

2023

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELECTORAL AND ROAD SAFETY LEGISLATION AMENDMENT BILL 2023

GOVERNMENT AMENDMENTS

SUPPLEMENTARY EXPLANATORY STATEMENT

**To be moved by
Chris Steel MLA
Special Minister of State**

ELECTORAL AND ROAD SAFETY LEGISLATION AMENDMENT BILL 2023 – GOVERNMENT AMENDMENTS

OVERVIEW OF THE GOVERNMENT AMENDMENTS

On 29 June 2023, the Electoral and Road Safety Legislation Amendment Bill 2023 (the Bill) was introduced in the Legislative Assembly. The Bill makes a number of amendments to the *Electoral Act 1992*, the *Public Unleased Land Act 2013* and road transport legislation.

The Government amendments make changes to the Bill to address recommendations of the Standing Committee on Justice and Community Safety in its Report No. 19, *Inquiry into Electoral and Road Safety Legislation Amendment Bill 2023*.

The Government amendments will omit references in the Bill to lowering the gift disclosure threshold, and other associated financial and disclosure thresholds, to \$100. This will mean these thresholds will be retained at \$1,000 as currently included in the Electoral Act.

The Government amendments will narrow the definition of what is considered translated electoral matter so that it only relates to the translation of materials, rather than their production.

The Government amendments also corrects an error in section 222K of the Act to replace 'Commission' with 'Commissioner', whilst also making minor technical amendments to the definition of 'political entity' in the Electoral Act and the Bill to ensure all definitions are consistent in their wording.

The Government amendments also remove the \$50 increase to the infringement notice penalty amounts, for existing offences against part 12 of the road rules, if the vehicle displays advertising or electoral matters in or on the vehicle and increases the infringement notice penalty amount for an offence against new section 213SA in the Road Transport (Road Rules) Regulation 2017 from \$640 to \$700.

CONSULTATION ON THE PROPOSED APPROACH

The Standing Committee invited public submissions as part of the inquiry into the Bill. Eight submissions were received from the ACT Electoral Commission, ACT political parties and members of the community.

The ACT Electoral Commission was consulted on the government amendments.

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged

The Government amendment to the real time political donation reporting amendments in the Bill engage the right to take part in public life (section 17 of the HR Act). It does so by

clarifying the relevant threshold for the disclosure of gifts to the Electoral Commission, which supports ACT electors being informed on political donations in the ACT.

The Government amendment to narrow the scope to exempt only translation services, rather than the production of translated electoral matter will engage the right to take part in public life, as well as the right to equality and non-discrimination under the Human Rights Act. It engages these rights by achieving a more equitable solution to encouraging greater engagement from Canberra's multicultural community in the Territory's public affairs.

Rights Promoted

The Government amendments do not promote any human rights.

Rights Limited

The Government amendments do not limit any human rights.

There are no changes to elements of the offence against new section 213SA in the road rules, other than the increased infringement notice amount. The human rights assessment in the Explanatory Statement to the Bill remain relevant and consider the impact of the offence on a person's right to freedom of expression and rights in criminal proceedings. However, there is the possibility that this \$60 increase could be considered to limit the right to be presumed innocent until proven guilty under s 22 of the HR Act. Section 213SA seeks to primarily reduce driver distraction and improve road safety on ACT roads, while also protecting the defining characteristics of Canberra. The amended infringement penalty amount of \$700 is considered appropriate given that the offence targets vehicles that deliberately park to distract passing drivers.

The human rights assessment to the Bill provides that the offence focuses on purpose-built or modified trucks or trailers that prominently display signs on an A-frame. While a less restrictive measure is possible, it is not considered as equally effective to deter drivers of these vehicles from parking for the purpose of advertising and distracting passing drivers, considering these vehicles are usually parked for monetary gain. The offence maintains the proportionalities identified in the human rights assessment to the Bill. The \$700 infringement penalty for an offence against 213SA will provide a stronger deterrent to the community.

GOVERNMENT AMENDMENT NOTES

Item 1

Clause 43

Proposed new section 160A heading

Page 24, line 9–

This government amendment addresses an error in the heading of section 160A in the Bill and omits the word ‘overseas’ from the heading. This amendment acknowledges the eligible electors included in new section 160A is broader than overseas electors.

