

# **Local Government Electoral (Transparency and Accountability in Local Government) Amendment Regulation 2017**

Explanatory notes for SL 2017 No. 127

made under the

*Local Government Electoral Act 2011*

## **General Outline**

### **Short title**

*Local Government Electoral (Transparency and Accountability in Local Government) Amendment Regulation 2017*

### **Authorising law**

Sections 106, 132A and 208 of the *Local Government Electoral Act 2011* (LGEA).

### **Policy objectives and the reasons for them**

On 11 December 2015, the Crime and Corruption Commission tabled in Parliament its report ‘Transparency and accountability in local government’ (CCC Report). The CCC Report concluded that the current legislation regarding local government electoral donation disclosure was confusing and did not clearly prescribe how to treat campaign funds or donations in a range of circumstances.

The CCC Report made recommendations to the Government for legislative reform to improve transparency and accountability in local government electoral disclosure requirements and to remove any confusion.

Recommendation 3 of the CCC Report proposed that the Government consider amendment to disclosure time frames to make the disclosure of donations more contemporaneous with the receipt of the donation by the candidate and others required to make a disclosure. The Government endorsed this recommendation and also endorsed the implementation of a real-time online system to disclose local government election donations, consistent with the system to be adopted for State government elections.

The *Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Act 2017* (the Act) implements the Government's response to the CCC Report.

The policy objectives of the Act include facilitating real-time online electoral donation disclosures for local government elections. The Act amends the LGEA to provide a head of power for a regulation to prescribe timeframes for the contemporaneous disclosure of gifts, loans and third party expenditure (refer section 11 of the Act which inserts a definition of 'disclosure date' into the LGEA section 106).

A further amendment requires a regulation to approve procedures about how a return under Part 6 of the LGEA may be lodged electronically (refer section 27 of the Act which inserts new section 132A into the LGEA).

The policy objectives of the *Local Government Electoral (Transparency and Accountability in Local Government) Amendment Regulation 2017* (the Regulation) are to align where appropriate with the *Electoral Act 1992* and the *Electoral Regulation 2013* for State elections and:

- prescribe disclosure dates for returns given to the Electoral Commission of Queensland (ECQ) under Part 6 of the LGEA about gifts or loans received by candidates, groups of candidates and third parties, and expenditure by third parties for political activity;
- approve procedures made by the ECQ about the electronic lodgement of returns under Part 6 of the LGEA.

## **Achievement of policy objectives**

The Regulation commences on 14 July 2017. The Regulation achieves the policy objective about disclosure dates by inserting new Part 3 (Electoral funding and financial disclosure) into the *Local Government Electoral Regulation 2012* (LGER) to prescribe disclosure dates for the LGEA. Part 3 includes new sections 5 to 9.

New section 5 of the LGER prescribes that the disclosure date for a return under sections 117(2) and 120(2) of the LGEA for a gift or loan received by a candidate is—

- the seventh business day after the gift or loan is received; or
- if the gift or loan is received during the relevant period, the seventh business day after the relevant period ends.

The relevant period for a candidate means the period starting on the day the candidate's disclosure period for the election starts and ending on the day before the candidate becomes a candidate in the election.

This would apply, for example, where a former candidate (i.e. in an election within the previous five years) receives a gift or loan before the day their nomination for an election is certified by the returning officer; or a new candidate receives a gift or loan after announcing their candidature but before their nomination is certified by the returning officer.

New section 6 of the LGER prescribes that the disclosure date for a return under section 118(2) of the LGEA for a gift received by a member of a group of candidates or a person acting on behalf of the group is—

- the seventh business day after the gift is received or
- if the gift is received during the relevant period, the seventh business day after the relevant period ends.

The relevant period for the group means the period starting on the day the group's disclosure period for the election starts and ending on the day before the group gives a record of the membership of the group to the returning officer under section 41(2) of the LGEA.

New section 7 of the LGER prescribes that the disclosure date for a return under section 120(4) of the LGEA for a loan received by a group of candidates is—

- the seventh business day after the loan is received or
- if the loan is received during the relevant period, the seventh business day after the relevant period ends.

The relevant period for the group for returns for loans is the same as the relevant period described above for returns for gifts.

New section 8 of the LGER prescribes that the disclosure date for a return under section 124(2) of the LGEA for expenditure for a political activity incurred by third parties is the seventh business day after the expenditure is incurred.

New section 9 of the LGER prescribes that the disclosure date for a return under section 125(2) of the LGEA for a gift received by a third party to enable expenditure for a political activity is the seventh business day after the gift is applied to the political activity.

The Regulation also inserts Part 4 (Transitional provisions for Local Government Electoral (Transparency and Accountability in Local Government) Amendment Regulation 2017) into the LGER. These transitional provisions prescribe disclosure dates that will apply if, at the commencement of the amendments, a candidate, an agent for a group of candidates or a third party is required to give a return about a gift or loan received or expenditure incurred prior to commencement. In this situation, the disclosure date for a return is the seventh business day after commencement.

The Regulation achieves the policy objective about procedures for electronic lodgement of returns by inserting new section 10 into the LGER which approves the procedures set out in the document 'Procedure for electronic disclosure' made by the ECQ on 25 January 2017 for section 132A(2)(a) of the LGEA.

## **Consistency with policy objectives of authorising law**

The Regulation is consistent with the policy objectives of the LGEA.

## **Inconsistency with policy objectives of other legislation**

The Regulation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The benefits of the Regulation are increased transparency and accountability in the disclosure of gifts and loans to candidates, groups of candidates and third parties and expenditure by third parties for political activity.

The costs of implementing the online real-time disclosure system will be met by ECQ's existing resources.

## **Consistency with fundamental legislative principles**

The Regulation is consistent with fundamental legislative principles.

## **Consultation**

The Local Government Association of Queensland, Brisbane City Council and the ECQ were consulted during preparation of the Regulation. There were no objections to the proposed amendments.