Working Paper 1 – Overview of Australian Election Funding and Donations Disclosure Laws

Panel of Experts
Dr Kerry Schott (Chair)
Mr Andrew Tink AM
The Hon John Watkins

August 2014
Overview of Australian Election Funding and Disclosure Regimes

Despite calls for uniform regulation, election funding and disclosure laws continue to vary widely between the Commonwealth, States and Territories. Most jurisdictions require the public disclosure of political donations in the interests of transparency and provide some level of public funding to political parties, candidates and groups to promote electoral competition and reduce the reliance on large donations from private sources.

This paper outlines the current rules in each jurisdiction across four key regulatory measures: caps and bans on political donations, expenditure limits, public funding, and donations disclosure rules. A summary of the Commonwealth, State and Territory regimes is set out in the table at Annexure A.

1. Caps and bans on political donations

Australia does not have a strong history of banning or capping political donations to parties and candidates. South Australia and Tasmania have no caps on political donations. In all other jurisdictions, anonymous donations are capped at various levels ranging from $200 in the Northern Territory to $10,000 (adjusted for inflation) at the Commonwealth level. In Victoria, donations from casino and gambling licensees and their related entities are capped at $50,000 per year.

The NSW and ACT regimes are currently the most progressive in terms of caps and bans on political donations.

New South Wales

In 2008, in-kind campaign contributions (including the provision of offices, computer equipment and vehicles to candidates for little or no payment) were capped at $1,000. In 2009, political donations from property developers were banned in response to public concerns about corruption.

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1 See, for example, Electoral Matters Committee, Parliament of Victoria, Inquiry into Political Donations and Disclosure - Report to Parliament (2009) p 20 and New South Wales, Parliamentary Debates, Legislative Assembly, 28 October 2010, p 27168 (Kristina Keneally).


4 Electoral Act 2002 (Vic) s 216.

5 The caps on political donations that were introduced in Queensland in 2011 were abolished on 22 May 2014 by the Electoral Reform Amendment Act 2013 (Qld).

6 Election Funding, Expenditure and Disclosures Act 1981 (NSW) s 96E.

Version 2 - Updated on 13/08/2014
and undue influence in the NSW planning system. This ban was later extended to prohibit donations from the tobacco, liquor and gambling industries.

In 2010, the *Election Funding, Expenditure and Disclosures Act 1981* (NSW) (the *NSW Act*) was further amended to impose caps on the value of political donations to parties, groups, candidates, elected members and third-party campaigners. As a result of these reforms, the largest donation a single donor can make in a financial year is $5,000 to a political party or group, and $2,000 to a candidate, elected member or third-party campaigner (adjusted for increases in the CPI). The applicable NSW donations caps for the 2014-15 financial year are $5,700 for donations to parties and groups and $2,400 for donations to candidates, elected members and third-party campaigners.7

The shift in New South Wales toward caps and bans on donations culminated in the O’Farrell Government’s 2012 amendments banning political donations from corporations and other entities. This ban was recently declared invalid by the High Court on the grounds that it impermissibly burdened the implied freedom of political communication under the Commonwealth Constitution.8 The result of the High Court’s decision is that section 96D of the NSW Act applies as it did before the 2012 amendments.9

**Australian Capital Territory**

In 2012, major reforms were made to the *Electoral Act 1992* (ACT), including a cap of $10,000 on donations that may be received in a financial year from a single donor and deposited into an ACT election account. Parties, candidates, groups, associated entities and third-party campaigners must keep an ACT election account with a financial institution. An ACT election account is the only account from which electoral expenditure relating to an ACT election may be paid. Political donations that exceed $10,000 per financial year may not be deposited in an ACT election account, but may be deposited in any other account and used for purposes other than electoral expenditure for a ACT election (e.g. administrative expenses, federal campaigns).10 The value of ‘in-kind’ donations must be taken into account when determining whether the cap on donations has been reached.11

Similar to the position in New South Wales before the *Unions NSW* decision, parties and candidates in the ACT are banned from using political donations from corporations and other


8 *Unions NSW v State of New South Wales* [2013] HCA 58.