Item 2

Clause 56

Proposed new section 205(2) definition of expenditure

Page 28, line 11–

This government amendment substitutes the definition of expenditure in new section 205C(2) to include that the exempt expenditure only applies to the expenditure incurred on the translation service.

This will mean that while the costs associated with translation services will be captured by the exemption provisions under new section 205C, the *production* of translated material will not be considered exempt expenditure.

Item 3

Clause 58

Proposed new section 216B

Page 31, line 8–

This government amendment substitutes new section 216B included in clause 58 of the Bill. This amendment removes the reduction to \$100 for the gift disclosure threshold as proposed in section 216B in the Bill and maintains this at \$1,000. This government amendment also omits the small donation exemption.

Proposed new section 216B will require political entities to provide a return to the Electoral Commissioner within 7 days of receiving a gift from a person, where the total value of gifts received from that person in the relevant period total \$1,000 or more.

Item 4

Clause 60

Page 32, line 7–

This omits the amendment in clause 60 of the Bill which reduced the gift disclosure threshold for non-party candidates to \$100 to align with the proposed amendment in the Bill for political entities to disclose any gifts over \$100 in value.

This will mean that the gift disclosure threshold for non-party candidates will be retained at \$1,000 as already provided for in the Electoral Act.

Item 5

Clause 61

Page 32, line 12–

This omits the amendment in clause 60 of the Bill which reduced the gift disclosure threshold for third party campaigners to \$100 to align with the proposed amendment in the Bill for political entities to disclose any gifts over \$100 in value.

This will mean that the gift disclosure threshold for third party campaigners will be retained at \$1,000 as already provided for in the Electoral Act.

Item 6

Clause 63

Page 33, line 1–

This omits the amendment in clause 63 of the Bill which reduced the value of an anonymous gift which a party, MLA, non-party candidate or associated entity could receive from \$1,000 to \$100. This will mean the value will be retained at \$1,000 as currently provided in section 222 of the Electoral Act.

Item 7

Clause 66

Page 33, line 20–

This amendment substitutes the definition of ‘political entity’ in new section 222B so it is aligned with the definition proposed in section 216A in the Bill.

Item 8

Proposed new clauses 68A to 68D

Page 34, line 14–

This amendment addresses an error in section 222K of the Act by omitting references to ‘electoral commission’ and substituting with ‘commissioner’. This will ensure operational consistency within the funding and disclosure scheme contained within the Act.

Item 9

Clause 69

New section 222M, definition of political entity, paragraph (a)

Page 36, line 9–

This amendment substitutes wording as part of the definition of ‘political entity’ in new section 222M in the Bill to ensure this definition is consistent with other definitions of ‘political entity’ in the Bill.

Item 10

Clause 70

Page 40, line 1–

This omits the amendment in clause 70 of the Bill which reduced the threshold from \$1,000 to \$100 for annual returns by parties, MLAs and associated entities. This will mean the threshold will be retained at \$1,000 and require parties, MLAs and associated entities to give annual returns for any amounts received from a particular person or organisation that total \$1,000 or more.

Item 11

Clause 88

Page 49, line 3

This opposes the amendment in clause 88 of the Bill to remove the power for the Minister to declare matter that is or is not advertising for certain infringement notice offences against the [Road Transport \(Road Rules\) Regulation 2017](#), part 12 (Restrictions on stopping and parking). This is consequential to the amendment at item 12.

Item 12

Clause 89

Page 50

This omits clause 89 to remove the \$50 increase to the infringement notice penalty amounts, for existing offences against part 12 of the road rules, if the vehicle displays advertising or electoral matters in or on the vehicle.

This also increases the infringement notice penalty amount for the new offence introduced by clause 92 of the Bill by \$60. The infringement notice penalty amount for an offence against new section 213SA in the [Road Transport \(Road Rules\) Regulation 2017](#) is increased from \$640 to \$700.

Item 13

Clause 90

Page 104, line 1

This opposes the clause to remove the definition of advertising and electoral matter from the dictionary. This is consequential to the amendment at item 12.