditure on behalf of the Council candidate.

(2) Subject to subsection (3), a person, other than –

(a) a Council candidate or intending candidate in relation to a Council election; or

(b) the official agent in relation to a Council candidate –

must not incur any Council election expenditure with a view to promoting or procuring the election, as a Council Member, of the candidate or intending candidate.

(3) Subsection (2) does not preclude the payment or giving of any money, security or equivalent of money directly to –

(a) a Council candidate; or

(b) an intending candidate in relation to a Council election; or

(c) the official agent in relation to a Council candidate –

with a view to promoting or procuring the election, as a Council Member, of the Council candidate or intending candidate.

(4) A candidate who is a Council candidate, or an intending candidate in relation to a Council election, must not authorise a person, other than the official agent in relation to the candidate, to incur on his or her behalf Council election expenditure with a view to promoting or

procuring the election, as a Council Member, of the Council candidate or intending candidate.

82. Candidate's expenditure limit

(1) A Council candidate, or an intending candidate in relation to a Council election, must not, in respect of his or her campaign for that election, incur, during the election campaign period in relation to the election, Council election expenditure exceeding the expenditure limit.

(2) The expenditure limit is $18 500 in the year 2023 and increases by an additional $500 each subsequent year.

(3) For the purposes of subsection (1), expenditure incurred by the official agent in relation to a Council candidate is taken to be expenditure incurred by the Council candidate.

83. Person not to incur certain election expenditure for or on behalf of registered party

A person must not incur any expenditure for or on behalf of a registered party with a view to promoting or procuring the election of a Council candidate or intending candidate in relation to a Council election.

Division 3 – Council election campaign return

84. Lodgment of candidate's Council election campaign return

(1) Every Council candidate in relation to a Council election must complete, in relation to the election, a Council election campaign return which is to –

(a) be in an approved form; and

(b) include disclosures of –

(i) all Council election expenditure that has been paid by the candidate or paid on behalf of the candidate by the official agent in relation to the Council candidate; and

(ii) all disputed claims and all unpaid claims against the candidate in respect of any Council election expenditure; and

(c) be accompanied by any invoice, account or receipt in respect of each item of Council election expenditure that exceeds $20; and

(d) be lodged with the Commission within 60 days after the day on which the result of the Council election is declared.

(2) A Council election campaign return, in relation to an election, that is lodged with the

Commission by a Council candidate is to include –

(a) either –

(i) disclosures in relation to each reportable political donation that the official agent in relation to the candidate is required under Part 5 to disclose; or

(ii) a disclosure that no such reportable political donations were required under Part 5 to be disclosed by the official agent during the election campaign period in relation to the election; and

(b) disclosure of the total amount of political donations, during the election campaign period, that –

(i) are not reportable political donations; but

(ii) are political donations (including small contributions) that the official agent in relation to the candidate would have been required under Part 5 to disclose if the political donations were reportable political donations; and

(c) if there are no political donations, or electoral expenditure, that the official

agent is required under this Part, or Part 5, to disclose – a disclosure to that effect.

(3) A Council election campaign return lodged under this section, by a Council candidate, in relation to an election must contain a statement to the effect that all disclosures that the official agent in relation to the candidate was required under this Part, or under Part 5, to disclose in relation to the election campaign period in relation to the election have been made and are true and correct.

85. Extension of time for lodging Council election campaign return

(1) A Council candidate who –

(a) is required under this Part to lodge a Council election campaign return in relation to an election; but

(b) is unable to lodge a complete Council election campaign return by the day (the ***due date***) that is 60 days after the day on which the result of the Council election is declared –

may, before the due date, request the Commission to extend the due date for lodging the Council election campaign return.

(2) The Commission may, if satisfied that there is good cause to do so, extend the due date for the lodging, by a particular Council candidate, of the

Council election campaign return to a day that the Commission considers appropriate in the circumstances.

(3) The due date for lodging a Council election campaign return under this Part cannot be extended under this section by more than 30 days.

(4) The Commission may, as a condition of extending the due date for the lodging, by a Council candidate, of a Council election campaign return, require the Council candidate to lodge a Council election campaign return containing disclosures that the Council candidate is able to make at a time specified by the Commission.

(5) If the Commission extends the due date for the lodging, by a Council candidate, of a Council election campaign return, the day by which, under this Act, the return is required to be lodged by the Council candidate is to be taken to be the due date for lodgment as so extended.

86. Amendment of Council election campaign return

(1) In this section –

amend includes alter, omit, add and substitute.

(2) A Council candidate who lodged under section 84 a Council election campaign return may amend the return by lodging with the Commission an amended Council election campaign return.

(3) The amended Council election campaign return is to be in the approved form and lodged with the Commission in the approved manner.

(4) This section does not affect the liability for an offence in connection with the original Council election campaign return that is amended.

87. Commission to check, and may audit, Council election campaign returns

(1) On receiving –

(a) a Council election campaign return lodged under section 84; or

(b) an amended Council election campaign return lodged under section 86 –

the Commission is to satisfy itself that all particulars required to be included in the return have been included.

(2) The Commission may audit a Council election campaign return or an amended Council election campaign return.

(3) A person who is or was a registered party, Member, candidate, associated entity, third-party campaigner in relation to an election, party agent or official agent must assist the Commission by –

(a) giving the Commission full and free access at all reasonable times to all accounts and documents, relating directly or indirectly to any matter required to be

disclosed under this Act in a Council election campaign return, that are in the possession of the person or that the person may reasonably obtain; and

(b) giving the Commission all information and explanations that the Commission reasonably requests in respect of any matter required to be set out in the Council election campaign return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(4) The Commission may appoint an auditor to audit Council election campaign returns, or amended Council election campaign returns, on its behalf.

(5) An auditor appointed under subsection (4) has and may exercise the same functions as the Commission has under this section in relation to an audit of –

(a) a Council election campaign return; or

(b) an amended Council election campaign return.

(6) An audit under this section is to be conducted in the manner, if any, prescribed in the regulations.

88. Council election campaign returns to be available for public inspection

(1) If a Council election campaign return, or an amended Council election campaign return, is

lodged with the Commission under section 84 or section 86, the Commission must ensure that –

(a) within 21 days, a copy of the Council election campaign return, or of the amended Council election campaign return, respectively, is published on a Commission website; and

(b) the copy continues to be so published for a period of at least 6 years.

(2) The Commission may decline to publish on a Commission website, or may remove from a Commission website, any Council election campaign return, or amended Council election campaign return, that the Commission has reason to suspect is vexatious, false or misleading.

(3) A copy of each Council election campaign return and each amended Council election campaign return –

(a) is to be kept by the Commission for a period of at least 6 years after the return is lodged with the Commission; and

(b) is to be available during that period for public inspection, at the offices of the Commission, during the ordinary office hours of the Commission.

Division 4 – Offences

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

An official agent in relation to a Council candidate, must not, in relation to a matter required to be included in a Council election campaign return lodged under section 84 by the candidate, give or withhold information to or from the Council candidate if the official agent knows, or ought to have known, that it will result in the making of a false statement in a Council election campaign return or in an amended Council election campaign return.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

90. Offences in relation to Council election expenditure

(1) A Council candidate must not contravene section 82 by incurring any amount not exceeding $1 000 in excess of the expenditure limit.

Penalty: Fine not exceeding 0.05 penalty unit for each $1 of that first-mentioned amount.

(2) A Council candidate must not contravene section 82 by incurring any amount exceeding $1 000 in excess of the expenditure limit.

Penalty: Fine not exceeding 150 penalty units.

(3) If a court convicts a person of an offence against subsection (1) or (2), the court is to, at the time of conviction, make a finding of the amount by which the person's Council election expenditure exceeded the expenditure limit.

(4) A person must not contravene section 81 or section 83.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(5) A Council candidate must not, without reasonable excuse, fail to comply with section 84 within the period referred to in that section, or, if the Commission has allowed that period to be extended, within that extended period.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(6) If –

(a) a court finds that a Council candidate who is successful at a Council election is guilty of an offence under subsection (2); and

(b) the court makes, in respect of that offence, a finding that the candidate incurred Council electoral expenditure that exceeded the expenditure limit by more than $1 000 and the court is

satisfied with the correctness of that finding –

the court is to declare that candidate's election void, unless the court is satisfied that there are special circumstances that make it undesirable or inappropriate for it to make such a declaration.

(7) If a court finds that a Council candidate who is successful at a Council election is guilty of an offence under subsection (5), the court is to declare that candidate's election void unless the court is satisfied that there are special circumstances that make it undesirable or inappropriate for it to make such a declaration.

(8) A Council candidate must not, in purported compliance with section 84, lodge a Council election campaign return, invoice or receipt which he or she knows, or ought to have known, is false or misleading in a material particular.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

PART 9 – CAMPAIGN ACCOUNTS

91. Campaign accounts of registered parties

(1) A campaign account of a registered party is to be a separate account, with an authorised deposit-taking institution, that is denominated in Australian dollars.

(2) The following may be paid into the campaign account of a registered party:

(a) political donations (including the proceeds of the investment or disposal of any political donation of property that is held as an asset of the account) made to the party, other than political donations, or the proceeds of political donations, paid into a federal campaign account;

(b) political donations, to the registered party, paid to the party agent in relation to the registered party;

(c) political donations paid, to the party agent in relation to the registered party, on behalf of Members or candidates;

(d) contributions by Members or candidates to finance the Members' or candidates' own election campaigns;

(e) payments made to the registered party under Part 11 at any time;

(f) money borrowed by the party at any time (other than money borrowed for a federal election);

(g) a bequest to the party;

(h) money belonging to the registered party immediately before the day on which this section commences;

(i) the proceeds of the investment, or disposal, of any other property belonging to the registered party on or before the day on which this section commences;

(j) the proceeds of an investment made, or disposal of property purchased, after the day on which this section commences, from money or proceeds of the kind referred to in paragraph (h) or (i);

(k) any other money of a kind that is prescribed by the regulations for the purposes of this subsection.

(3) The following may not be paid into the campaign account of a registered party:

(a) a party subscription, other than any amount that constitutes a political donation to the registered party;

(b) any money paid to the registered party under Part 12;

(c) any other money of a kind that is prescribed by the regulations for the purposes of this subsection.

(4) The party agent in relation to a registered party is to be authorised to operate the campaign account of the registered party and is to operate the account.

(5) If political donations are required to be paid to a party agent in relation to a registered party on behalf of a Member or candidate and are paid into a campaign account of the registered party, the funds of (and relevant transactions relating to) each Member or candidate are to be accounted for separately.

(6) Any amount –

(a) that is standing to the account of a Member, or candidate, to whom this section applies, in a campaign account in relation to a registered party; and

(b) that remains in the campaign account after the Member or candidate ceases to be a Member or candidate or ceases to be an Assembly Member, or Assembly candidate, who is endorsed by the registered party –

is, if the amount –

(c) was a contribution by the Member or candidate to finance the Member's or candidate's own election campaign – to be paid back to the Member or candidate

or, if the Member or candidate cannot be located, is to be paid to a charity nominated by the Member or candidate or to a charity nominated by the Commission; or

(d) is an amount to which paragraph (c) does not apply – to become the property of the party.

92. Campaign accounts of independent Assembly Members, independent Assembly candidates, Council Members and Council candidates

(1) This section applies to –

(a) an independent Assembly Member; and

(b) an independent Assembly candidate; and

(c) a Council Member; and

(d) a Council candidate.

(2) The campaign account of a Member or candidate to whom this section applies is to be a separate account, with an authorised deposit-taking institution, denominated in Australian dollars.