9 Section 96D provides that political donations from individuals who are not enrolled for State, federal or local government elections and entities without an Australian Business Number are prohibited.


11 Ibid p 11.
entities to fund electoral expenditure relating to an ACT election. This ban does not apply to third-party campaigners. On 30 June 2014, the Select Committee on Amendments to the Electoral Act 1992 recommended that the ban on corporate donations be repealed on the basis that, “it is highly likely that s 205I(4) would be found to be in breach of the implied freedom of political communication, on the basis that it is similar in effect to s 96D of the [NSW] Act”.

2. Expenditure limits

At the Commonwealth level, limits to candidates’ expenditure applied from 1902 but were ultimately abolished in 1980 on the basis that they “imposed a constraint on the nature of candidates’ campaigns and were hard to enforce”. Western Australia and Victoria abolished their expenditure limits in 1979 and 2002 respectively. In Queensland, expenditure limits were introduced in 2011 but have since been abolished as part of controversial changes to the Electoral Act 1992 (Qld) passed by the Queensland Parliament on 22 May 2014.

New South Wales, the ACT and Tasmania are now the only jurisdictions that impose limits on spending during election campaigns.

**New South Wales**

Since 2010, the NSW Act has imposed expenditure limits on parties, groups, elected members, candidates and third-party campaigners. ‘Electoral expenditure’ is broadly defined as money spent on promoting or opposing a party, or the election of a candidate or candidates, or on influencing the voting at an election. ‘Electoral communication expenditure’ is a subset of electoral expenditure, and includes spending on media and Internet advertisements, election material, and staff engaged in election campaigns.

It is unlawful for a party, group, candidate or third-party campaigner to incur electoral communication expenditure for a State election campaign in the 6-month period leading up to the election if it exceeds the applicable cap on electoral communication expenditure. The expenditure cap is adjusted at each election for CPI.

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12 **Electoral Act 1992 (ACT) s 205I.**


17 **Election Funding, Expenditure and Disclosures Act 1981 (NSW) s 87.**
The following table outlines the caps on electoral communication expenditure that will apply in the lead up to the 2015 State election.\(^{18}\)

<table>
<thead>
<tr>
<th>Electoral communication expenditure incurred by:</th>
<th>General cap</th>
</tr>
</thead>
<tbody>
<tr>
<td>a party that endorses a group for the Legislative Council and between 0 and 10 candidates for the Legislative Assembly</td>
<td>$1,166,600</td>
</tr>
<tr>
<td>all other parties</td>
<td>$111,200 x number of Legislative Assembly electoral districts in which a candidate is endorsed by the party</td>
</tr>
<tr>
<td>a group of unendorsed candidates for the Legislative Council</td>
<td>$1,166,600</td>
</tr>
<tr>
<td>an endorsed candidate for the Legislative Assembly</td>
<td>$111,200</td>
</tr>
<tr>
<td>an unendorsed candidate for the Legislative Assembly</td>
<td>$166,700</td>
</tr>
<tr>
<td>an ungrouped candidate for the Legislative Council</td>
<td>$166,700</td>
</tr>
<tr>
<td>a candidate for a Legislative Assembly by-election</td>
<td>$222,300</td>
</tr>
<tr>
<td>a third-party campaigner</td>
<td>$1,166,600 (if registered with the EFA before the capped expenditure period for an election); or $583,300 (in any other case)</td>
</tr>
<tr>
<td>a third-party campaigner (by-election)</td>
<td>$22,300</td>
</tr>
</tbody>
</table>

The cap for parties and third-party campaigners is subject to an additional cap (within the overall cap) for electoral communication expenditure incurred substantially for the purposes of the election in a particular district. For the 2015 State election, the additional cap is $55,600 per electorate for parties and $22,300 per district for third-party campaigners.

The expenditure limit for a party that endorses candidates in all 93 districts for the purposes of the 2015 State election is $10,341,600.

