



Australian Capital Territory

Electoral Amendment Act 2015

A2015-5

Contents

		Page
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
4	Offences against Act—application of Criminal Code etc Section 3A, note 1	2
5	Definitions for pt 14 Section 198, new definition of <i>Australian government body</i>	2
6	Section 198, definition of <i>party grouping</i> , paragraphs (c) and (d)	3
7	Section 198, definition of <i>third-party campaigner</i> , paragraph (a)	3
8	Section 198, definition of <i>third-party campaigner</i> , paragraph (b) (i)	3
9	Section 198, definition of <i>third-party campaigner</i> , paragraph (b) (iv)	3
10	Disclosure periods Section 201 (2), definition of <i>disclosure day</i> , paragraph (c)	4

J2014-363

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

	Page	
11	Appointed agents New section 203 (2A)	4
12	Registers of reporting agents Section 205 (4), new note	4
13	ACT election accounts Division 14.2A	4
14	Meaning of <i>expenditure cap</i> —div 14.2B Section 205D (a)	4
15	New section 205D (2) and (3)	5
16	Section 205G heading	5
17	Section 205G (1) (a)	5
18	Section 205G (4) (a) to (c)	5
19	Limit on electoral expenditure—third-party campaigner acting in concert with others Section 205H	5
20	Division 14.2C heading	6
21	Sections 205I and 205J	6
22	Section 205K	6
23	Entitlement to funds Section 207 (2) (a)	7
24	New section 207 (8) and (9)	7
25	Payments for administrative expenditure not to be used for electoral expenditure Section 215G (1)	7
26	Section 215G (2)	7
27	Definitions—div 14.4 Section 216, new definition of <i>anonymous gift</i>	8
28	Section 216, definition of <i>small anonymous gift</i>	8
29	Records and regular disclosure of gifts Section 216A (1) (b)	8
30	Section 216A (2)	8
31	Section 216A (2) (c) and (d)	8
32	Section 216A (4), except note	9
33	Section 216A (6), new definition of <i>free facilities use</i>	9
34	Section 216A (6), definition of <i>relevant period</i> , paragraph (a)	10

Contents

	Page	
35	Disclosure of gifts by third-party campaigners Section 220 (3) (c) and (d)	10
36	Section 222 heading	10
37	Section 222 (3)	10
38	Section 222 (3)	11
39	Section 222 (3)	11
40	Section 222 (4)	11
41	Section 222 (4) and (7)	11
42	Returns of electoral expenditure Section 224 (2)	12
43	New section 224 (2A)	12
44	Section 224 (3)	12
45	Annual returns by parties and MLAs Section 230 (1)	12
46	Section 230 (4) (c)	13
47	Section 230 (5)	13
48	Section 230 (5), example 2	13
49	Section 231B heading	13
50	Section 231B (1)	13
51	Amounts received Section 232 (2)	14
52	Section 232 (3) (c)	14
53	Section 232 (4)	14
54	Copies of returns to be available for public inspection New section 243 (5)	15
55	Section 243A heading	15
56	New section 243A (3)	15
57	New section 293A	16
58	Ascertaining result of poll Schedule 4, clause 7 (3) (c)	17
59	Schedule 4, clause 7 (4) (a)	17
60	Schedule 4, clause 8 (2)	18
61	Schedule 4, clause 8 (3) (a)	18
62	Dictionary, note 2	18

Contents

		Page
63	Dictionary, definition of <i>ACT election account</i>	19
64	Dictionary, new definitions	19
65	Dictionary, definition of <i>small anonymous gift</i>	19



Australian Capital Territory

Electoral Amendment Act 2015

A2015-5

An Act to amend the *Electoral Act 1992*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Electoral Amendment Act 2015*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Electoral Act 1992*.