(3) The official agent in relation to a Member, or candidate, to whom this section applies is to be authorised to operate the campaign account in relation to the Member or candidate and is to operate the account.

(4) In addition to political donations, a contribution, by a Member or candidate to whom this section

applies, to finance the Member's or candidate's own election campaign, may be paid into the campaign account in relation to the Member or candidate.

(5) Any amount remaining, in a campaign account in relation to a person who was a Member or candidate to whom this section applied and an Assembly Member or Assembly candidate but who has become an Assembly Member, or Assembly candidate, endorsed by a registered party –

(a) is, if the amount was a contribution by the Member or candidate to finance the Member's or candidate's own election campaign, to be paid back to the Member or candidate; or

(b) is, if paragraph (a) does not apply, to be paid into the campaign account of the registered party.

(6) Any amount remaining, in a campaign account in relation to a Member or candidate to whom this section applied, after the Member or candidate ceased to be a Member or candidate and that is no longer required by the Member or candidate –

(a) is, if the amount was a contribution by the Member or candidate to finance the Member's or candidate's own election campaign –

(i) to be paid back to the Member or candidate; or

(ii) if the Member or candidate cannot be located after due inquiry by the Commission – to be paid to a charity nominated by the Member or candidate or to a charity nominated by the Commission; or

(b) is, if paragraph (a) does not apply, to be paid to a charity nominated by the Member or candidate or to a charity nominated by the Commission.

93. Campaign accounts of associated entities and third-party campaigners

(1) The campaign account of an associated entity or third-party campaigner in relation to an election is to be a separate account, with an authorised deposit-taking institution, denominated in Australian dollars.

(2) The official agent in relation to an associated entity or third-party campaigner in relation to an election is to be authorised to operate the campaign account of the associated entity or third-party campaigner and is to operate the account.

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

(1) Subject to the regulations, a person may be authorised in writing, by the official agent in

relation to a third-party campaigner in relation to an election, to make, on behalf of the official agent, payments for electoral expenditure from a campaign account.

(2) Subject to the regulations, a person may be authorised in writing, by the official agent in relation to an associated entity, to make, on behalf of the official agent, payments for electoral expenditure from a campaign account.

PART 10 – REGISTRATION OF ELECTORAL PARTICIPANTS

Division 1 – Register of Candidates

95. Register of Candidates

(1) The Commission is to keep a register, called the Register of Candidates, of candidates for an election.

(2) The Register of Candidates –

(a) for an Assembly general election is to be kept from the polling day for the previous Assembly general election; and

(b) for a Council periodic election for a division is to be kept from the polling day for the previous Council periodic election for the division; and

(c) for an Assembly by-election is to be kept from the day on which the day for the by-election is announced under the *Electoral Act 2004*; and

(d) for a Council by-election is to be kept from the day on which the day for the by-election is announced under the *Electoral Act 2004*.

(3) The Register of Candidates is to include the following particulars in relation to a person included in the Register:

(a) the full name and enrolled address of the person;

(b) if the person is a candidate in an Assembly election – the registered party, if any, by which the person is endorsed;

(c) the House of Parliament in relation to which the person is a candidate;

(d) the address of the person's campaign headquarters in Tasmania, if any;

(e) particulars, if any, prescribed by the regulations;

(f) other particulars that the Commission thinks fit.

(4) The Register of Candidates is to be kept in the approved manner and approved form.

96. Candidates who are taken to be registered

(1) A person who is, in accordance with the *Electoral Act 2004*, nominated as a candidate for an election is taken to be registered, as a candidate in relation to the election, in the Register of Candidates in relation to the election.

(2) The Commission is to make appropriate recordings in the Register of Candidates in relation to an election, including the particulars specified in section 95(3), to give effect to the deemed registration under this section of a candidate for the election.

97. Applications for registration of candidates

(1) A person who is an intending candidate in relation to an election may apply to the Commission to be registered, as a candidate in relation to the election, in the Register of Candidates in relation to the election.

(2) An application under subsection (1) in relation to a person who is an intending candidate in relation to an election must –

(a) be made in the approved manner and the approved form; and

(b) be received by the Commission –

(i) before noon on the nomination day for the election; and

(ii) where the election is an Assembly election, after the polling day for the previous Assembly general election, or, where the election is a Council election for a division, after the polling day for the Council periodic election for the division; and

(c) set out the following particulars:

(i) the full name and enrolled address of the person;

(ii) the election in relation to which the person intends to be a candidate;

(iii) the party, if any, of which the person is a member;

(iv) the House of Parliament in relation to which the person is intending to be a candidate;

(v) the address of the intending candidate's campaign headquarters in Tasmania, if any;

(vi) other particulars, if any, prescribed by the regulations;

(vii) other particulars that the Commission thinks fit; and

(d) if the person is intending to be an Assembly candidate and is intending to be endorsed by a registered party, be accompanied by a signed statement, from the party agent in relation to the registered party, that the registered party intends the person to become an Assembly candidate endorsed by the registered party.

98. Determination of applications for registration of candidates

(1) If the Commission receives an application under section 97 from a person who is an intending

candidate in relation to an election, the Commission may –

(a) register the person, as a candidate in relation to the election, in the Register of Candidates in relation to the election; or

(b) refuse to register the person, as a candidate in relation to the election, in the Register of Candidates in relation to the election.

(2) The Commission must not register, in the Register of Candidates in relation to an election, a person who is an intending candidate in relation to the election, if –

(a) the application for registration of the candidate was received by the Commission after noon on the nomination day in respect of the election; and

(b) the person is not a person who is, under section 96, taken to be registered in the Register of Candidates.

(3) Without limiting subsection (1), the Commission may refuse under that subsection to register a person if the Commission believes on reasonable grounds that any particulars in the application for registration of the person are incomplete or not correct, but may, if the Commission thinks fit, register the candidate despite any such defect.

(4) If the Commission, under subsection (1), refuses to register a person, the Commission is, as soon as reasonably practicable, to notify the person of the refusal and of the reasons for the refusal.

(5) If the Commission, under subsection (1), refuses, on the grounds referred to in subsection (3), to register a person –

(a) the person may, within 30 days after the date of the notification under subsection (4) by the Commission, amend the application for registration by substituting the relevant particulars; and

(b) the amended application is taken to have been received by the Commission when the original application was received by it.

99. Registration of Assembly candidates as being endorsed by registered party

An Assembly candidate is to be registered, on the Register of Candidates in relation to the election, as being endorsed by a registered party if –

(a) the nomination, under section 77 of the *Electoral Act 2004* of the candidate, that relates to the election includes a statement, signed by the registered officer of the registered party, that the party has endorsed the candidate; or

(b) the candidate is registered on the Register of Candidates pursuant to an application for registration under section 97(1) and the application was accompanied by a statement in accordance with section 97(2)(d); or

(c) the Commission has received a notice under section 10(3) that the registered party intends the candidate to be registered as endorsed by the registered party –

and the candidate has not ceased under section 10 to be endorsed by the registered party.

100. Commission must be notified of changes in registered particulars

(1) If a change occurs in any of the particulars of a person that are –

(a) stated, in the Register of Candidates, in relation to the person; and

(b) particulars of the kind required to be stated in an application for registration of a person as a candidate –

the person, within 30 days after the date of the change, must, in the approved manner and approved form, notify the Commission of the change.

Penalty: Fine not exceeding 5 penalty units.

(2) A reference in subsection (1) to a change occurring in the particulars of a person does not include a reference to the person ceasing, in accordance with section 10, to be an Assembly candidate endorsed by a registered party.

(3) If the Commission believes on reasonable grounds that a person has not notified the Commission of a change in particulars as referred to in subsection (1), the Commission may, by notice in writing served on the person, require the person to notify the Commission, in writing, of the change before whichever is the later of the following:

(a) the date specified in the notice;

(b) the date of expiry of the period of 30 days after service of the notice.

(4) If a person fails to notify the Commission in accordance with subsection (3), the Commission may cancel the registration of the person as a candidate.

(5) The regulations may provide that this section does not apply to particulars or variations of a class or description prescribed in the regulations for the purposes of this subsection.

101. Variation and cancellation of registration

(1) The Commission is to vary the particulars, set out in the Register of Candidates in relation to a person, in accordance with a notification provided by, or in accordance with the written

request of, the person, unless the Commission believes on reasonable grounds that the varied particulars are not correct.

(2) The Commission, at the written request of a person, may cancel the registration of the person in the Register of Candidates.

(3) The Commission 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.

(4) The Commission may, of its own accord or on request, include any particulars in the Register of Candidates if it is satisfied that the particulars are correct.

(5) The Commission is to notify the person to whom particulars are set out in the Register of Candidates of any variations made to the Register of Candidates under this section, other than a variation of particulars as to whether the person is, or is not, an Assembly candidate endorsed by a registered party.

(6) The regulations may provide that subsection (1) does not apply to particulars or variations of a class or description prescribed in the regulations for the purposes of this subsection.

Division 2 – Register of Assembly Members

102. Register of Assembly Members

(1) The Commission is to keep a register, of Assembly Members, called the Register of Assembly Members.

(2) The Register of Assembly Members is to be kept on a continuous basis.

(3) The Register of Assembly Members is to include the following particulars in relation to each person who is, at a time after the commencement of this Part, an Assembly Member:

(a) the name of the person;

(b) whether the person is, or is not, an Assembly Member who is endorsed by a registered party;

(c) if the person is an Assembly Member endorsed by a registered party, the name of the registered party;

(d) other particulars that the Commission thinks fit.

(4) The Register of Assembly Members is to be kept in the approved manner and approved form.

(5) An Assembly Member is to be registered by the Commission as soon as practicable after becoming an Assembly Member.

103. Registration of Assembly Member as endorsed by registered party

An Assembly Member is to be registered, on the Register of Assembly Members, as being endorsed by a registered party, if –

(a) the Member was a candidate, for the election at which the candidate became an Assembly Member, who was endorsed by the registered party; or

(b) the Commission has received a notice under section 10(3) that the registered party intends the Assembly Member to be registered as endorsed by the registered party –

and the person has not ceased under section 10 to be endorsed by the registered party.

104. Amendment of Register

(1) The Commission may amend the Register of Assembly Members by –

(a) recording the registration of an Assembly Member; or

(b) recording when a person has ceased to be an Assembly Member; or

(c) recording when an Assembly Member is endorsed, or has ceased to be endorsed, by a registered party; or

(d) correcting a mistake or omission; or

(e) recording a change in the particulars in relation to the Assembly Member that are included on the Register.

(2) The Commission is to vary the particulars set out in the Register of Assembly Members in relation to an Assembly Member or former Assembly Member in accordance with a notification provided by, or in accordance with the written request of, the Member or former Member, unless the Commission believes on reasonable grounds that the varied particulars are not correct.

Division 3 – Register of Party Agents

105. Register of Party Agents

(1) The Commission is to keep a register, called the Register of Party Agents, of party agents.

(2) The Register of Party Agents is to be kept on a continuous basis.

(3) The Register of Party Agents is to include the following particulars in relation to each party agent:

(a) the name of the party agent;

(b) the name of the party in relation to which the party agent is a party agent;

(c) the address and occupation of the party agent;

(d) other particulars that the Commission thinks fit.

(4) The Register of Party Agents is to be kept in the approved manner and approved form.

106. When registered party must apply for appointment of party agent

(1) A registered party must, before 30 days after the later of the following days:

(a) the day on which this section commences;

(b) the day on which the registered party becomes a registered party –

make an application under section 107(1) for the appointment of a natural person to be the party agent in relation to the party.

