

EXPENDITURE CAPS FOR THIRD PARTIES - 2021 UPDATE

This fact sheet relates to third parties who participate in State elections and by-elections that take place **after 30 November 2020**.

Under Queensland's *Electoral Act 1992* (the EA) there are limitations (caps) on the amount of electoral expenditure that third parties can incur during the **capped expenditure period** for a State election.

What is a third party?

A third party is an individual or an entity who participates in Queensland State general elections and by-elections, other than a registered political party, an associated entity or a candidate.

Donors are considered third parties. Third parties who are only making donations to political parties or candidates do not need to register as a third party, however the donation/s may need to be disclosed.

A third party that incurs more than \$6,000 (cumulative) in electoral expenditure towards an election must register with the ECQ, appoint an agent in some cases, operate a dedicated campaign bank account and fulfil a range of reporting and disclosure obligations. For more information, refer to [Fact sheet 11 - Information for third parties](#).

What is electoral expenditure?

Electoral expenditure is any cost incurred (including non-monetary 'gifts-in-kind') for a **campaign purpose**, in order to:

- promote or oppose a political party in relation to an election; or
- promote or oppose the election of a candidate; or
- otherwise influence voting at an election.

Electoral expenditure includes (but is not limited to):

- designing, producing, printing, broadcasting or publishing

advertisements or other election material for the internet, radio, television, newspapers, magazines, billboards, flyers, signs, how-to-vote cards or letters;

- distribution costs, postage, carrying out opinion polls or research; or
- expenditure on contracted services, provision of data or consultant fees.

However, expenditure incurred by a third party is **not** electoral expenditure if the dominant purpose for which the expenditure is incurred is another purpose, even if the expenditure is also incurred for, or achieves, a campaign purpose. An example of other purposes for incurring expenditure would be to educate or raise awareness about an issue of public policy.

Electoral expenditure is **cumulative**, meaning it does not matter whether the expenditure was incurred as a single amount, or in smaller amounts which are aggregated. For more information, definitions and examples of electoral expenditure, refer to [Fact sheet 5 - Definition of electoral expenditure](#).

When is the capped expenditure period?

For a **general election**, the expenditure cap period starts on the next business day after the last Saturday in March and ends at 6pm on the polling day for the election.

For a **by-election**, the expenditure cap period commences on the day the writ for the election is issued and ends at 6pm on the polling day for the election.

When do the new cap amounts apply?

The following expenditure cap amounts apply to State general elections and by-elections that take place after **30 November 2020**, in line with a CPI increase which is applied 30 days after each general election (under section 281F of the EA).

What is the expenditure cap amount?

For a **general election**, the expenditure cap for a registered third party is:

- a maximum of **\$90,748.65 per electoral district**, and
- up to a **total of \$1,043,087.97** for the election.

For a **by-election**, the expenditure cap for a registered third party is **\$90,748.65**.

Expenditure cap amounts are CPI adjusted 30 days after each general election.

Recovery of amounts over the expenditure cap

Non-compliance with the caps during a capped expenditure period for an election is an offence with substantial penalties. In addition to potential prosecution, the ECQ may recover double the value of the expenditure that exceeded the cap as a debt due to the State.

Who is liable for recovery or penalty when an expenditure cap is exceeded?

If a third party incurs unlawful electoral expenditure, double the amount of unlawful electoral expenditure is payable to the State by the third party's agent or:

- if there is no agent, and the third party is a person, that person; or
- If there is no agent, and the third party is an organisation, each member of the executive committee of the organisation.

Unregistered third parties

A third party who is not registered with the ECQ for a State election **must not** incur more than \$6,000 cumulatively in electoral expenditure towards the election during the capped expenditure period (under section 281H of the EA).

Should an unregistered third party exceed \$6,000 in electoral expenditure during the capped expenditure period, the ECQ may take prosecution action against the unregistered third party or recover, as a debt to the State, twice the amount of expenditure that exceeded the \$6,000 cap.

The unregistered third party will also need to fulfil additional disclosure and reporting obligations relating to their expenditure.