**Australian Capital Territory**

Expenditure limits have applied in the ACT since 2012 following the enactment of the *Electoral Amendment Act 2012 (ACT).*

The capped expenditure period starts on 1 January in an election year at ends on polling day (the third Saturday in October). The expenditure cap for parties is $60,000 (adjusted annually for inflation) multiplied by the number of endorsed candidates contesting the election, up to a maximum of 25. The expenditure cap for independent candidates and third-party campaigners is $60,000.

In the ACT, the expenditure of parties and their associated entities is aggregated for the purposes of the applicable limits. An ‘associated entity’ is defined as an entity controlled by one or more parties or elected members or that operates, completely or to a significant extent, for the benefit of one or more parties or elected members. The purpose of these provisions is to ensure that parties cannot avoid the caps by establishing ‘front’ organisations to incur electoral expenditure on their behalf. The expenditure of non-party elected members and their associated entities is also aggregated under the ACT legislation, while third-party campaigners are prohibited from acting in concert with another person to incur electoral expenditure that exceeds the applicable cap.

Although the aggregation provisions contained in the NSW Act were struck down by the High Court in the Unions NSW case, the Select Committee on Amendments to the Electoral Act 1992 has recently determined that the ACT aggregation provisions are distinguishable from the invalid NSW provisions and should not be amended:

In light of the views of Professor Twomey and Professor Williams, both of whom suggested that the ACT provisions might well survive a challenge given their narrower reach compared with the NSW provisions, the Committee considers that there is no need to amend ss 205F, 205G and 205H at this time.

Tasmania

In Tasmania, Legislative Council candidates must comply with a $15,000 limit on electoral expenditure. Political parties and third parties are prohibited from incurring electoral expenditure for Legislative Council elections. There are no limits on spending for Legislative Assembly elections.

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19 Electoral Act 1992 (ACT) Div 14.2B. The Electoral Amendment Bill 2014 was passed by the ACT Legislative Assembly on 5 August 2014 and increased the number of Legislative Assembly members from 17 to 25 (five electorates with five members per electorate).

20 Ibid.

21 Ibid, s 205F.

22 Ibid, ss 205G and 205H.


24 Electoral Act 2004 (Tas) ss 160 and 162.
3. Public funding

Public funding of election campaigns is offered in all jurisdictions except South Australia, the Northern Territory and Tasmania.

**Commonwealth and Australian Capital Territory**

Public funding was first introduced by the Commonwealth before the 1984 election. The rate of funding per formal vote was based on the cost of a postage stamp over the three years between elections, with House of Representatives votes attracting a higher funding rate than Senate votes. Parties and candidates were required to vouch for electoral expenditure and were reimbursed up to their maximum public funding entitlement. In 1995, the requirement to prove expenditure as a condition of public funding was removed and the same funding rate was applied to House and Senate votes in line with recommendations by the Joint Standing Committee on Electoral Matters. Since that time, the Commonwealth has distributed public funding on a direct entitlement basis, without reference to actual campaign costs. Currently, candidates and Senate Groups who receive at least 4 percent of first preference votes are eligible for public funding at the rate of $2.56 per formal first preference vote.

The ACT also operates a direct entitlement scheme for public funding. A party is eligible to receive election funding if the votes received by its endorsed candidates for an electorate amount to at least 4 percent of the total number of formal first preference votes cast in the electorate. Independent or ‘non-party’ candidates are eligible if they receive at least 4 percent of the total number of formal first preference votes cast in the electorate they contested. Election funding is paid at the rate of $2.00 per first preference vote (adjusted annually for inflation). Administrative funding is also available to parties with elected members in the Legislative Assembly and independent elected members. Administrative funding is paid at the rate of $5,000 per quarter for each elected member, adjusted annually for inflation from 2013.