**4 Offences against Act—application of Criminal Code etc
Section 3A, note 1**

omit

- s 205A (Financial representatives to keep ACT election accounts)
- s 205B (Offence—loans to be repaid from ACT election accounts)
- s 205C (Financial representative to ensure electoral expenditure paid from ACT election account)
- s 205J (Offence—give indirect gift to avoid statutory limit)

**5 Definitions for pt 14
Section 198, new definition of *Australian government body***

insert

Australian government body means—

- (a) a government agency; or
- (b) a Commonwealth, State or local government (*another Australian government*); or
- (c) an authority of another Australian government; or

(d) a corporation in which another Australian government has a controlling interest.

Note 1 **Government agency**—see the dictionary.

Note 2 **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

6 Section 198, definition of *party grouping*, paragraphs (c) and (d)

omit

7 Section 198, definition of *third-party campaigner*, paragraph (a)

omit

more than \$1 000

substitute

\$1 000 or more

8 Section 198, definition of *third-party campaigner*, paragraph (b) (i)

after

MLA,

insert

associated entity,

9 Section 198, definition of *third-party campaigner*, paragraph (b) (iv)

substitute

(iv) an Australian government body;

10 Disclosure periods
Section 201 (2), definition of *disclosure day*,
paragraph (c)

omit

to which section 220 applies

11 Appointed agents
New section 203 (2A)

insert

- (2A) The appointment of a reporting agent by a party, MLA or candidate ends any other current appointment of a reporting agent by the entity.

12 Registers of reporting agents
Section 205 (4), new note

insert

Note The appointment of a reporting agent ends any other current appointment of a reporting agent by the party, MLA or candidate (see s 203 (2A)).

13 ACT election accounts
Division 14.2A

omit

14 Meaning of *expenditure cap*—div 14.2B
Section 205D (a)

substitute

- (a) for an election held in 2016—\$40 000; or

15 New section 205D (2) and (3)

insert

- (2) This section, as in effect immediately before the day the *Electoral Amendment Act 2015* commences, continues to apply until 31 December 2015.
- (3) Subsection (2) and this subsection expire on 31 December 2015.

16 Section 205G heading

substitute

205G Limit on electoral expenditure—MLAs, associated entities, candidates and third-party campaigners

17 Section 205G (1) (a)

substitute

- (a) a non-party MLA;
- (aa) an associated entity;

18 Section 205G (4) (a) to (c)

substitute

- (a) if the expender is a non-party candidate grouping—the non-party candidate; or
- (b) for any other expender—the expender.

**19 Limit on electoral expenditure—third-party campaigner acting in concert with others
Section 205H**

omit

20 **Division 14.2C heading**

substitute

Division 14.2C **Limit on spending—payments from related party**

21 **Sections 205I and 205J**

omit

22 **Section 205K**

substitute

205K **Limit on spending—payments from related party**

- (1) This section applies to a payment or payments received by a party from a related political party (other than a payment or payments made to the party under this Act, or a corresponding Act of the Commonwealth, a State or another Territory).
- (2) The party must not, in a financial year, spend more than \$10 000 of the payment or payments on electoral expenditure in relation to an election.
Note **Election**—see the dictionary.
- (3) If the party contravenes subsection (2), an amount equal to twice the amount by which the spending exceeds \$10 000 is payable to the Territory.
- (4) However, if the party returns the amount by which the spending exceeds \$10 000 within 30 days after the amount is spent, no amount is payable to the Territory.

**23 Entitlement to funds
Section 207 (2) (a)**

substitute

- (a) for an election held in the 6-month period beginning on 1 July 2016—§8; and

24 New section 207 (8) and (9)

insert

- (8) This section, as in effect immediately before the day the *Electoral Amendment Act 2015* commences, continues to apply until 30 June 2016.
- (9) Subsection (8) and this subsection expire on 30 June 2016.

**25 Payments for administrative expenditure not to be used
for electoral expenditure
Section 215G (1)**

substitute

- (1) If an amount is paid to a party or non-party MLA for administrative expenditure under this division, the party or non-party MLA must not use any part of the amount for electoral expenditure in relation to an ACT, federal, state or local government election.

26 Section 215G (2)

omit

deposited or

27 **Definitions—div 14.4**
Section 216, new definition of *anonymous gift*

insert

anonymous gift means a gift made anonymously that is less than \$1 000.