(2) A registered party must, before 30 days after –

(a) a person ceases under section 108(1) to be the appointed party agent in relation to a party; or

(b) the Commission refuses under section 107(4)(b) to appoint a person to be the appointed party agent in relation to a party –

make an application under section 107(1) for the appointment of a natural person to be the party agent in relation to the party.

(3) If a party fails to comply with subsection (1) or (2) –

(a) the party is guilty of an offence and liable to a penalty not exceeding 50 penalty units; and

(b) each person who, at the time at which the failure occurred, was a senior office holder of the party is guilty of an offence and liable to a penalty not exceeding 50 penalty units.

107. Appointment of party agents

(1) A registered party may apply to the Commission, in the approved manner and approved form, to appoint a natural person, who is a senior office holder of the party, to be the party agent in relation to the party.

(2) An application under subsection (1) by a registered party for the Commission to appoint a natural person to be the party agent in relation to the party is to be accompanied by –

(a) a statement, signed by the natural person, that the natural person agrees to be appointed as the party agent in relation to the party; and

(b) a statutory declaration by the natural person as to whether the natural person is enrolled to vote at elections or is appointed to any office or position under the *Electoral Act 2004*; and

(c) a statutory declaration by the natural person stating whether the natural person has been –

(i) sentenced, in relation to an offence, to imprisonment for a term exceeding 2 years; or

(ii) convicted of an electoral offence, within the meaning of the *Electoral Act 2004*; or

(iii) convicted of an offence under this Act or a law, of the Commonwealth, another State or a Territory, that is a law relating to the election of members of parliament; or

(iv) within the previous 10 years, convicted of an offence, committed as an adult, involving fraud or dishonesty –

and, if the natural person has been so sentenced or convicted in relation to an offence, setting out details of the offence; and

(d) a statement, signed by the natural person, that the natural person consents for the Commission to check whether the natural person has any convictions for an offence or whether there have been any findings of guilt made against the natural person in relation to an offence.

(3) The following persons are not qualified to be party agents:

(a) a person who is not enrolled to vote at elections;

(b) a person who has been –

(i) sentenced, in relation to an offence, to imprisonment for a term exceeding 2 years; or

(ii) convicted of an electoral offence, within the meaning of the *Electoral Act 2004*; or

(iii) convicted of an offence under this Act or a law, of the Commonwealth, another State or a Territory, that is a law relating to the election of members of parliament; or

(iv) within the previous 10 years, convicted of an offence, committed as an adult, involving fraud or dishonesty –

unless the Commission determines that the circumstances of the offence are such that the person ought not to be disqualified from being a party agent;

(c) a person who the Commission determines is not a fit and proper person to be such an agent;

(d) a person appointed to any office or position under the *Electoral Act 2004*.

(4) The Commission, after receiving an application under subsection (1) from a party to appoint a natural person to be the party agent in relation to the party –

(a) is, by notice to the party, to appoint the natural person to be the party agent in relation to the party, unless the Commission is satisfied that the natural person is not qualified to be a party agent; or

(b) is, by notice to the party, to refuse to appoint the natural person to be the party agent in relation to the party, if the Commission is satisfied that the person is not qualified to be a party agent.

(5) If the Commission receives an application under subsection (1) from a party to appoint a natural person to be the party agent in relation to the party, the natural person is taken, by virtue of this subsection, to be the appointed party agent in relation to the party until the person ceases under section 108(1) to be the appointed party agent.

108. When person ceases to be appointed party agent

(1) A natural person who is the appointed party agent in relation to a party ceases to be the appointed party agent in relation to the party if –

(a) the natural person dies; or

(b) the natural person gives to the Commission a notice, in the approved manner and approved form, that the natural person resigns from the appointment; or

(c) the appointment of the natural person is revoked under subsection (2); or

(d) where the natural person was the appointed party agent in relation to the party under section 107(5), the Commission gives to the party a notice under section 107(4)(b) in relation to the person.

(2) The Commission must, by notice in writing to the party in relation to whom a natural person is the appointed party agent, revoke the appointment of the natural person to be the appointed party agent in relation to the party, if –

(a) the Commission is satisfied that the natural person is not qualified to be a party agent; or

(b) the party, by notice in writing to the Commission in the approved manner and approved form, requests the Commission to revoke the appointment.

(3) If a person who is the appointed party agent in relation to a registered party dies, the registered party must, within 30 days, notify the

Commission in the approved manner and the approved form.

Penalty: Fine not exceeding 50 penalty units.

(4) If, after becoming an appointed party agent, an appointed party agent is –

(a) sentenced, in relation to an offence, to imprisonment for a term exceeding 2 years; or

(b) convicted of an electoral offence, within the meaning of the *Electoral Act 2004*; or

(c) convicted of an offence under this Act or a law, of the Commonwealth, another State or a Territory, that is a law relating to the election of members of parliament; or

(d) convicted of an offence involving fraud or dishonesty; or

(e) appointed to any office or position under the *Electoral Act 2004* –

the appointed party agent must, within 30 days, notify the Commission of the sentence, conviction or appointment.

Penalty: Fine not exceeding 50 penalty units.

109. When person taken to be party agent

If at any time there is not an appointed party agent in relation to a registered party, the person

who holds office at that time as the registered officer of the party under the *Electoral Act 2004* is, by virtue of this section, the party agent in relation to the party.

110. Registration of party agent

(1) The Commission is to register each party agent in relation to a registered party, including a person who is a party agent in relation to a registered party by virtue of section 107(5) or section 109.

(2) The Commission is to cancel the registration of the party agent in relation to a registered party if –

(a) the person has ceased under section 108 to be the party agent in relation to the registered party; or

(b) the person has ceased to be the party agent in relation to the registered party by virtue of section 109.

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

(1) If a change occurs in any of the particulars in relation to a person that are –

(a) stated, in the Register of Party Agents, in relation to the person; and

(b) particulars of the kind required to be stated in an application for registration of a person as a party agent –

the person, within 30 days after the date of the change, must, in the approved manner and approved form, notify the Commission of the change.

Penalty: Fine not exceeding 5 penalty units.

(2) The regulations may provide that this section does not apply to particulars or variations of a class or description prescribed in the regulations for the purposes of this subsection.

112. Amendment of Register

The Commission may amend the Register of Party Agents by –

(a) recording the registration of a party agent; or

(b) recording the cancellation of the registration of a party agent; or

(c) correcting a mistake or omission; or

(d) recording a change in the name, address or occupation of a party agent or a change in the name of the registered party by which a party agent was appointed; or

(e) recording a change in the particulars in relation to the party agent that are included in the Register.

Division 4 – Register of Official Agents

113. Register of Official Agents

(1) The Commission is to keep a register, called the Register of Official Agents, of official agents.

(2) The Register of Official Agents is to be kept on a continuous basis.

(3) The Register of Official Agents is to include the following particulars in relation to an official agent:

(a) the name, address and occupation of the official agent;

(b) the name of the Member, candidate, associated entity, third-party campaigner, or significant political donor, in relation to whom the official agent is the official agent;

(c) other particulars, if any, prescribed by the regulations;

(d) other particulars that the Commission thinks fit.

(4) The Register of Official Agents is to be kept in the approved manner and approved form.

114. Appointment of official agents

(1) A person who is –

(a) an independent Member, independent candidate, associated entity, third-party campaigner or significant political donor; or

(b) a person who is intending to become a third-party campaigner, or significant political donor, in relation to an election –

may, by application in writing to the Commission, in the approved manner and approved form, request the Commission to appoint a natural person, specified in the application, to be the official agent in relation to the person.

(2) An application under subsection (1) by a person for the Commission to appoint a natural person to be the official agent in relation to the person is to be accompanied by –

(a) a statement, signed by the natural person, that the natural person agrees to be appointed as the official agent in relation to the person; and

(b) a statutory declaration by the natural person as to whether the natural person is enrolled to vote at elections or is appointed to any office or position under the *Electoral Act 2004*; and

(c) a statutory declaration by the natural person stating whether the natural person has been –

(i) sentenced, in relation to an offence, to imprisonment for a term exceeding 2 years; or

(ii) convicted of an electoral offence, within the meaning of the *Electoral Act 2004*; or

(iii) convicted of an offence under this Act or a law, of the Commonwealth, another State or a Territory, that is a law relating to the election of members of parliament; or

(iv) within the previous 10 years, convicted of an offence, committed as an adult, involving fraud or dishonesty –

and, if the natural person has been so sentenced or convicted in relation to an offence, setting out details of the offence; and

(d) a statement, signed by the natural person, that the natural person consents for the Commission to check whether the natural person has any convictions for an offence or there have been any findings of guilt made against the natural person in relation to an offence.

(3) The following persons are not qualified to be official agents:

(a) a person who is not enrolled to vote at elections;

(b) a person who has been –

(i) sentenced, in relation to an offence, to imprisonment for a term exceeding 2 years; or

(ii) convicted of an electoral offence, within the meaning of the *Electoral Act 2004*; or

(iii) convicted of an offence under this Act or a law, of the Commonwealth, another State or a Territory, that is a law relating to the election of members of parliament; or

(iv) within the previous 10 years, convicted of an offence, committed as an adult, involving fraud or dishonesty –

unless the Commission determines that the circumstances of the offence are such that the person ought not to be disqualified from being appointed as an official agent;

(c) a person who the Commission determines is not a fit and proper person to be such an agent;

(d) a person appointed to any office or position under the *Electoral Act 2004*.

(4) The Commission, after receiving an application under subsection (1) from a person to appoint a natural person to be the official agent in relation to the person –

(a) is, by notice to the person, to appoint the natural person to be the official agent in relation to the person, unless the Commission is satisfied that the natural person is not qualified to be an official agent; or

(b) is, by notice to the person who made the application, to refuse to appoint the natural person to be the official agent in relation to the person, if the Commission is satisfied that the person is not qualified to be an official agent.

(5) A person may be appointed under subsection (4) as the official agent in relation to more than one person.

(6) The fact that a person is a party agent does not prevent the person being appointed under subsection (4) as the official agent in relation to a person.

(7) If the Commission receives an application under subsection (1) from a person to appoint a natural person as the official agent in relation to the person, the natural person is taken to be, by virtue of this subsection, the appointed official agent until the person ceases to be the official

agent in relation to the person under section 115(1).

115. When person ceases to be appointed official agent

(1) A natural person who is the appointed official agent in relation to a person ceases to be the appointed official agent in relation to the person if –

(a) the natural person dies; or

(b) the natural person gives to the Commission a notice, in the approved manner and approved form, that the natural person resigns from the appointment; or

(c) the appointment of the natural person is revoked under subsection (2); or

(d) where the natural person was the appointed official agent in relation to the person under section 114(7), the Commission gives to the party a notice under section 114(4)(b) in relation to the person.

(2) The Commission may, by notice in writing to the person in relation to whom a natural person is the appointed official agent, revoke the appointment of the natural person to be the appointed official agent in relation to the person, if –

(a) the Commission is satisfied that the natural person is not qualified to be an official agent; or

(b) the first-mentioned person, by notice in writing to the Commission in the approved manner and approved form, requests the Commission to revoke the appointment.

(3) If an appointed official agent in relation to a person dies, the person must, within 30 days of the death, notify the Commission in the approved manner and the approved form.

Penalty: Fine not exceeding 50 penalty units.

(4) If, after becoming an appointed official agent, the appointed official agent is –

(a) sentenced, in relation to an offence, to imprisonment for a term exceeding 2 years; or

(b) convicted of an electoral offence, within the meaning of the *Electoral Act 2004*; or

(c) convicted of an offence under this Act or a law, of the Commonwealth, another State or a Territory, that is a law relating to the election of members of parliament; or

(d) convicted of an offence involving fraud or dishonesty; or

(e) appointed to any office or position under the *Electoral Act 2004* –

the appointed official agent must, within 30 days, notify the Commission of the sentence, conviction or appointment.

