

COMMENCEMENT OF NEW PROVISIONS IN 2022

This fact sheet relates to candidates, registered political parties, associated entities, third parties and donors involved in State elections and by-elections.

A range of provisions in the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020* will **commence in July 2022** and will apply to the State general election in 2024 or a by-election (see *transitional arrangements below*).

These include:

- additional requirements around the use of State campaign bank accounts
- definition of 'political donation'
- notification requirements - donor statements and receipts
- donation caps
- changes to election funding.

This fact sheet provides a summary of provisions that will be implemented at that time. These laws do not apply until 2022.

More information about these provisions, and how they will affect candidates, registered political parties, associated entities, third parties and political donors, will be published on the ECQ website prior to their commencement in 2022.

Use of State campaign bank accounts

From 1 July 2022, there will be regulations around what amounts can be deposited into a dedicated State campaign bank account. For example, only deposits of one of the following types will be permitted to be deposited into the account and may have to be accompanied by a **donor statement**:

- an amount of election funding paid to a candidate or party,
- a political donation made to the participant,

- an amount received for the disposal of a donated property,
- an amount from the candidate's own personal funds or from funds held jointly with the candidate's spouse (other than an amount given to the spouse by a prohibited donor),
- the amount of a loan to the participant,
- a return on investment amount,
- an amount as a result of disposal of money or property bequeathed in a will,
- a fundraising amount up to \$200,
- an amount paid by a political party that is \$500 and less, in one year, for subscription or affiliation and identified in the party's constitution, or
- a transfer from another State campaign bank account.

Third parties will not be permitted to accept gifts or loans into their dedicated State campaign bank account unless they are specifically intended to be given as a political donation and are accompanied by a donor statement. All other funds will have to be kept separately.

Political donations

A new definition of a *political donation* will apply from July 2022. A political donation will be a gift or loan made for the benefit of a candidate or a registered political party in an election, including:

- a gift made to, or for the benefit of, a registered political party or a candidate in an election;
- a gift made to, or for the benefit of, a third party,
 - to enable the third party (directly or indirectly) to make a gift,

- to reimburse the third party (directly or indirectly) for making a gift,
- to enable the third party (directly or indirectly) to incur electoral expenditure, or
- to reimburse the third party for incurring electoral expenditure; or
- a loan made for the benefit of a candidate, registered political party in an election, or
- an amount of electoral expenditure that is **gifted** to a participant in an election, whether or not it is accompanied by a donor statement.

Notification requirements - donor statements and receipts

Recipients of political donations and their donors will both have mutual notification obligations in fulfilling record keeping and disclosure requirements.

The donor will have to provide the recipient of a political donation a **donor statement** within 14 days of making the gift. This will have to be in writing and must state:

- the name of donor and their relevant particulars
- the name of donation recipient or election participant
- that the donation is intended for an electoral purpose, and
- the original source of the gift and their relevant particulars (if the donor is not the original source).

The recipient of a political donation will have to also provide the donor with a **receipt** for the political donation **within 14 days**. This applies to all donations, with no minimum threshold applied.

This receipt must be in writing and must state:

- the name of the donor
- the name of the donation recipient
- an acknowledgement of the donation by the election participant, and
- that it is an offence to make a political donation that exceeds the political donation cap.

Recipients of political donations must keep records of all financial transactions for a period of **5 years**.

Donation caps

Caps (limitations) on the amount that may be given as a political donation to candidates and registered political parties in a State general election or by-election will apply during a donation cap period.

Recipients of political donations, and those who act on behalf of a recipient (e.g. agents), will need to familiarise themselves with the donation caps that apply to them and must ensure their donors are also made aware of their obligations. Different caps apply to different participants in an election and significant penalties apply for failure to comply with these laws.

Note: Donation caps **will not** come into effect until 2022.

The **donation cap period** will generally be:

- For a **general election**, from 30 days after last election until 30 days after this election, and
- For a **by-election**, from 30 days after the last by-election that they contested until 30 days after this election.

However, under transitional provisions for the commencement of donation caps in 2022, the donation cap period will apply for a candidate in:

- (a) the first general election to be held after 1 July 2022; or
- (b) a by-election held after 1 July 2022 and before that general election.

The donation cap period for a **candidate** for the election is proposed to start on the latest of the following days:

- 1 July 2022;
- if a general election is held during June 2022, the day that is 30 days after the polling day for the general election;
- if the candidate is a candidate in a by-election held during June 2022, the day that is 30 days after the polling day for the by-election;

and ends 30 days after the polling day for the election.

The first donation cap period for a **registered political party** will start on the later of the following days:

- 1 July 2022;
 - if a general election is held during June 2022, the day that is 30 days after the polling day for the general election;
- and ends 30 days after the polling day for the next general election.

In the donation cap period, a donor can donate up to this total amount:

To an independent candidate	\$6,000
To a party-endorsed candidate	\$6,000
To a registered political party	\$4,000
To a third party - to enable them to make a donation. Third parties are subject to expenditure caps, but there is no cap on donations received by third parties.	No cap applies

The cap amount will be CPI adjusted 30 days after each State general election.

A candidate, political party or third party, or someone acting on their behalf, who receives a donation over the allowed cap amount must not accept the donation. Donations above the cap amount must be returned to the donor and the relevant records kept and disclosed.

The donor or the recipient may request the money be returned to the donor **within 6 weeks** of the donation being made, if the donation will, or is likely to, exceed the donation cap amount. Donations that are returned within this period will not be subject ECQ compliance action or penalties.

The ECQ may recover amounts received above the permitted cap amount from donation recipients as a debt to the State. There are substantial penalties for failing to comply with donation cap laws, including a maximum penalty of **200 penalty units**. (As of 1 July 2021, the value of 1 penalty unit is \$137.85).

Changes to election funding

The entitlement for election funding for candidates and registered political parties for their endorsed candidates, will be amended in 2022.

The threshold entitlement to claim election funding by a registered political party (for an endorsed candidate) or by an independent candidate, will be reduced from 6% to 4% of the total number of formal first preference votes given for the candidate.

The amount of election funding will also be adjusted for the financial year that starts on 1 July 2022:

- If the entity entitled to the funding is a registered political party - \$6.00, or
- If the entity entitled to the funding is a candidate - \$3.00.

More information about these provisions, will be published on the ECQ website prior to their commencement in 2022.