28 **Section 216, definition of *small anonymous gift***

omit

29 **Records and regular disclosure of gifts**
Section 216A (1) (b)

substitute

(b) a non-party MLA;

(ba) an associated entity;

30 **Section 216A (2)**

after

each gift

insert

(other than free facilities use)

31 **Section 216A (2) (c) and (d)**

omit

a small anonymous gift

substitute

an anonymous gift

32 Section 216A (4), except note

substitute

- (4) The financial representative of the receiver must give the return, in writing, to the commissioner not later than—
- (a) for an ordinary election—if the total amount of the gifts received from the person reaches \$1 000—
 - (i) in the quarter beginning on 1 April in the capped expenditure period—7 days after the end of the quarter; or
 - (ii) after 30 June in the capped expenditure period—7 days after the day the total amount received from the person reaches \$1 000; or
 - (b) for an extraordinary election—if the total amount of the gifts received from the person reaches \$1 000 in the capped expenditure period—7 days after the day the total amount received from the person reaches \$1 000; or
 - (c) in any other case—30 days after the end of the quarter in which the total amount received from the person reaches \$1 000.

Note 1 **Quarter** means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in any year—see the [Legislation Act](#), dictionary, pt 1.

33 Section 216A (6), new definition of *free facilities use*

insert

free facilities use means a gift of the use of facilities for a routine meeting of a receiver and—

- (a) includes use of a room and anything reasonably necessary for the conduct of the meeting in the room; but

- (b) does not include any food, drink or other gift associated with the use of the facilities.

Examples—things reasonably necessary for conduct of meeting in room
tables, chairs, photocopier, microphone, computer

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

34 Section 216A (6), definition of *relevant period*, paragraph (a)

substitute

- (a) for a party grouping, non-party MLA or associated entity—a financial year; and

**35 Disclosure of gifts by third-party campaigners
Section 220 (3) (c) and (d)**

omit

a small anonymous gift

substitute

an anonymous gift

36 Section 222 heading

substitute

222 Restrictions on acceptance of gifts

37 Section 222 (3)

omit

of a party or MLA

38 Section 222 (3)

omit

a small anonymous gift

substitute

an anonymous gift

39 Section 222 (3)

omit

small anonymous gifts

substitute

anonymous gifts

40 Section 222 (4)

omit

a small anonymous gift

substitute

an anonymous gift

41 Section 222 (4) and (7)

omit

small anonymous gifts

substitute

anonymous gifts

**42 Returns of electoral expenditure
Section 224 (2)**

omit

or an associated entity of the MLA, the non-party MLA

substitute

, the reporting agent of the MLA

43 New section 224 (2A)

insert

- (2A) If electoral expenditure in relation to an election is incurred in the capped expenditure period by an associated entity, the reporting agent of the entity must, within 60 days after polling day for the election, give the commissioner a return stating the details of the expenditure.

44 Section 224 (3)

before

the candidate

insert

the reporting agent of

**45 Annual returns by parties and MLAs
Section 230 (1)**

omit

July

substitute

August

46 Section 230 (4) (c)

after

debts

insert

claimed against or

47 Section 230 (5)

after

capacity as an MLA

insert

or a Minister

48 Section 230 (5), example 2

after

an MLA

insert

or a Minister

49 Section 231B heading

substitute

231B Annual returns by associated entities

50 Section 231B (1)

omit

July

substitute

August

51 **Amounts received**
Section 232 (2)

after

financial year

insert

that total \$1 000 or more

52 **Section 232 (3) (c)**

omit

53 **Section 232 (4)**

substitute

- (4) For subsections (1) and (2), if the amount was received—
- (a) as free facilities use, the return need only state—
 - (i) the defined particulars; and
 - (ii) for each free facilities use received—the date it was received; or
 - (b) as a loan, the return must state the information required by section 218A (2) (Certain loans not to be received).
- (5) In this section:
- free facilities use*—see section 216A (6).