Penalty: Fine not exceeding 50 penalty units.

116. Certain persons taken to be official agents

(1) If there is no appointed official agent in relation to a natural person who is –

(a) an independent Member or an independent candidate; or

(b) a third-party campaigner in relation to an election –

the Member, candidate or third-party campaigner is the official agent in relation to the Member, candidate, or third-party campaigner, respectively.

(2) If there is no appointed official agent in relation to an associated entity, or third-party campaigner, that is a corporation, the financial controller of the associated entity, or third-party campaigner, is the official agent in relation to the associated entity or third-party campaigner, respectively.

(3) If there is no appointed official agent in relation to a significant political donor –

(a) who is a natural person, the significant political donor is the official agent in relation to the significant political donor; or

(b) that is a corporation, the financial controller of the significant political donor is the official agent in relation to the significant political donor.

(4) If there is no appointed official agent, in relation to –

(a) an associated entity that is registered; or

(b) a third-party campaigner; or

(c) a significant political donor –

that is an unincorporated body of persons, the associated entity, third-party campaigner or significant political donor must, within 14 days, apply to the Commission under section 114 to appoint a natural person to be the appointed official agent in relation to the associated entity, third-party campaigner or significant political donor, respectively.

Penalty: Fine not exceeding 50 penalty units.

117. Registration of official agent

(1) The Commission is to register each official agent in relation to a person, including a person who is an official agent in relation to a person by virtue of section 114(7) or section 116.

(2) The Commission is to cancel the registration of a person as the official agent in relation to a person if –

(a) the first-mentioned person has ceased under section 115 to be the appointed official agent in relation to the person; or

(b) the first-mentioned person is deemed to be the official agent by virtue of section 116 and has ceased to be the official agent.

(3) A person who is the appointed official agent in relation to a person who is a candidate, third-party campaigner, or significant political donor, in relation to an election is only taken to be the official agent in relation to the candidate, third-party campaigner, or significant political donor, in relation to that election.

(4) Despite subsection (3), if a person who was a candidate in relation to an election is elected at that election as a Member, the appointed official agent in relation to the person remains the official agent in relation to the person until the registration of the appointed official agent is cancelled under this Division or the person ceases to be a Member.

118. Commission to be notified of change in official agent's particulars

(1) If a change occurs in any of the particulars in relation to a person that are –

(a) stated, in the Register of Official Agents, in relation to the person; and

(b) particulars of the kind required to be stated in an application for registration of a person as an official agent –

the person, within 30 days after the date of the change, must, in the approved manner and approved form, notify the Commission of the change.

Penalty: Fine not exceeding 5 penalty units.

(2) The regulations may provide that this section does not apply to particulars or variations of a class or description prescribed in the regulations for the purposes of this subsection.

119. Amendment of Register

The Commission may amend the Register of Official Agents by –

(a) recording the registration of an official agent; or

(b) correcting a mistake or omission; or

(c) recording the cancellation of the registration of an official agent; or

(d) recording a change in the name, address or occupation of an official agent; or

(e) recording a change in the particulars, in relation to the official agent, included in the Register; or

(f) recording the cancellation of the registration of an official agent.

Division 5 – Register of Associated Entities

120. Register of Associated Entities

(1) The Commission is to keep a register, of associated entities, called the Register of Associated Entities.

(2) The Register of Associated Entities is to include the following particulars in relation to an associated entity:

(a) the full name and address of the associated entity;

(b) the registered party in relation to the associated entity;

(c) the relevant business number, if any, in relation to the associated entity;

(d) other particulars, if any, prescribed by the regulations;

(e) other particulars that the Commission thinks fit.

(3) The Register of Associated Entities is to be kept on a continuous basis.

(4) The Register of Associated Entities is to be kept in the approved manner and approved form.

121. Applications for registration

(1) An associated entity, or the official agent in relation to an associated entity, may apply for the registration of the associated entity in the Register of Associated Entities.

(2) An application under subsection (1) in relation to an associated entity must –

(a) be made in the approved manner and approved form; and

(b) set out the following particulars:

(i) the full name and address of the associated entity;

(ii) the registered party in relation to the associated entity;

(iii) the relevant business number, if any, in relation to the associated entity;

(iv) other particulars, if any, prescribed by the regulations.

122. Determination of application for registration of associated entity

(1) If the Commission receives an application under section 121 in relation to an associated entity, the Commission may –

(a) register the associated entity; or

(b) refuse to register the associated entity.

(2) Without limiting subsection (1), the Commission may refuse under that subsection to register an associated entity if the Commission is of the opinion, on reasonable grounds, that any particulars in the application for registration are incomplete or not correct, but may, if the Commission thinks fit, register the associated entity despite any such defect.

(3) If the Commission refuses under subsection (1) to register an associated entity the Commission is, as soon as reasonably practicable, to notify the official agent in relation to the associated entity of the refusal and of the reasons for the refusal.

(4) If the Commission, under subsection (1), refuses, on the grounds referred to in subsection (2), to register an associated entity –

(a) the official agent in relation to the associated entity may, within 30 days after the date of the notification under subsection (3) by the Commission, amend the application for registration by substituting the relevant particulars; and

(b) the amended application is taken to have been received by the Commission when the original application was received by it.

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

(1) If a change occurs in any of the particulars, in relation to a registered associated entity, that are –

(a) stated, in the Register of Associated Entities, in relation to the associated entity; and

(b) particulars of the kind required to be stated in an application for registration of an associated entity –

the official agent in relation to the associated entity must, within 30 days after the date of the change, notify the Commission, in the approved manner and approved form, of that change.

Penalty: Fine not exceeding 5 penalty units.

(2) If the Commission believes on reasonable grounds that the official agent in relation to an associated entity has not notified the Commission of a change in particulars as referred to in subsection (1), the Commission may, by notice in writing served on the official agent, require the official agent to notify the Commission of the change 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 an associated entity's official agent fails to notify the Commission in accordance with subsection (2), the Commission may cancel the registration of the associated entity.

124. Variation and cancellation of registration

(1) The Commission is to vary the particulars set out in the Register of Associated Entities in relation to a registered associated entity in accordance with a notification provided by, or in accordance with the written request of, the official agent in relation to the associated entity, unless the Commission believes on reasonable grounds that the varied particulars are not correct.

(2) The Commission may cancel the registration of an associated entity at the written request of the official agent in relation to the associated entity.

(3) The Commission may, of its own accord or on request, omit any particulars from the Register of Associated Entities if the Commission is satisfied that the particulars are not correct.

(4) The Commission may, of its own accord or on request, include any particulars in the Register of Associated Entities if it is satisfied that the particulars are correct.

(5) The Commission is to notify the relevant official agent of any variations made to the Register of Associated Entities under this section.

Division 6 – Register of Third-party Campaigners

125. Register of Third-party Campaigners

(1) The Commission is to keep a register, called the Register of Third-party Campaigners, of third-party campaigners in relation to an Assembly election.

(2) The Register of Third-party Campaigners –

(a) in relation to an Assembly general election – is to be kept from the polling day for the previous Assembly general election; or

(b) in relation to an Assembly by-election – is to be kept from the day on which the day for the by-election is announced under the *Electoral Act 2004*.

(3) The Register of Third-party Campaigners is to include the following particulars in relation to a person who is, or intends to become, a third-party campaigner in relation to an Assembly election:

(a) the full name and address of the person;

(b) if the person is a corporation, the relevant business number, if any, in relation to the person;

(c) other particulars, if any, prescribed by the regulations;

(d) other particulars that the Commission thinks fit.

(4) Subject to this Act, the Register of Third-party Campaigners is to be kept in the approved manner and approved form.

126. Applications for registration

(1) An application to register a person, in the Register of Third-party Campaigners, as a third-party campaigner in relation to an Assembly election, may be made to the Commission by the person or the official agent in relation to the third-party campaigner.

(2) An application under subsection (1) from a person for registration of a person as a third-party campaigner in relation to an Assembly election must –

(a) be made in the approved manner and approved form; and

(b) set out the following particulars:

(i) the full name and address of the person to be registered;

(ii) if the person to be registered is a corporation – the relevant business number in relation to the person;

(iii) the Assembly election in relation to which the person to be

registered is to be registered as a third-party campaigner;

(iv) other particulars, if any, prescribed by the regulations.

127. Determination of application for registration as third-party campaigner

(1) If the Commission receives an application under section 126 for registration of a person as a third-party campaigner in relation to an Assembly election, the Commission may –

(a) register the person, in the Register of Third-party Campaigners in relation to the election, as a third-party campaigner in relation to the election; or

(b) refuse to register the person, in the Register of Third-party Campaigners in relation to the election, as a third-party campaigner in relation to the election.

(2) The Commission must not register a person as a third-party campaigner in relation to an Assembly election if the application for registration was received by the Commission after the beginning of the period of 7 days before the polling day for the election.

(3) Without limiting subsection (1), the Commission may refuse under that subsection to register a person as a third-party campaigner in relation to an election if the Commission believes on reasonable grounds that any particulars in the

person's application for registration are incomplete or not correct, but may, if the Commission thinks fit, register the person despite any such defect.

(4) If the Commission, under subsection (1), refuses to register a person as a third-party campaigner in relation to an election the Commission is, as soon as reasonably practicable, to notify the official agent in relation to the third-party campaigner of the refusal and of the reasons for the refusal.

(5) If the Commission, under subsection (1), refuses, on the grounds referred to in subsection (3), to register a person as a third-party campaigner –

(a) the official agent in relation to the third-party campaigner may, within 30 days after the date of the notification under subsection (4) by the Commission, amend the application for registration by substituting the relevant particulars; and

(b) the amended application is taken to have been received by the Commission when the original application was received by it.

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

(1) If a change occurs in any of the particulars, in relation to a third-party campaigner, that are –

(a) stated in the Register of Third-party Campaigners; and

(b) particulars of the kind required to be stated in an application for registration of a third-party campaigner –

the official agent in relation to the third-party campaigner must, within 30 days after the date of the change, notify the Commission, in the approved manner and approved form, of the change.

Penalty: Fine not exceeding 5 penalty units.

(2) If the Commission believes on reasonable grounds that the official agent in relation to a third-party campaigner has not notified the Commission of a change in particulars as referred to in subsection (1), the Commission may, by notice in writing served on the official agent, require the official agent to notify the Commission of the change 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 an official agent in relation to a third-party campaigner fails to notify the Commission in accordance with subsection (2), the Commission may cancel the registration of the third-party campaigner.

(4) The regulations may provide that this section does not apply to particulars or variations of a class or description specified in regulations for the purposes of this subsection.

129. Variation and cancellation of registration

(1) The Commission is to vary the particulars set out, in the Register of Third-party Campaigners, in relation to a person, in accordance with a notification provided by, or in accordance with the written request of, the official agent in relation to the third-party campaigner, unless the Commission believes on reasonable grounds that the particulars, as set out in the notification or request, are not correct.

(2) The Commission may, at the written request of the official agent in relation to a third-party campaigner, cancel the registration of the third-party campaigner.

(3) The Commission 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.

(4) The Commission may, of its own accord or on request, include any particulars in the Register of Third-party Campaigners if it is satisfied that the particulars are correct.

(5) The Commission is to notify the relevant official agent of any variations made to the Register of Third-party Campaigners under this section.

(6) The regulations may provide that subsection (1) does not apply to particulars or variations of a class or description specified in the regulations for the purposes of this subsection.