**Western Australia, Victoria and Queensland**

Western Australia and Victoria also have a 4 percent eligibility threshold for public funding. However, unlike the Commonwealth and ACT, candidates are reimbursed for their actual electoral expenditure up to the maximum entitlement: $1.77 for each valid first preference vote in Western Australia, and $1.20 (adjusted annually for inflation) for each valid first preference vote in Victoria. In Western Australia, payments for all candidates endorsed by a party can be made if

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27 *Electoral Act 1992* (ACT) s 207.

28 Ibid s 215C.

29 *Electoral Act 2002* (Vic) s 208.
candidates collectively poll over 4 percent of the total number of first preference votes. Candidates included in a Legislative Council group can receive payment if the group as a whole polls over 4 percent. In Western Australia, public funding of $3.9 million was paid to parties, groups and candidates in the 2012-13 year, with total expenditure of $11 million in respect of the 2013 State election.

Queensland also operates a reimbursement scheme. Public funding entitlements have been reduced dramatically under the Newman Government’s recent reforms to the Electoral Act 1992 (Qld). Previously, parties and candidates were reimbursed for the majority of their electoral expenditure, similar to the current NSW regime. Now, however, parties and candidates will be reimbursed for electoral expenditure up to the maximum entitlement ($2.90 per first preference vote for parties, and $1.45 per first preference vote for candidates, adjusted annually for inflation). It will also be more difficult for parties and candidates to qualify for public funding, with the eligibility threshold being increased from 4 percent of first preference votes to 6 percent.

**New South Wales**

The 2010 reforms to the NSW Act substantially increased public funding for parties and candidates to offset the impact of caps and bans on political donations, and to make the new scheme less vulnerable to constitutional challenge. The NSW Election Funding Authority (the EFA) administers the public funding scheme via three separate funds: the Election Campaigns Fund, the Administration Fund and the Policy Development Fund.

The purpose of the Election Campaigns Fund is to reimburse political parties and candidates for their expenditure during an election campaign. To be eligible for payments from the Election Campaigns Fund, Legislative Assembly candidates must receive at least 4 percent of first preference votes or be elected. Ungrouped candidates in a Legislative Council election must receive at least 4 per cent of first preference votes or be elected. Parties must receive at least 4 per cent of first preference votes in those districts in which they endorse candidates. Parties or groups not endorsing Legislative Assembly candidates must receive at least 4 per cent of first preference votes in a Legislative Council election or have a member elected to the Council.

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33 Electoral Act 1992 (Qld) s 225.

34 New South Wales, Parliamentary Debates, Legislative Assembly, 28 October 2010, p 27168 (Kristina Keneally).
Eligible parties and candidates are reimbursed for their actual electoral communication expenditure in accordance with a diminishing sliding scale (i.e. the proportion of electoral communication expenditure that is reimbursed reduces as the spending of a candidate or party approaches the applicable expenditure limit). This was intended to discourage parties and candidates from spending up to their limit, thereby reducing the overall cost of the public funding system to the taxpayer.\textsuperscript{35}

The rates of reimbursement are set out in the table below.\textsuperscript{36}

<table>
<thead>
<tr>
<th>Actual expenditure within expenditure cap</th>
<th>% of actual expenditure that may be claimed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Eligible Legislative Assembly party</strong></td>
<td></td>
</tr>
<tr>
<td>First 0-10% of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next 10-90% of expenditure cap</td>
<td>75%</td>
</tr>
<tr>
<td>Last 90-100% of expenditure cap</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Eligible Legislative Council party</strong></td>
<td></td>
</tr>
<tr>
<td>First one third of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next third of expenditure cap</td>
<td>75%</td>
</tr>
<tr>
<td>Final third of expenditure cap</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Eligible LA candidate - endorsed by a party</strong></td>
<td></td>
</tr>
<tr>
<td>First 0-10% of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next 10-50% of expenditure cap</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Eligible LA candidate - Independent</strong></td>
<td></td>
</tr>
<tr>
<td>First 0-10% of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next 10-80% of expenditure cap</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Eligible LC candidate</strong></td>
<td></td>
</tr>
<tr>
<td>First one third of expenditure cap</td>
<td>100%</td>
</tr>
<tr>
<td>Next third of expenditure cap</td>
<td>75%</td>
</tr>
<tr>
<td>Final third of expenditure cap</td>
<td>50%</td>
</tr>
</tbody>
</table>

In respect of the 2011 general election, parties that spent up to the applicable expenditure cap were entitled to be reimbursed approximately 75 percent of their actual electoral communication expenditure.\textsuperscript{37}

\textsuperscript{35} Ibid.

