

2008

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Zed Seselja)

Government Agencies (Campaign Advertising) Bill 2008

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Dictionary 2
4	Notes 2
5	Object of Act 2
Part 2	Important concepts
6	General principles 3
7	What is a <i>government agency</i> ? 3
8	What is a <i>government campaign</i> ? 4

J2008-853

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

Contents

9	What are <i>campaign costs</i> ?	Page 5
Part 3	Requirements for government campaigns	
10	Auditor-general to review certain government campaigns	6
11	Government campaigns must comply with Act	7
12	Statement of total campaign costs	7
13	Minister must make guidelines	7
14	No government campaigns before election	10
Part 4	Miscellaneous	
15	Exemptions	11
15	Regulation-making power	11
Dictionary		12

2008

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Zed Seselja)

Government Agencies (Campaign Advertising) Bill 2008

A Bill for

An Act about campaign advertising by government agencies

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Government Agencies (Campaign Advertising)*
4 *Act 2008*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

9 **3 Dictionary**

10 The dictionary at the end of this Act is part of this Act.

11 *Note 1* The dictionary at the end of this Act defines certain terms used in this
12 Act, and includes references (*signpost definitions*) to other terms
13 defined elsewhere.

14 For example, the signpost definition '*general election*—see the
15 *Electoral Act 1992*, dictionary.' means that the term 'general election is
16 defined in that dictionary and the definition applies to this Act.

17 *Note 2* A definition in the dictionary (including a signpost definition) applies to
18 the entire Act unless the definition, or another provision of the Act,
19 provides otherwise or the contrary intention otherwise appears (see
20 Legislation Act, s 155 and s 156 (1)).

21 **4 Notes**

22 A note included in this Act is explanatory and is not part of this Act.

23 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
24 notes.

25 **5 Object of Act**

26 The object of this Act is to prevent the use of public funds for
27 advertising or other communications for party political purposes.

1 **Part 2** **Important concepts**

2 **6** **General principles**

3 The following general principles apply to the use of public funds for
4 government campaigns:

- 5 (a) members of the public have the right to access comprehensive
6 information about government policies, programs and services
7 which affect their entitlements, rights and obligations;
- 8 (b) governments may use public funds for information programs
9 and education campaigns to explain government policies,
10 programs or services and to tell members of the public about
11 their entitlements, rights and obligations;
- 12 (c) information programs and education campaigns must not be
13 conducted for party political purposes.

14 **7** **What is a *government agency*?**

15 In this Act:

16 ***government agency*** means:

- 17 (a) an administrative unit; or
18 (b) a territory instrumentality; or
19 (c) a statutory office-holder and the staff assisting the statutory
20 office-holder.

1 **8 What is a *government campaign*?**

2 In this Act:

3 ***government campaign***—

4 (a) means the dissemination by a government agency of
5 information to members of the public about a government
6 program, policy or matter which affects their entitlements,
7 rights or obligations; and

8 (b) includes an information program or education campaign to
9 explain the program, policy or matter; but

10 (c) does not include any of the following:

11 (i) advertisements for stated jobs;

12 (ii) tender advertising;

13 (iii) other routine advertising carried out by an agency in
14 relation to its operational activities.

15 **Examples—par (c) (iii)**

16 1 notices about traffic or transport

17 2 notice of garbage collection times

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

1 **9** **What are *campaign costs*?**

2 In this Act:

3 ***campaign costs***—

4 (a) means the cost of the development, production and conduct of
5 government campaigns; and

6 (b) includes the costs relating to using the media.

7 **Examples—campaign costs**

8 1 cost of using market research agencies, public relations consultants or
9 advertising agencies to develop information

10 2 production costs of press, radio, on-line or other electronic media, cinema or
11 television advertisements

12 3 production costs of audio-visual material

13 4 production costs of pamphlets and explanatory booklets

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

- 1 **Part 3** **Requirements for government**
2 **campaigns**
- 3 **10 Auditor-general to review certain government campaigns**
- 4 (1) If the campaign costs of a government campaign proposed by a
5 government agency are likely to exceed \$20 000, the responsible
6 Minister for the agency must ask the auditor-general to review the
7 proposed campaign and report to the Minister about whether it
8 complies with this Act.
- 9 *Note* A reference to an Act includes a reference to the statutory instruments
10 made or in force under the Act, including guidelines (see Legislation
11 Act, s 104).
- 12 (2) The responsible Minister for a government agency may ask the
13 auditor-general to review, and report to the Minister about, a
14 government campaign proposed by the agency even if the campaign
15 costs are not expected to exceed \$20 000 if the Minister considers
16 that the subject matter of the campaign is sensitive or otherwise
17 considers that a review is appropriate.
- 18 (3) If the auditor-general is asked to review a proposed government
19 campaign, the auditor-general must—
- 20 (a) review the campaign; and
- 21 (b) report to the responsible Minister on whether the campaign
22 complies with this Act.

1 **11 Government campaigns must comply with Act**

2 The responsible Minister for a government agency may conduct a
3 government campaign only if—

- 4 (a) the responsible chief executive for the agency certifies that the
5 campaign complies with this Act; and
- 6 (b) if the campaign costs for the campaign are likely to exceed
7 \$20 000—the auditor-general has reported to the responsible
8 Minister in relation to the compliance of the campaign with
9 this Act.

10 *Note* A reference to an Act includes a reference to the statutory instruments
11 made or in force under the Act, including guidelines (see Legislation
12 Act, s 104).