Division 7 – Public access to registers

130. Public to have access to registers

(1) The registers kept under this Part are to be retained by the Commission and are to be made available for public inspection in accordance with this section.

(2) The Commission is to prepare a copy, of each register kept under this Part, and make the copy of the register available for public inspection, at the office of the Commission, during ordinary business hours.

(3) The copy of the register under subsection (2) is to exclude each address of a person that does not appear, pursuant to section 36(5) of the *Electoral Act 2004*, on the State roll.

(4) The Commission is to prepare a copy, of each register kept under this Part, that excludes –

(a) the addresses of all individuals; and

(b) any prescribed information –

and is to publish the copy on a Commission website.

PART 11 – PUBLIC FUNDING OF ASSEMBLY ELECTION CAMPAIGNS

Division 1 – Public funding of electoral expenditure of Assembly parties and candidates

131. Establishment of Election Campaigns Fund

(1) There is to be an Election Campaigns Fund to be kept by the Commission in respect of Assembly elections.

(2) Payments from the Election Campaigns Fund are to be distributed in accordance with this Part.

132. Registered parties eligible for public funding of Assembly election campaigns

A registered party is, subject to and in accordance with this Act, eligible for payments from the Election Campaigns Fund in respect of an Assembly general election, or an Assembly by-election, if –

(a) it is a registered party on the polling day for the Assembly general election or the Assembly by-election; and

(b) there was, in relation to the election, an Assembly candidate who was, immediately before the polling day, an Assembly candidate endorsed by the registered party; and

(c) in relation to the election, the total number of formal first preference votes

received by all Assembly candidates, who were endorsed by the registered party and nominated for election within the same division as the Assembly candidate referred to in paragraph (b), is at least 4% of the total number of formal first preference votes in that division.

133. Amount of public funding for eligible parties

(1) The amount to be distributed from the Election Campaigns Fund to a registered party that is, under section 132, eligible for payments from the Fund in respect of an Assembly general election, or an Assembly by-election, is (subject to subsection (2)) the lesser of the following:

(a) $6 for each formal first preference vote received by an Assembly candidate –

(i) who was, immediately before the polling day in relation to the election, an Assembly candidate endorsed by the registered party in relation to the Assembly general election or the Assembly by-election; and

(ii) who, when calculated with the formal first preference votes received by all the Assembly candidates endorsed by the registered party and nominated for election within the same division as the Assembly candidate, received at least 4% of

the total number of formal first preference votes, for the election, in the division;

(b) the total amount of the campaign expenditure, in respect of the election, incurred by or on behalf of –

(i) the registered party; and

(ii) each candidate of the registered party in the Assembly general election or the Assembly by-election who was, immediately before the polling day in relation to the election, an Assembly candidate endorsed by the registered party.

(2) The amount of $6 referred to in subsection (1) is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.

(3) Despite subsection (1), a party may, by notice to the Commission, direct in writing that a part of the amount that is to be distributed to the registered party under subsection (1) be paid to an Assembly candidate to whom that subsection relates in respect of the party.

134. Independent Assembly candidates eligible for public funding of Assembly election campaigns

(1) An independent Assembly candidate who was a candidate in relation to an Assembly general election or an Assembly by-election and who

was an independent Assembly candidate on the polling day for the election is, subject to and in accordance with this Act, eligible for payments from the Election Campaigns Fund in respect of the Assembly general election, or the Assembly by-election, if –

(a) the candidate is elected at the Assembly general election or the Assembly by-election; or

(b) the total number of formal first preference votes received by the candidate is at least 4% of the total number of first preference votes in the division in which the candidate was duly nominated for election.

(2) If subsection (1) does not apply, an independent Assembly candidate who was a candidate in relation to an Assembly general election or an Assembly by-election and who was an independent Assembly candidate on the polling day for the election is, subject to and in accordance with this Act, eligible for payments from the Election Campaigns Fund in respect of the Assembly by-election, if –

(a) the independent Assembly candidate appears on the ballot paper, used in the election, as a member of a group of candidates nominated under section 77(4) of the *Electoral Act 2004*; and

(b) in relation to the election, the total number of formal first preference votes received by all Assembly candidates, who were members of that group of candidates so nominated, is at least 4% of the total number of formal first preference votes in the division in which the candidate was duly nominated for election.

135. Amount of public funding for eligible independent Assembly candidates

(1) The amount to be distributed from the Election Campaigns Fund to an independent Assembly candidate who was a candidate in relation to an Assembly general election, or an Assembly by-election, and who is, under section 134, eligible for payments from the Election Campaigns Fund is whichever is the lesser of the following:

(a) $6 for each formal first preference vote received in the Assembly general election, or the Assembly by-election, by that candidate in that election; or

(b) the total amount of the actual campaign expenditure, in respect of the election, that is incurred by or on behalf of the candidate.

(2) The amount of $6 referred to in subsection (1) is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.

136. 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 expenditure incurred, in respect of an Assembly general election, during the election campaign period in relation to the election, of an amount determined in accordance with subsection (2).

(2) The amount payable, by way of advance payment, is an amount equal to 50% of the total amount to which the registered party was entitled under this Part in respect of the previous Assembly general election.

(3) The amount payable by way of an advance payment under this section in respect of an Assembly general election may be paid, as a lump sum or by way of instalments, at any time after the beginning of the election campaign period in relation to the election.

(4) Any amount paid to a registered party by way of advance payment under this section in respect of an Assembly 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 Assembly general election.

(5) If a registered party receives an amount, by way of advance payment under this section in respect of an Assembly 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 Assembly general election, the amount of the excess must be repaid to the Commission within 60 days after the day for the return of the writs for that Assembly general election.

(6) Any amount received by a registered party by way of advance payment under this section in respect of an Assembly general election must be repaid, on demand by the Commission, to the Commission, if –

(a) the party does not contest the Assembly general election; or

(b) before the polling day for the Assembly 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 Commission as a debt in any court of competent jurisdiction.

Division 2 – General provisions relating to funding

137. Claims for payments

(1) A registered party that, or independent Assembly candidate who, is eligible to receive a payment under this Part is only entitled to receive the payment under this Part if the party or candidate makes a claim for the payment.

(2) A claim for payment under this Part (other than an advance payment) in respect of an election

must be lodged with the Commission before the expiry of 120 days after the day for the return of the writs for the election.

(3) A claim under this Part is not validly lodged with the Commission unless all expenditure specified in the claim is vouched for in the approved manner and approved form and by a statutory declaration.

(4) A party agent in relation to a registered party, or an independent Assembly candidate, who makes a claim for a payment under this Part is required to make the declaration referred to in subsection (3) and provide –

(a) the information, if any, in connection with the claim, that is required by the regulations; and

(b) other information, if any, that the Commission requires in connection with the payment.

138. Approvals of payments

(1) Subject to this Act, the Commission must –

(a) approve the making of a payment under this Part if –

(i) a claim for the payment is made by a registered party or party agent for a registered party, or by an independent Assembly

candidate, in the approved manner and approved form; and

(ii) the Commission is satisfied that the registered party or candidate is eligible for the payment; or

(b) refuse to approve the making of the payment under this Part –

(i) if a claim for the payment is not made in the approved manner and approved form or the Commission is not satisfied that the registered party or candidate is eligible for the payment; or

(ii) to the extent that the payment would exceed the amount of electoral expenditure for which payment may be made under this Part.

(2) In assessing a claim for payment under this Part, the Commission may require the applicant to provide the Commission with further, or other, information relevant to the assessment.

(3) If the Commission 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.

139. Commission may audit claims

(1) The Commission may audit claims under this Part.

(2) A person who is or was a party agent, party, candidate or Member must assist the Commission by giving the Commission –

(a) 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, candidate, or Member, as the case may require, relating directly or indirectly to the expenditure referred to in the claim; and

(b) all information and explanations that the Commission reasonably requests in respect of the expenditure referred to in the claim.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) The Commission may appoint an auditor to audit claims under this Part.

(4) For the purposes of subsection (3), the auditor has and may exercise the same functions as the Commission has under this section in relation to an audit of claims under this Part.

(5) An audit under this section is to be conducted in the manner, if any, prescribed in the regulations.

140. Making of payments

(1) Subject to this Act, a payment to be made to a registered party is, unless section 133(3) applies –

(a) to be made to the party or the party agent in relation to the party; and

(b) is to be paid into the campaign account of the party.

(2) Payments to be made to an independent Assembly candidate or a candidate to whom a notice under section 133(3) relates are –

(a) to be made to the candidate; and

(b) if –

(i) the candidate is an independent Assembly candidate – to be paid into the campaign account in relation to the independent Assembly candidate; or

(ii) the candidate is a candidate to whom a notice under section 133(3) relates – to be paid into an account nominated by the candidate.

(3) Despite subsections (1) and (2), the Commission 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 specified account with a financial institution

established for or in trust for a party, for the members of a party or for a candidate.

(4) Payments may be made under this Part to a party agent, or official agent, subject to the reasonable conditions, if any, in respect of the disbursement of the amount paid, that the Commission determines.

(5) A party agent, or official agent, must comply with any condition determined in accordance with subsection (4) and applicable to the agent or any of the agent's predecessors.

Penalty: Fine not exceeding 100 penalty units.

(6) It is a defence to a prosecution for an offence under subsection (5) if the party agent, or official 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.

(7) If 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 Commission as a debt in any court of competent jurisdiction.

141. Prepayment on lodgment of claims

(1) If the Commission is unable to finalise a claim for payment lodged on behalf of a registered party within the period of 60 days after the claim

is lodged, the Commission is required to make a preliminary payment within that period.

(2) The preliminary payment is to be of an amount equal to 90% of the total amount estimated by the Commission to be payable to the party, reduced by the amount of any advance payments made for the election concerned.

(3) In making an estimate under this section, the Commission 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 Commission within 60 days after the Commission notifies the party.

(5) The amount of any such excess may be recovered by the Commission as a debt in any court of competent jurisdiction.

142. Payments conditional on disclosure of political donations, &c.

(1) A party or candidate is not eligible for any payment (other than advance payments) under this Part in respect of an Assembly general election, or an Assembly by-election, while any failure to lodge –

(a) under section 49 a donation declaration; or

(b) under section 71 any Assembly election campaign return; or

(c) under section 84 any Council election campaign return –

for a past period continues in respect of the party or candidate.

(2) If the Commission is authorised under section 30 to recover an amount from a party (or party agent in relation to the party) or a candidate, the Commission may deduct the amount from any payment (other than an advance payment) under this Part.

143. Death of candidate

If a candidate dies and would, but for that death, have been entitled to a payment under this Part, the Commission may make the payment to the candidate's legal personal representative or otherwise in accordance with section 140.

144. Deductions from payment for debts owed

The Commission 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 Commission is authorised by this Part to recover as a debt from the party or candidate.

145. Public access to claims and related documents

(1) The Commission must keep a copy of each claim made for a payment under this Part lodged with the Commission, together with any documents relating to the assessment of the claim by the Commission, for a period of at least 6 years after the polling day for the election to which it or they relate.

(2) The Commission, within 21 days after any claim referred to in subsection (1) is lodged with the Commission, is to, for a period of at least 6 years, publish, on a Commission website, a copy of the claim.

(3) A copy of each claim, referred to in subsection (1), that is lodged with the Commission is to be available for public inspection, at the offices of the Commission, during the period for which such claims are required under this section to be kept, during the ordinary office hours of the Commission.

PART 12 – ADMINISTRATIVE FUNDING FOR ASSEMBLY

Division 1 – Preliminary

146. Establishment of Administration Fund

(1) There is to be an Administration Fund to be kept by the Commission in respect of registered parties and independent Assembly Members.