\textsuperscript{36} Election Funding, Expenditure and Disclosures Act 1981 (NSW) Pt 5 Div 2.

The purpose of the Administration Fund is to reimburse parties with members of Parliament and independent members for their administration and operating expenses. Annual payments are made from the Administration Fund to cover actual administrative expenses. For the 2014 calendar year, independent members can claim reimbursement for their administrative expenses up to a maximum of $209,000. The maximum entitlement of a party is determined by reference to the number of elected members endorsed by the party, as set out in the table below.

<table>
<thead>
<tr>
<th>No. of elected members</th>
<th>Maximum annual entitlement from Administration Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$209,000</td>
</tr>
<tr>
<td>2</td>
<td>$365,500</td>
</tr>
<tr>
<td>3</td>
<td>$469,900</td>
</tr>
<tr>
<td>3 to 25</td>
<td>$469,900 (plus $86,800 for each member from the fourth up to the 25th).</td>
</tr>
</tbody>
</table>

For the 2014 calendar year, parties with 25 or more elected members will be entitled to claim reimbursement from the Administration Fund up to a maximum of $2,379,500. Data published by the EFA shows that the actual administrative costs of parties and candidates was, in most cases, much less than their maximum entitlements for the 2012 calendar year.

The purpose of the Policy Development Fund is to provide financial support to parties that do not have members of Parliament and therefore are not eligible for payments from the Administration Fund. Eligible parties may be reimbursed from the Policy Development Fund provided that the EFA is satisfied that they operate as a genuine political party. For the first eight years after a party becomes registered, its maximum entitlement is $0.27 per first preference vote received by endorsed candidates of the party or $5,400 (adjusted annually based on the CPI), whichever is greater. After its eighth year of registration, a party’s entitlement to policy development funding is calculated solely by reference to the number of first preference votes received by its endorsed candidates.

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38 Election Funding, Expenditure and Disclosures Act 1981 s 97F.


40 The adjusted amounts for the 2014 calendar year are $0.28 and $5,600 (see http://www.efa.nsw.gov.au/election_funding/monetary_caps_on_funding).

41 Ibid s 97l.
4. Donations disclosure rules

Commonwealth and Queensland

Donations disclosure rules were first introduced at the Commonwealth level in 1983. At this time all donations of $1,000 or more were required to be disclosed. In 2006, the fixed disclosure threshold of $1,000 was increased to $10,000, indexed annually based on the CPI. At present, only donations of more than $12,800 trigger disclosure obligations under Commonwealth legislation.42

Political parties and their ‘associated entities’ (e.g. affiliated trade unions, entities that fundraise on behalf of political party) must lodge annual returns disclosing their total receipts (including political donations), payments and debts, and the details of all receipts and debts above the disclosure threshold.43 Donors to political parties must also report annually on political donations that exceed the disclosure threshold.44 Annual reporting obligations also apply to third parties who incur electoral expenditure.45 Candidates, donors to candidates, and Senate groups are only required to lodge returns after an election disclosing the number and total value of all donations received, and the details of donations that exceed the disclosure threshold of $12,800.46

Previous estimates indicate that while 80 percent of the major parties’ funding comes from private sources, only 25 percent of private funding is disclosed as political donations under the Commonwealth Electoral Act 1981 (Cth).47 This is partly due to the fact that the definition of ‘gift’ in section 287 of the Commonwealth Act does not capture the full range of contributions received by parties from private sources (e.g. membership fees, receipts from fundraising auctions, entry tickets to functions, raffle tickets). In contrast, such contributions are required to be disclosed under the NSW scheme.48