13 **12 Statement of total campaign costs**

14 The responsible Minister for a government agency that has
15 undertaken a government campaign must prepare a statement of the
16 total campaign costs for the campaign.

17 **13 Minister must make guidelines**

- 18 (1) The Minister must make guidelines for this Act consistent with its
19 object and the general principles.
- 20 (2) Guidelines are a disallowable instrument.

21 *Note* A disallowable instrument must be notified, and presented to the
22 Legislative Assembly, under the Legislation Act.

1 (3) Without limiting subsection (1), the guidelines must include
2 provisions to the following effect:

3 (a) information in a government campaign must be relevant to
4 current government responsibilities;

5 **Example—information relevant to current government**

6 1 information about existing or new government policies or policy
7 changes for which there is legislative authority, an appropriation or a
8 current government decision to implement

9 2 information about government programs or services or changes to
10 programs or services for which there is legislative authority, an
11 appropriation or a current government decision to implement

12 3 scientific, medical or health and safety information

13 4 information about government performance to facilitate accountability
14 to the public

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

18 (b) information in a government campaign must be presented in an
19 objective and fair way and not include—

20 (i) comment or opinion; or

21 (ii) statements promoting the government's performance;

22 **Examples**

23 1 objective facts and explanatory information are included

24 2 material presented as fact is based on and conforms with accurate,
25 verifiable facts

26 3 factual comparisons are presented in a way that is not misleading and
27 state the basis for comparison

28 4 existing policies, services or activities are not represented as new

29 (c) information in a government campaign must not include
30 slogans or other advertising techniques;

31 **Example—advertising techniques**

32 jingles

1 (d) information in a government campaign must be presented in a
2 way that is accessible and takes into account any special
3 communication needs of particular people or groups;

4 **Examples—groups that may have special communication needs**

- 5 1 young people
6 2 Aboriginal and Torres Strait Islanders
7 3 people whose first language is not English

8 (e) information in a government campaign must not be directed at
9 promoting the government or party political interests in any
10 way, including by way of—

11 (i) content; or

12 (ii) source; or

13 (iii) reason; or

14 (iv) purpose; or

15 (v) choice of media; or

16 (vi) timing, geographic or demographic targeting; or

17 (vii) designed effect;

18 **Examples—promoting government or party political interests**

- 19 1 mentioning the party in government or the party leader by name
20 2 deriding the views, policies or actions of others, including policies and
21 opinions of opposition parties or groups
22 3 including party-political slogans or images
23 4 designing to influence public support for a political party, a candidate
24 for election, a Minister or a member of the Assembly
25 5 mentioning or linking to a website of a politician or a political party

1 (f) information in a government campaign must be produced and
2 distributed in an efficient, effective and relevant way, with
3 regard to accountability;

4 **Examples**

- 5 1 justifiable by cost-benefit analysis in terms of community needs,
6 efficiency and effectiveness
7 2 clear audit trail regarding decision-making
8 3 current procurement policies and procedures for tendering, obtaining
9 services and employing consultants followed

10 (g) the presentation and delivery of information in a government
11 campaign must be clearly identified as part of a government
12 campaign;

13 **Example**

14 a statement at the beginning and at the end of a television or radio
15 announcement

16 (h) a government campaign must be presented and delivered in a
17 way that recognises the diversity of the ACT community and
18 the full participation of women, and ethnic and Aboriginal and
19 Torres Strait Islander communities, by realistically
20 representing their interests, lifestyles and contributions to
21 Australian society;

22 (i) the presentation and delivery of information in a government
23 campaign must comply with any relevant laws in force in the
24 ACT.

25 **Example**

26 privacy laws

27 **14 No government campaigns before election**

28 A government agency must not conduct a government campaign in
29 the 12-week period immediately before a general election.

30 *Note* The Minister may exempt a campaign from this Act in an emergency,
31 urgent circumstances or other extraordinary circumstances (see s 15).

1 **Part 4** **Miscellaneous**

2 **15 Exemptions**

- 3 (1) The Minister may exempt a campaign from this Act.
- 4 (2) However, the Minister may exempt a campaign only if satisfied it is
5 appropriate because of—
- 6 (a) an emergency; or
- 7 (b) extreme urgency; or
- 8 (c) other extraordinary circumstances.
- 9 (3) The Minister must tell the auditor-general, in writing, about an
10 exemption and the reasons for the exemption as soon as practicable
11 after the exemption is given.
- 12 (4) An exemption is a disallowable instrument.

13 *Note* A disallowable instrument must be notified, and presented to the
14 Legislative Assembly, under the Legislation Act.

15 **15 Regulation-making power**

16 The Executive may make regulations for this Act.

17 *Note* A regulation must be notified, and presented to the Legislative
18 Assembly, under the Legislation Act.

1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • ACT
- 7 • auditor-general
- 8 • disallowable instrument (see s 9)
- 9 • Executive
- 10 • Minister (see s 162)
- 11 • notifiable instrument (see s 10)
- 12 • statutory office holder
- 13 • territory instrumentality.

14 *campaign costs*—see section 9.

15 *general election*—see the *Electoral Act 1992*, dictionary.

16 *government agency*—see section 7.

17 *government campaign*—see section 8.

18 *responsible chief executive*—see the *Auditor-General Act 1996*,
19 dictionary.

20 *responsible Minister*, for a government agency, means the Minister
21 responsible for the administration of the agency.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2008.

2 Notification

Notified under the Legislation Act on 2008.

3 Republications of amended laws

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

© Australian Capital Territory 2008