(2) Payments from the Administration Fund are to be distributed in accordance with this Part.

Division 2 – Public funding of Assembly administrative expenditure

147. Administrative funding of eligible parties for Assembly administrative expenditure

(1) A registered party is, subject to and in accordance with this Act, eligible for quarterly payments from the Administration Fund if –

(a) it was a registered party on the polling day for the previous Assembly general election and continues to be a registered party on the date on which the entitlement for a quarterly payment is determined under this Part; and

(b) an Assembly Member who was, on the polling day, an Assembly candidate who is endorsed by the party, was elected at the Assembly election and the Commission is satisfied that the

Assembly Member claimed during that election to be endorsed by the party; and

(c) the Commission is satisfied that the Assembly Member continues to be endorsed by the registered party on the date on which the entitlement for a quarterly payment is determined under this Part.

(2) A registered party is, subject to and in accordance with this Act, eligible for quarterly payments from the Administration Fund if –

(a) it was a registered party on the polling day for the previous Assembly general election and continues to be a registered party on the date on which the entitlement for a quarterly payment is determined under this Part; and

(b) an Assembly Member, who was not endorsed by the party on the polling day, was elected at the Assembly election; and

(c) the Commission is satisfied that the Assembly Member is endorsed by the registered party on the date on which the entitlement for a quarterly payment is determined under this Part and was so endorsed during all of the quarter to which the quarterly payment relates.

(3) The quarterly amount to be distributed from the Administration Fund to any registered party that is eligible under subsection (1) or (2) is the

amount of Assembly administrative expenditure incurred by or on behalf of the party during the quarter to which the payment relates, but is not to exceed –

(a) $33 054 if there are 6 or more Assembly Members to whom subsection (1) or (2) applies in relation to the party; or

(b) unless paragraph (c) applies, $19 282 if there are 5 or fewer Assembly Members to whom subsection (1) or (2) applies in relation to the party; or

(c) $9 641, if there is only one Assembly Member to whom either subsection (1) or (2) applies in relation to the party.

(4) The number of Assembly Members to whom subsection (1) or (2) applies in relation to the party in relation to any quarterly payment is to be determined as at the date on which the entitlement for a quarterly payment is determined under this Part.

(5) Each of the amounts referred to in a paragraph of subsection (3) is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.

148. Administrative funding of independent Assembly Members for Assembly administrative expenditure

(1) An independent Assembly Member is, subject to and in accordance with this Act, eligible for

quarterly payments from the Administration Fund if –

(a) the Member was not, on the polling day in relation to the election at which the Member was elected, an Assembly candidate endorsed by a registered party; and

(b) the Commission is satisfied that the Assembly Member is not endorsed by a registered party on the date on which the entitlement for a quarterly payment is determined under this Part.

(2) An independent Assembly Member is, subject to and in accordance with this Act, eligible for quarterly payments from the Administration Fund if –

(a) the Member was, on the polling day in relation to the election at which the Member was elected, an Assembly candidate endorsed by a registered party; and

(b) the Commission is satisfied that the Assembly Member is not endorsed by a registered party on the date on which the entitlement for a quarterly payment is determined under this Part and was not so endorsed during all of the quarter to which the quarterly payment relates.

(3) The quarterly amount to be distributed from the Administration Fund to any independent Assembly Member who is eligible for payments

from the Administration Fund is the amount of Assembly administrative expenditure incurred by or on behalf of the Assembly Member during the quarter to which the payment relates, but is not to exceed $9 641.

(4) The amount referred to in subsection (3) is an adjustable amount that is to be adjusted for inflation as provided by Schedule 1.

149. Provisions relating to quarterly payments

(1) For the purposes of this Part, if Assembly administrative expenditure is incurred, in a quarter, by or on behalf of a registered party or independent Assembly Member in excess of the amount, if any, to which the registered party or Assembly Member is eligible under section 147 or 148 in respect of that quarter, the amount of the excess –

(a) may be carried over to a subsequent quarter in the same calendar year; and

(b) is to be taken to be Assembly administrative expenditure incurred in that subsequent quarter.

(2) If a registered party or independent Assembly Member receives an amount by way of quarterly payment in excess of the amount, if any, to which the party or Member becomes eligible under section 147 or 148 in respect of that quarter, the amount of the excess must be repaid to the Commission within 60 days after the party or Assembly Member (or agent in relation to the

party or Assembly Member) receives notice in writing from the Commission of the amount of the excess payment.

(3) All amounts received by a registered party or independent Assembly Member by way of quarterly payments must be repaid to the Commission on demand by the Commission, if the party or Member is not eligible under section 147 or 148 for a quarterly payment from the Administration Fund in relation to that quarter.

150. Quarterly advance payments

(1) A registered party or Assembly Member is, subject to and in accordance with this Act, eligible, in respect of each quarter (a ***relevant quarter***), for a quarterly advance payment, from the Administration Fund, of an amount determined in accordance with this section.

(2) The amount payable, by way of a quarterly advance payment in respect of a relevant quarter –

(a) is payable at the beginning of the relevant quarter; and

(b) is an amount equal to 100% of the total amount to which the registered party or Assembly Member would be eligible under section 149 in respect of that relevant quarter.

(3) The amount is to be determined on the assumption that –

(a) in the case of –

(i) a registered party – the number of Assembly Members endorsed by the party at the end of the quarter will be the same as the number of Assembly Members endorsed by the party at the date on which the claim for the quarterly advance payment is determined; or

(ii) a person who is an independent Assembly Member – the person will continue to be an independent Assembly Member at the end of the quarter; and

(b) the registered party or Assembly Member will incur in the quarter the maximum amount that can be payable to the party or Member from the Administration Fund for the quarter based on the applicable assumption referred to in paragraph (a).

(4) Any amount paid to a registered party or Assembly Member by way of a quarterly advance payment under this section in respect of a relevant quarter is to be deducted from any amount payable under section 152 to the party or Assembly Member from the Administration Fund in respect of that quarter.

(5) If a registered party or Assembly Member receives amounts by way of a quarterly advance payment under this section in respect of a relevant quarter in excess of the amount (if any) to which the party or Member becomes entitled under section 152 from the Administration Fund in respect of that quarter, the amount of the excess must be deducted from any amount payable in respect of the next quarter under section 152.

(6) Any quarterly advance payment that is in excess of the amount payable to the registered party or Assembly Member under this Part in respect of the quarter is to be repaid within 60 days after the Commission notifies the party or Member that the amount is repayable.

(7) A claim for a quarterly advance payment under this section is to be made –

(a) at least 2 weeks before the beginning of the relevant quarter; and

(b) in the approved manner and approved form.

(8) Section 151 does not apply to a quarterly advance payment under subsection (7).

Division 3 – General

151. Claims for payment

(1) A registered party or Assembly Member who is eligible to receive a quarterly payment under this

Part is entitled to receive a quarterly payment under this Part only if the party agent in relation to the party or Member concerned makes a claim for the payment in accordance with this Division.

(2) A claim must –

(a) be in writing and lodged with the Commission; and

(b) be accompanied by a statutory declaration and such information or evidence as the Commission may require under this Division, including (but not limited to) information or evidence that the Commission requires to establish the eligibility of the registered party or Assembly Member to make the claim; and

(c) be made within 3 months after the end of the quarter for which payment is to be made.

(3) A party agent in relation to a registered party, or an independent Assembly Member, who makes a claim under this section for a payment under this Part is required to make the declaration referred to in subsection (2)(b) and provide –

(a) the information, if any, in connection with the claim, that is required by the regulations; and

(b) other information, if any, that the Commission requires in connection with the payment.

(4) A claim under this section is not validly lodged with the Commission unless all expenditure specified in the claim is vouched for in the approved manner and approved form and by a statutory declaration.

152. Payment of claims under this Part

(1) Entitlement to a quarterly payment under this Part is to be determined as at the end of the quarter for which the payment is to be made.

(2) Payments under this Part are to be made to the party agent in relation to the registered party or the Assembly Member concerned.

(3) A payment under this Part to which a registered party or Assembly Member is entitled is required to be made within the period of 30 days after the Commission receives –

(a) a claim for the payment that complies with this Division; and

(b) all other documentation that is required to be provided under this Division in connection with the claim; and

(c) information or evidence required by the Commission under this Division in connection with the claim.

(4) Any amount required to be repaid to the Commission under this Part or to which the recipient is not entitled may be recovered by the Commission as a debt in any court of competent jurisdiction.

(5) The Commission may deduct from any payment due under this Part in respect of a registered party or Assembly Member any amount that the Commission is authorised by this Part to recover as a debt from the party or Assembly Member or party agent, or official agent, in relation to the party or Assembly Member.

153. Commission may audit claims

(1) The Commission may audit claims under this Part.

(2) A person who is or was a party agent, registered party or Assembly Member must assist the Commission by –

(a) giving the Commission 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 Assembly Member, as the case may require, relating directly or indirectly to the expenditure referred to in the claim; and

(b) giving the Commission all information and explanations that the Commission reasonably requests in respect of the expenditure referred to in the claim.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) The Commission may appoint an auditor to audit claims under this Part.

(4) For the purposes of subsection (3), the auditor has and may exercise the same functions as the Commission has under this section in relation to an audit of claims under this Part.

(5) An audit under this section is to be conducted in the manner, if any, prescribed in the regulations.

154. Payments conditional on compliance with other obligations under this Act

(1) A registered party or independent Assembly Member is not eligible for any payment under this Part while any failure –

(a) to lodge a donation declaration under section 49; or

(b) to lodge an Assembly election campaign return under section 71; or

(c) to lodge under section 84 any Council election campaign return –

for a past period continues in respect of the party or Member.

(2) If an amount is due and payable to the State under section 30 by a registered party (or party agent in relation to the party) or an Assembly

Member, the Commission may deduct the amount from any payment under this Part.

155. Public access to claims and related documents

(1) The Commission must keep a copy of each claim made for a payment under this Part lodged with the Commission, together with any documents relating to the assessment of the claim by the Commission, for a period of at least 6 years after the claim is made.

(2) The Commission, within 21 days after any claim referred to in subsection (1) is lodged with the Commission, is to, for a period of at least 6 years, publish, on a Commission website, a copy of the claim.

(3) A copy of each claim, referred to in subsection (1), that is lodged with the Commission is to be available, during the period for which the claim is required under this section to be available for public inspection, at the offices of the Commission, during the ordinary office hours of the Commission.

PART 13 – INVESTIGATION, OFFENCES AND PROCEEDINGS

Division 1 – Investigation powers

156. Power to require provision of documents and information

(1) If the Commission has reason to believe that a person is in possession of information, or a relevant document or thing, that may be relevant to the enforcement of this Act, the Commission may, by notice in writing to the person, require the person to do any one or more of the following:

(a) to provide such information as the Commission reasonably requires for the purposes of the enforcement of this Act;

(b) to produce to the Commission, at the place and time specified in the notice, any relevant document or thing that the Commission reasonably requires for the purposes of the enforcement of this Act;

(c) to answer questions about any matters in respect of which information is reasonably required for the purposes of the enforcement of this Act;

(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;

(e) to make a statement providing an explanation of any relevant document, if the person was a party to the compilation of the relevant document.

(2) The Commission may authorise an inspector to exercise a function of the Commission under this section.

(3) The place and time at which a person may be required by a notice under subsection (1) to produce a relevant document or thing, or to attend and answer questions, is to be a place and time, specified in the notice, that is reasonable in the circumstances.