The Commonwealth’s annual disclosure cycle has also been criticised on the basis that it leads to delayed reporting of information in respect of elections.49 For example, annual returns for the


43 Commonwealth Electoral Act 1918 (Cth) ss 314AB, 314AC and 314AE.

44 Ibid s 305A.

45 Ibid s305AEB.

46 Ibid s 304.


48 Election Funding, Expenditure and Disclosures Act 1981 (NSW) s 84.

2010-11 financial year (including information about the 2010 federal election) were due on 20 October 2011, but were not made publicly available on the AEC website until 1 February 2012.\textsuperscript{50}

The Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010, which lapsed at the end of Parliament in November 2013, sought to address these issues. It provided for a reduction in the disclosure threshold to $1,000, a reduction in the time periods for lodging and disclosing annual and election returns, and for biannual disclosure.\textsuperscript{51}

Queensland has recently increased its donations disclosure threshold from $1,000 to $12,800 in line with the threshold prescribed by the Commonwealth Electoral Act 1918 (Cth). Premier Newman justified the change on the grounds that inconsistency with the Commonwealth disclosure limit made Queensland’s regime vulnerable to constitutional challenge - an argument that has been questioned by constitutional experts.\textsuperscript{52}

\textit{New South Wales}

Over the past six years, the disclosure regime under the NSW Act has been substantially amended to improve transparency in relation to political donations and expenditure. In 2008, amendments were made to reduce the disclosure threshold from $1,500 to $1,000 and to increase the frequency of disclosure from every four years to every six months, consistent with reforms that were proposed by the Commonwealth at that time.\textsuperscript{53} Biannual disclosure was replaced with an annual disclosure requirement in 2010 to better align with the financial reporting obligations of political parties under Commonwealth legislation.

Disclosure obligations apply to political parties, elected members, candidates and groups. Third-party campaigners (i.e. those who incur electoral communication expenditure over $2,000 during the capped expenditure period) and major political donors (being those who make political donations of $1,000 or more) are also required to lodge annual declarations with the EFA. For donations of $1,000 or more (known as ‘reportable political donations’) the name and address of the donor must be disclosed. For donations less than $1,000, the total amount of small donations and the total number of persons who made those donations must be disclosed. Donations of less than $1,000 from the same source in the same financial year must be aggregated for the purposes of the disclosure threshold.

In contrast to the Commonwealth regime, the NSW Act requires annual disclosure of the details of all gifts to parties, groups, elected members and candidates that exceed the disclosure threshold, including membership and affiliation fees, the proceeds of fundraising ventures and functions, and


\textsuperscript{51}Department of Parliamentary Services (Cth), Bills Digest, No 43 of 2010-11, 17 November 2010.


\textsuperscript{53}Election Funding and Disclosures Amendment Bill 2008 (NSW) and Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 (Cth).
transfers of money to the NSW branch of a political party from the federal or other State or Territory branches of the party. Disclosures are required to be lodged within eight weeks of 30 June each year. As is the case with the Commonwealth regime, the absence of real-time disclosure provisions in New South Wales means there is a delay between the making of disclosures and their public release (e.g. disclosures covering the period from 1 July 2012 to 30 June 2013 were not made available to the public until 25 November 2013).

**Australian Capital Territory**

The ACT is the only jurisdiction that provides for ‘real-time’ disclosure of political donations over the $1,000 threshold in addition to annual and post-election reporting. A return containing the details of all donations over $1,000 must be submitted within seven days of receipt when the donation is received in the capped expenditure period (i.e. the period commencing on 1 January in an election year and ending on polling day) or within 30 days of receipt when the donation is received outside of the capped expenditure period. Returns detailing gifts of $1,000 or more are generally made available for public inspection within a week.

**Western Australia and Northern Territory**

In Western Australia, parties and associated entities must lodge annual returns disclosing the source of all donations valued at $2,100 or more, and the total amount of all donations received. Candidates, groups and third parties who incur electoral expenditure must also lodge post-election returns including the details of donations that exceed the $2,100 threshold. Although donations of less than $2,100 made by the same person during the same financial year must be aggregated for the purposes of the disclosure rules, donations of less than one-third of $2,100 need not be counted.