**54 Copies of returns to be available for public inspection
New section 243 (5)**

after the note, insert

- (5) However, if the commissioner makes a return available for public inspection by publishing the return, or the information in the return, and the return includes information about a gift made by an individual, the commissioner must not publish the individual's home address other than—
- (a) the suburb or postcode of the individual's home address; or
 - (b) any post office box details.

Example—publishing

on the commission website

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

55 Section 243A heading

substitute

243A Commissioner must publish certain information given under s 216A**56 New section 243A (3)**

after the note, insert

- (3) However, if a gift was made by an individual, the commissioner must not publish the individual's home address other than—
- (a) the suburb or postcode of the individual's home address; or
 - (b) any post office box details.

Note The individual's private address details may, on request, be inspected at the commissioner's office during ordinary business hours (see s 243).

57 **New section 293A**

insert

293A **Exception for personal views on social media**

- (1) Section 292 does not apply to the dissemination of electoral matter by an individual if—
- (a) the electoral matter—
 - (i) is disseminated on or through social media; and
 - (ii) forms part of the expression of the individual’s personal political views; and
 - (b) the individual is not paid to express those views.

Note The defendant has an evidential burden in relation to the matters mentioned in s (1) (see [Criminal Code](#), s 58).

- (2) In this section:

social media means internet-based or mobile broadcasting-based technology or applications through which individuals can create and share content generated by the individual.

Examples

internet forums, blogs, wikis, text messaging, online or mobile broadcasting social networks

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

58 **Ascertaining result of poll**
Schedule 4, clause 7 (3) (c)

substitute

- (c) if 2 or more successful candidates (*contemporary candidates*) who obtained a quota at the earliest count have the same surplus, being a surplus larger than that of any other candidate who obtained a quota at the count and—
- (i) 1 of the contemporary candidates had more total votes than any other contemporary candidate at the last count— that candidate is the relevant candidate; or
 - (ii) 2 or more contemporary candidates have the same total votes, being a total larger than that of any other contemporary candidate (a *non-tied contemporary candidate*) at the last count—each non-tied contemporary candidate is no longer considered under this clause and—
 - (A) subparagraph (i) and this subparagraph are applied to each preceding count until a relevant candidate is worked out; or
 - (B) if a relevant candidate cannot be worked out by applying subparagraph (i) and this subparagraph to the preceding count—the contemporary candidate who is determined by the commissioner by lot is the relevant candidate.

59 **Schedule 4, clause 7 (4) (a)**

omit

subclause (3) (c) (ii)

substitute

subclause (3) (c) (ii) (B)

60 Schedule 4, clause 8 (2)

substitute

- (2) If 2 or more candidates each have the same total votes, being fewer total votes than any other candidate and—
- (a) 1 of the candidates had fewer total votes than any other of the candidates at the last count—that candidate is excluded; or
 - (b) 2 or more of the candidates have the same total votes, being a total fewer than that of any other candidate (a ***non-tied candidate***) at the last count—each non-tied candidate is no longer considered under this clause and—
 - (i) paragraph (a) and this paragraph are applied to each preceding count until 1 candidate is excluded; or
 - (ii) if 1 candidate cannot be excluded by applying paragraph (a) and this paragraph to the preceding count—the candidate who is determined by the commissioner by lot is excluded.

61 Schedule 4, clause 8 (3) (a)

omit

subclause (2) (b)

substitute

subclause (2) (b) (ii)

62 Dictionary, note 2

insert

- individual

63 Dictionary, definition of *ACT election account*

omit

64 Dictionary, new definitions

insert

anonymous gift, for division 14.4 (Gifts and certain loans—records and disclosure)—see section 216.

Australian government body, for part 14 (Election funding, expenditure and financial disclosure)—see section 198.

65 Dictionary, definition of *small anonymous gift*

omit

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 27 November 2014.

2 Notification

Notified under the [Legislation Act](#) on 2 March 2015.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Electoral Amendment Bill 2015, which originated in the Legislative Assembly as the Electoral Amendment Bill 2014 (No 2) and was passed by the Assembly on 19 February 2015.

Clerk of the Legislative Assembly

© Australian Capital Territory 2015