(4) A notice under subsection (1) that requires a person to produce a relevant document or thing may only require a person to produce existing documents or things that are in the person's possession or that are within the person's power to obtain lawfully.

(5) A notice may be given under subsection (1) to a person in respect of a matter even though the person is (or the relevant document, thing or information is held) outside the State or the matter occurred or is located outside the State, if the matter affects a matter to which this Act relates.

(6) A person is not obliged to provide any information, produce a relevant document or thing, answer a question or make a statement under this section unless that person has first

been informed by the Commission, or an inspector, that he or she is required to do so.

(7) The Commission may make copies of any documents provided under this section.

(8) The Commission must –

(a) return to a person any document or thing provided under this section by a person; and

(b) destroy a copy of any document provided under this section by a person –

as soon as practicable after the document or thing, or the copy, ceases to be required for purposes related to the enforcement of this Act.

157. Offences and proceedings in relation to notice

(1) A person must not, without reasonable excuse, fail to comply with a requirement made of the person under section 156.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A person must not provide any document or information, or answer any question, in purported compliance with a requirement made under section 156, if the person knows, or ought to know, that the document, information or answer is false or misleading in a material particular.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) In any proceedings for an offence under subsection (1), a copy of a document or part of a document made under section 156(7) is admissible in evidence in those proceedings and, in the absence of evidence to the contrary, the contents of the copy are to be presumed to be the same as those of the original document or part.

(4) Any information provided, answer given or statement made by a person in response to a requirement made under section 156 may not be used in any proceedings against that person, except proceedings under subsection (1) or (2) in relation to that information, answer or statement.

(5) If the Commission has reason to believe that any document or thing provided under section 156 is evidence of an offence against this Act or the regulations, the Commission may retain the document or thing until proceedings for the offence have been heard and determined.

158. Appointment and identification of inspectors

(1) The Commission may appoint any of the following persons as inspectors for the purposes of this Act:

(a) a member of staff of the Commission;

(b) a person belonging to a class of persons prescribed by the regulations.

(2) The Commission may only appoint a person to be an inspector if the Commission is satisfied that the person –

(a) has the necessary expertise or experience to exercise functions under this Act; or

(b) has satisfactorily completed training approved by the Commission.

(3) The Commission may revoke the appointment of a person as an inspector.

(4) The Commission is to cause each inspector to be issued with a means of identification in an approved form.

(5) In the course of exercising the functions of an inspector under this Act, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce the inspector's identification for inspection by the person, unless to do so would defeat the purpose for which the function is to be exercised.

(6) The Commission may enter into an arrangement with the Commissioner of Police for a police officer to exercise the functions of an inspector under this Act.

(7) A police officer who exercises the functions of an inspector in accordance with the arrangement under subsection (6) is taken to be an inspector for the purposes of this Act.

(8) An inspector must, within 14 days after the person's appointment as an inspector is revoked,

return the inspector's identification to the Commission.

Penalty: Penalty not exceeding 50 penalty units.

(9) A function of the Commission under section 156 may be exercised by an inspector authorised under section 156(2) to exercise the function.

159. Entry by inspector, &c., under warrant

(1) An inspector may apply to a magistrate for the issue of a search warrant under subsection (4).

(2) An application under subsection (1) for a warrant must be sworn and state the grounds on which the warrant is sought.

(3) A magistrate may refuse to consider an application under subsection (1) from an inspector until the inspector gives the magistrate, in the way that the magistrate requires, all the information about the application that the magistrate requires.

(4) A magistrate may, on the application under subsection (1) of an inspector, issue a search warrant if the magistrate is satisfied that there are reasonable grounds to suspect that –

(a) there may be, at any time within the next 24 hours, on or in any land, premises, vessel, aircraft or vehicle, a relevant document or thing that may provide

evidence relating to a contravention of this Act; and

(b) if a notice under section 156 were given for the production of the relevant document or thing, the document or other thing might be concealed, lost, mutilated or destroyed.

(5) A search warrant issued to an inspector authorises the inspector, or any other person named in the warrant, with the assistance that the inspector or other person thinks necessary and with reasonable force –

(a) to enter on land, or on or into any premises, vessel, aircraft or vehicle, specified in the warrant; and

(b) to search the land, premises, vessel, aircraft or vehicle for relevant documents or things, being documents, or things, of a kind described in the warrant, that may provide evidence relating to a contravention of this Act; and

(c) to seize the relevant documents or things.

(6) For the purpose of ascertaining whether this Act is being or has been contravened, an inspector may –

(a) in accordance with a warrant issued by a magistrate, enter, at any reasonable time, on any land, or on or into any premises, vessel, aircraft or vehicle, at, on or in which, the inspector has reasonable

grounds to believe, relevant documents or things are kept; and

(b) request the owner or occupier of any land, premises, vessel, aircraft or vehicle to produce for inspection any relevant documents or things at, on or in the land, premises, vessel, aircraft or vehicle; and

(c) request any person employed or engaged at or on any land, premises, vessel, aircraft or vehicle to produce for inspection any relevant documents or things that are in the custody, or under the control, of that person; and

(d) examine and inspect any relevant documents or things that are at, on or in any land, premises, vessel, aircraft or vehicle; and

(e) copy, or take extracts from, any relevant documents that are at, on or in any land, premises, vessel, aircraft or vehicle.

(7) A person must not –

(a) refuse or intentionally delay the admission, to any land, premises, vessel, aircraft or vehicle, of an inspector in the exercise of the inspector's functions under this section; or

(b) intentionally obstruct an inspector in the exercise of the inspector's functions under this section; or

(c) fail to comply with a request of an inspector made under this section.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(8) If a document or other thing is seized by a person under a warrant issued under subsection (4) –

(a) the person may retain the document or other thing as long as reasonably necessary for the purposes of investigating whether a contravention of this Act has occurred; and

(b) the person must, as soon as reasonably practicable after the document or other thing is no longer required for the purposes of investigating whether a contravention of this Act has occurred, cause the document or other thing to be delivered to the person who appears to the first-mentioned person to be entitled to the possession of the document or other thing.

160. Warrant by telephone or other electronic means

(1) An inspector may make, by telephone, facsimile or other electronic means, an application under section 159(1) to a magistrate for the issue of a warrant under section 159(4) –

(a) in any urgent case; or

(b) if the delay that would occur if the application were made in person would frustrate the effective execution of the warrant.

(2) A magistrate to whom an application in accordance with subsection (1) is made by an inspector may require the inspector to communicate by voice to the extent that is practicable in the circumstances.

(3) If an application is made in accordance with subsection (1) to a magistrate and the magistrate, after considering the information that is provided by the inspector in support of the application or that the magistrate requires, is satisfied that the grounds for issue of the warrant specified in section 159(4) are made out and –

(a) a warrant in the terms of the application should be issued urgently; or

(b) the delay that would occur if the application were made in person would frustrate the effective execution of the warrant –

the magistrate may issue the warrant under section 159(4) by completing and signing the same form of warrant that would be issued under section 159(4).

(4) If the magistrate decides to issue the warrant for which an application is made in accordance with subsection (1) by an inspector –

(a) the magistrate is to inform the inspector, by telephone, facsimile or other electronic means, of the terms of the warrant and the day on which, and the time at which, the warrant was signed; and

(b) the inspector is to complete a form of the warrant in terms substantially corresponding to the terms of which the inspector was informed by the magistrate and to state on the form the name of the magistrate and the day on which, and the time at which, the warrant was signed.

(5) The inspector to whom a warrant is issued pursuant to an application made under subsection (1) is to, no later than the day after the day on which the warrant expires or is executed, whichever occurs first, give or transmit to the magistrate –

(a) the form of warrant completed by the inspector; and

(b) if the information on the basis of which the warrant was issued was not sworn by the inspector, that information duly sworn.

(6) The magistrate is to attach to the documents provided under subsection (5) the form of warrant completed by the magistrate and to return the documents and form to the inspector to whom the warrant was issued.

(7) If –

(a) it is material, in any proceedings, for a court to be satisfied that the exercise of a power under a warrant issued under section 159(4) in accordance with this section was duly authorised; and

(b) the form of warrant signed by the magistrate who issued the warrant is not produced in evidence –

the court is to assume, unless the contrary is proved, that the exercise of the power was not duly authorised.

Division 2 – Offences

161. Offence relating to scheme to circumvent political donation or expenditure prohibitions or restrictions

(1) In this section –

scheme means –

(a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable by legal proceedings; and

(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

(2) A person who enters into or carries out a scheme (whether alone or with others) for the purpose of

circumventing a prohibition or requirement of Part 3, 4, 5, 6, 7, 8 or 9 is guilty of an offence punishable on indictment under the *Criminal Code*.

(3) It does not matter that the person also enters into or carries out the scheme for other purposes.

(4) Despite an offence referred to in subsection (2) being punishable on indictment, a court of summary jurisdiction may hear and determine proceedings in respect of the offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(5) If a court of summary jurisdiction finds a person guilty of an offence against subsection (2), the court may impose a penalty of a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

162. Offence to give or withhold certain information that may result in false or misleading funding claim

A candidate who is or was endorsed by a registered party must not, in relation to any matter to be included in a claim for a payment under Part 11 or 12, give or withhold information to or from the party agent in relation to the registered party, if the candidate knows, or ought to know, that giving or withholding the information will result in the making of a false or misleading claim by the party agent.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

163. Offence of failing to keep records

A person must keep for a period of at least 3 years a record that is required by the regulations to be kept by the person for the purposes of this section.

Penalty: In the case of –

(a) a party – a fine not exceeding 200 penalty units; or

(b) in any other case – a fine not exceeding 100 penalty units.

164. False or misleading information

(1) This section does not apply in relation to a Council election expenditure return.

(2) A person must not provide information to the Commission that the person knows, or ought to know, is false or misleading in a material particular –

(a) in or in connection with any application, claim, request, notice, donation declaration or other disclosure under this Act; or

(b) in a donation declaration; or

(c) in an Assembly election campaign return; or

(d) in purported compliance with any requirement imposed by or under this Act.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) A person must not, in a document required to be lodged under, or for the purposes of, this Act, make, or cause or permit the making of, a statement that is false or misleading in a material particular, without having taken reasonable steps to ensure that the statement was not false or misleading in a material particular.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

(4) A person must not, in a document required to be lodged under, or for the purposes of, this Act, omit, or cause or permit the omission of, any matter or thing without which the document is false or misleading in a material particular, without having taken reasonable steps to ensure that the document did not omit any matter or thing without which the document would be false or misleading in a material particular.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

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

(1) A senior office holder of a registered party must not fail, without reasonable excuse, to report to the Commission, in writing, any conduct in connection with the party that the office holder knows, or ought to have known, constitutes a contravention of this Act.

Penalty: Fine not exceeding 50 penalty units.

(2) Without limiting subsection (1), it is a reasonable excuse for a person to fail to report conduct under that subsection if the person knows, or ought to have known, that a report of the conduct has already been made to the Commission.

166. Continuing offences

(1) If –

(a) by or under a section of this Act, an act or thing is required or directed to be done within a particular period or before a particular time; and

(b) failure to do that act or thing within the period, or before the time, referred to in paragraph (a) constitutes an offence; and

(c) that act or thing is not done within the period, or before the time, referred to in paragraph (a) –

the following provisions of this subsection have effect:

(d) the obligation to do that act or thing continues, even though that period has expired or that time has passed, until that act or thing is done;

(e) if a person is convicted of an offence that is constituted by failure to do that act or thing within that period or before that time, as the case may be, that person is guilty of a separate and further offence in respect of each day, after the day of the conviction, during which the failure to do that act or thing continues;

(f) the fine applicable to each such separate and further offence is an amount not exceeding 0.5 penalty units.