The Northern Territory operates a similar disclosure scheme with the following annual disclosure thresholds: $1,500 or more for donations made to parties and associated entities; $200 or more for donations made to candidates; and $1,000 for donations made to third-party campaigners.

**South Australia, Tasmania and Victoria**

South Australia has no donations disclosure rules at the State level. All candidates for local government elections must, however, lodge a Campaign Donations Return with the relevant council’s Chief Executive Officer disclosing the total amount of donations valued at $500 or more, and the details of all donors.

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54 *Election Funding, Expenditure and Disclosures Act 1981* (NSW) s 85.


56 *Electoral Act* (NT) ss 191, 192 and 194.

Tasmania has no donations disclosure rules. Legislative Council candidates must, however, declare their electoral expenditure to demonstrate compliance with the $15,000 limit on electoral expenditure.

Victoria also has no donations disclosure rules, although political parties must lodge a copy of their federal annual return with the Victorian Electoral Commission. This is required to demonstrate compliance with the $50,000 annual cap on political donations from casino and gambling licensees and their related entities.\(^58\) Independent candidates and political parties registered only in Victoria are not required to comply with any disclosure laws.

\(^{58}\) *Electoral Act 2002* (Vic) s 216.
## Annexure A - Summary of Commonwealth, State and Territory election funding and donations disclosure rules

<table>
<thead>
<tr>
<th>CTH</th>
<th>ACT</th>
<th>NSW</th>
<th>QLD</th>
<th>VIC</th>
<th>WA</th>
<th>NT</th>
<th>SA</th>
<th>TAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Donations bans and caps</td>
<td>Yes - cap on anonymous donations of more than $12,800: <em>Commonwealth Electoral Act 1918</em> (Cth) s 306.</td>
<td>Yes - annual cap of $10,000 for donations to parties and candidates: <em>Electoral Act 1992</em> (ACT) s 205I.</td>
<td>Cap of $1,000 on anonymous donations: s 216A.</td>
<td>Cap of $1,000 on anonymous donations: s 216A.</td>
<td>Cap of $1,000 on anonymous donations: s 216A.</td>
<td>Yes - $50,000 cap on donations from casino and gambling licensees: <em>Electoral Act 2002</em> (Vic) s 216.</td>
<td>Yes - cap on anonymous donations of $2,100 or more: <em>Electoral Act 1907</em> (WA) s 175R.</td>
<td>No.</td>
</tr>
</tbody>
</table>

### Donations bans and caps

- **Commonwealth**
  - Cap on anonymous donations of more than $12,800: *Commonwealth Electoral Act 1918* (Cth) s 306.

- **State**
  - Annual cap of $10,000 for donations to parties and candidates: *Electoral Act 1992* (ACT) s 205I.
  - Cap of $1,000 on anonymous donations: s 216A.
  - Ban on corporate donations to parties and candidates: s 205I(4).