(2) If –

(a) by or under a section, or a subsection of a section, of this Act, an act or thing is required or directed to be done but no period within which, or time by which, that act or thing is to be done is specified; and

(b) failure to do that act or thing constitutes an offence; and

(c) a person is convicted of an offence in respect of a failure to do that act or thing –

the person is guilty of a separate and further offence in respect of each day, after the day of the conviction, during which the failure to do that act or thing continues, and the fine applicable to each such separate and further offence is an amount not exceeding 0.5 penalty units.

(3) Charges against the same person for any number of offences under subsection (1)(e) or subsection (2) may be joined in the same complaint if those offences relate to a failure to do the same act or thing.

(4) If a person is convicted of more than one offence under subsection (1)(e), or more than one offence under subsection (2), the court may impose one penalty in respect of all the offences of which the person is so convicted under subsection (1)(e) or subsection (2), respectively, but that penalty is not to exceed the sum of the maximum penalties that could be imposed if the penalty were imposed in respect of each offence separately.

Division 3 – Nature of proceedings for offences

167. Commencement of proceedings for offences

(1) Proceedings in respect of an offence against this Act or the regulations may only be commenced within 4 years after the offence was committed.

(2) Proceedings in respect of an offence against this Act or the regulations may only be commenced with the consent of the Commission.

(3) This section does not apply to proceedings for an offence against section 161.

168. Infringement notices

(1) In this section –

infringement offence means an offence against this Act, or the regulations, that is prescribed by the regulations to be an infringement offence.

(2) An inspector may issue and serve an infringement notice on a person if the inspector reasonably believes that the person has committed an infringement offence.

(3) An infringement notice may not be served on a natural person who has not attained the age of 18 years.

(4) An infringement notice –

(a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and

(b) is not to relate to more than 3 offences.

(5) The regulations –

(a) may prescribe, for infringement offences, the penalties payable under infringement notices; and

(b) may prescribe different penalties for bodies corporate and natural persons.

(6) The penalty prescribed –

(a) in relation to a person, for any infringement offence, is not to exceed 20% of the maximum penalty that could be, in respect of the offence, imposed on a natural person by a court; and

(b) in relation to a body corporate, for any infringement offence, is not to exceed 30% of the maximum penalty that could be, in respect of the offence, imposed on a body corporate by a court.

169. Civil and criminal proceedings against parties that are unincorporated associations

(1) The following proceedings under a provision of this Act against a party that is an unincorporated association (whether the subject of the provision is described as a party or a person) may be brought against the party in its own name (and not in the name of any of its members), and, for the purposes of those proceedings, any rules of court relating to the service of documents, are taken to have effect as if the party were a corporation:

(a) proceedings for an offence under this Act alleged to have been committed by a party;

(b) proceedings for the recovery of any amount from a party under this Act.

(2) If a fine is imposed, on a party that is an unincorporated association, for an offence under this Act or such a party is required in proceedings under this Act to make a payment of an amount, the fine or amount –

(a) is payable out of the property of the party; and

(b) is not payable out of the property of a member or officer of the party unless the property is held for or on behalf of the party.

(3) The *Criminal Code* has effect, in a case in which a party that is an unincorporated association is charged with an offence under this Act, in the same manner as it has effect in the case of a corporation charged with such an offence.

170. Evidence

A certificate that is signed by a person authorised by the Commission for the purposes of this section and that certifies any one or more of the following matters is admissible in criminal or civil proceedings under this Act and (in the absence of evidence to the contrary) is evidence of the matters so certified:

(a) that a specified candidate, third-party campaigner or associated entity 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 party was or was not registered under the *Electoral Act 2004* at a specified time or during a specified period;

(c) that a specified person was or was not registered as a party agent, or an official agent, in a specified register kept under this Act at a specified time or during a specified period;

(d) that there was no person registered at a specified time or during a specified period as the agent of a specified party, third-party campaigner or associated entity.

PART 14 – MISCELLANEOUS

Division 1 – Provisions relating to Commission

171. Commission may educate and inform Members and candidates

The Commission may undertake educational and information programs to educate and inform parties, Members, candidates, groups, third-party campaigners, associated entities, party agents, official agents and donors of their obligations under this Act.

172. Money received by Commission

Any money received or recovered by the Commission is to be paid to the Public Account.

173. Guidelines

(1) The Commission may, from time to time, determine and issue guidelines, not inconsistent with this Act or the regulations, for or in respect of any matters dealt with in this Act.

(2) In the operation and application of this Act, regard is to 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 Commission is to have regard to those guidelines –

(a) when dealing with applications, claims, and disclosures, under this Act; and

(b) in the enforcement of this Act.

(3) The Commission is to publish on a Commission website copies of any guidelines determined under subsection (1).

174. Compliance agreements

(1) The Commission 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) For the purposes of subsection (1), a person affected by this Act includes a party, a Member, a candidate, a third-party campaigner and an associated entity.

(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 Commission, make a declaration that a person has contravened a compliance agreement, and may 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.

Division 2 – Other provisions

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

For the purposes of this Act, where any thing 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 registered party; or

(b) is established by or under the constitution of a registered party; or

(c) has functions conferred by or under the constitution of a registered party; or

(d) is controlled (within the meaning of section 50AA of the *Corporations Act 2001* of the Commonwealth) by a registered party –

the thing is taken to be done by, on behalf of or for the benefit of that party or the property is taken to be held by that party, as the case may be.

176. Advertising

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

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

A reference in this Act 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

(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.

178. Related corporations taken to be single corporation

For the purposes of this Act, 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.

179. Statutory declarations

The Commission may require any particulars, in relation to an application, notice, claim or other statement, that is required to be provided to the Commission under this Act by a person, to be verified by a statutory declaration.

180. Appropriation of Public Account for electoral funding

The costs and expenses incurred by the Commission in the administration of this Act, and the amounts payable in accordance with Part 11 or 12, are to be paid from the Public Account which, to the necessary extent, is appropriated accordingly.

181. Regulations

(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, prescribed in the regulations.

(3) The regulations may authorise any matter to be from time to time approved, applied or regulated by the Commission.

(4) The regulations may make provision for determining, for the purposes of this Act, what constitutes making, accepting or receiving a political donation.

(5) The regulations may make provision for determining, for the purposes of this Act, the day on which a gift or political donation is taken to have been made, accepted or received.

(6) The regulations may make provision for or in respect of campaign accounts, including but not limited to –

(a) the control of accounts; and

(b) separately accounting for amounts held for Members and candidates; and

(c) the provision of information to, and the audit of accounts by, the Commission.

182. Review of Act

(1) In this section –

completion, in relation to an election, means that the writ, in relation to that election, has been returned to the Governor as required under section 148(1)(c) of the *Electoral Act 2004*;

held under this Act, in relation to an election, means that the majority of the provisions within Parts 4 and 5 of this Act are in force before the commencement of the election campaign period for the election;

independent review means a review by persons who –

(a) are not otherwise employed by this State, a State Service Agency, a Member or a party; and

(b) in the Minister's opinion, are appropriately qualified for that task.

(2) The Minister must cause an independent review of the operation and scope of this Act to be completed within 12 months after the completion of the second Assembly general election held under this Act, unless an earlier independent review is completed under subsection (3).

(3) Despite subsection (2), if the Minister considers it appropriate to do so, the Minister may commence an independent review of the operation and scope of this Act, in place of an independent review under that subsection, after the completion of the first Assembly general election held under this Act.

(4) The Minister must cause the findings of a review under subsection (2) or (3) to be tabled in each House of Parliament within 10 sitting-days of that House after the completion of the review.

183. Transitional provisions

This Act does not apply in relation to a donation made, or electoral expenditure incurred, before the day on which this section commences.

184. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

(a) the administration of this Act is assigned to the Minister for Justice; and

(b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

PART 15 – *ELECTORAL ACT 2004* AMENDED

185. Principal Act

In this Act, the *Electoral Act 2004** is referred to as the Principal Act.

186 - 189. *The amendments effected by this Part have been incorporated into the authorised version of the Electoral Act 2004.*

*No. 51 of 2004

SCHEDULE 1 – ADJUSTMENT OF AMOUNTS

Sections 133(2), 135(2), 147(5) and 148(4)

1. Interpretation

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) for Hobart 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;

election period means the period between the dates of the return of the writs of successive Assembly general elections or Council periodic elections.

2. Adjustment of public funding amounts

(1) Each of the adjustable amounts specified in Part 11 is to be adjusted for inflation as provided by this clause.

(2) The adjustable amounts that are to apply for the next Assembly general election after this Act commences are to be determined by multiplying

the adjustable amounts specified in the relevant provision of Part 11 by the increase in the Consumer Price Index during the election period commencing on the date of the return of the writs of the previous State Assembly general election and ending on the date of the return of the writs of the next State Assembly general election.

(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 the previous election period.

(4) The 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 beginning 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 taken to be 1.

(6) The Commission –

(a) before the beginning of an election campaign period in relation to a State

Assembly general election, is to publish in the *Gazette*; and

(b) is to publish, before the beginning of an election campaign period in relation to a State Assembly general election and is to continue to publish for a period of not less than 12 months, on a Commission website –

notice of the amount of each adjustable amount for the State Assembly general election (as adjusted under this Schedule).

3. Adjustment of administrative funding amounts

(1) Each of the adjustable amounts specified in a provision of Part 12 is to be adjusted for inflation as provided by this clause.

(2) The adjustable amounts that are to apply for the 2023 calendar year are to be determined by multiplying the adjustable amounts specified in a provision of Part 12 by the annual increase in the Consumer Price Index during the previous calendar year.

(3) 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.

(4) 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 beginning 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.

(5) If B/A is less than 1 (as a result of deflation), B/A is taken to be 1.

(6) The Commission –

(a) before 1 January in a calendar year, is to publish in the *Gazette*; and

(b) is to publish, before 1 January in a calendar year, and continue to publish for not less than a calendar year, on a Commission website –

notice of the amount of each adjustable amount for the calendar year (as adjusted under this Schedule).

4. 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 determined 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) Despite subclause (1), in the case of an adjustment of the amount specified in section 135, the amount is to be rounded up to the nearest cent if the determination results in an amount that is not a multiple of $0.01 and that amount as so rounded is the adjustable amount for that year or election period.

NOTES

The foregoing text of the *Electoral Disclosure and Funding Act 2023* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 13 October 2026 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
Electoral Disclosure and Funding Act 2023	No. 37 of 2023	1.7.2024 Part 1, sections 5 and 180
Electoral Disclosure and Funding (Donation Disclosure) Amendment Act 2025	No. 1 of 2025	1.7.2025
Electoral Disclosure and Funding Act 2023	No. 37 of 2023	1.7.2025 Remainder
Legislation Publication Act 1996	No. 17 of 1996	13.10.2026 s. 11(5) substituted for the purpose of removing duplicate paragraph numbers

TABLE OF AMENDMENTS

Provision affected	How affected
Section 5	Amended by No. 1 of 2025, s. 4
Section 11	Amended by No. 17 of 1996
Section 13	Amended by No. 1 of 2025, s. 5
Section 40	Amended by No. 1 of 2025, s. 6
Section 41	Amended by No. 1 of 2025, s. 7
Section 42	Amended by No. 1 of 2025, s. 8
Section 44	Amended by No. 1 of 2025, s. 9
Section 47	Amended by No. 1 of 2025, s. 10
Section 50	Amended by No. 1 of 2025, s. 11
Section 53	Amended by No. 1 of 2025, s. 12

Provision affected	How affected
Section 71	Amended by No. 1 of 2025, s. 13