- **Territory**
  - Cap of $1,000 on anonymous donations and in-kind campaign contributions: ss 96E and 96F.
  - Ban on property developer, tobacco, gambling and liquor entity donations: Div 4A.
  - Ban on donations from unenrolled individuals and entities without an ABN: s 96D.
<table>
<thead>
<tr>
<th>CTH</th>
<th>ACT</th>
<th>NSW</th>
<th>QLD</th>
<th>VIC</th>
<th>WA</th>
<th>NT</th>
<th>SA</th>
<th>TAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditure limits</td>
<td>No.</td>
<td>Yes - For parties, the limit is $60,000 (adjusted for inflation) x number of endorsed candidates contesting the election, up to a maximum of 25. The expenditure limit for a party that contests all electorates is $1,500,000 (adjusted for inflation). The limit for independent candidates and third-party campaigners is $60,000: Div 14.2B</td>
<td>Yes - s 95F sets limits on 'electoral communication expenditure' by parties, groups, candidates and third-party campaigners for general elections and by-elections. The expenditure limit for a party that endorses candidates in all 93 districts for the 2015 State election is $10,341,600.</td>
<td>No.</td>
<td>No.</td>
<td>No.</td>
<td>No.</td>
<td>No.</td>
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<tr>
<td></td>
<td>CTH</td>
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<tr>
<td></td>
<td>Candidates and Senate Groups that receive at least 4% of first preference votes (FPVs) are eligible.</td>
<td>Parties and independent candidates who receive at least 4% of FPVs are eligible.</td>
<td>The current funding rate for the 2012 election was $2.00 per FPV: s 207.</td>
<td>Parties and candidates who receive at least 4% of FPVs are reimbursed approx. 75% of actual electoral communication expenditure from the Elections Campaign Fund: Pt 6, Div 5.</td>
<td>Parties and candidates who receive at least 6% of FPVs are eligible.</td>
<td>Threshold is 4% of FPVs. The current max. funding rate is $2.90 per FPV for parties, and $1.45 per FPV for candidates: s 225.</td>
<td>Parties that are ineligible for Administration Funding may apply for Policy Development Funding: Pt 6A, Div 3.</td>
<td>No.</td>
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<td>The current funding rate is $2.56 per FPV: Pt XX, Div 3.</td>
<td>Administrative funding is also available at the rate of $5,000 per elected member on a quarterly basis: s 215C.</td>
<td>The funding rate for the 2012 election was $2.00 per FPV: s 207.</td>
<td>Parties are also entitled to Administration Funding based on no. of elected members (max. 2014 entitlement is $2.37M): Pt 6A Div 2.</td>
<td>The current max. funding rate is $1.20 per FPV, adjusted for inflation: ss 211-214.</td>
<td>Threshold is 4% of FPVs. The current max. funding rate is $1.77 per FPV: s 175LC.</td>
<td>No.</td>
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<td><strong>Donations disclosure rules</strong></td>
<td>Yes - parties, associated entities, and third parties who incur electoral expenditure must lodge annual returns, including details of donations of more than $12,800. Donors to parties must report annually on donations of more than $12,800. Candidates, donors to candidates, and Senate groups must disclose details of donations of more than $12,800 after each election: Pt XX, Divs 4-5A</td>
<td>Yes - donations of $1,000 or more must be reported within 7 days if received in the lead up to an election: s 216A. Annual and post-election returns detailing donations and expenditure are also required. ‘Political donations’ include membership fees and entry fees for fund-raising events if they exceed $250: s 232.</td>
<td>Yes - parties, groups, elected members, candidates, third-party campaigners and major political donors must lodge annual returns incl. details of donations of $1,000 or more: s 92. ‘Political donations’ include membership fees, intra-party transfers, and entry fees for fund-raising events: s 85(2).</td>
<td>Yes - parties, donors to parties and associated entities must lodge annual returns incl. details of all donations of $12,800 or more: ss 201A and 265. Candidates, donors to candidates and third-party campaigners must disclose details of donations of $2,100 or more after each election: s 261, 263 and 264.</td>
<td>No.</td>
<td>Yes - parties and associated entities must lodge annual returns, including details of donations of $2,100 or more: ss 175N-175NA. Candidates, donors to candidates and third-party campaigners must disclose details of donations of $2,100 or more after each election: s 175O-Q.</td>
<td>Yes - parties, donors to parties and associated entities must lodge annual returns incl. details of donations of $1,500 or more: s 194. Candidates and donors to candidates and third-party campaigners must disclose details of all donations of $200 or more after each election: s 191. Third-party campaigners must disclose details of all donations of $1,000 or more after each election: s 192.</td>
<td>None at State level. Local government candidates must lodge a return with the relevant council’s CEO disclosing the total amount of donations valued at $500 or more, and the details of all donors: Local Government (Elections) Act 1999 (SA), s 81.</td>
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