

# Electoral Amendment Regulation 2020

Explanatory notes for SL 2020 No. 144

Made under the

*Electoral Act 1992*

## General Outline

### Short title

Electoral Amendment Regulation 2020

### Authorising law

Section 392 of the *Electoral Act 1992* (Electoral Act)

### Policy objectives and the reasons for them

The *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020* (the Amendment Act) was assented to on 30 June 2020.

Chapter 2 of the Amendment Act included reforms relating to funding and expenditure for State elections in part 11 of the Electoral Act, including:

- capping electoral expenditure for registered political parties, candidates and associated entities, and third parties involved in electoral campaigning, from 1 August 2020;
- capping the giving and acceptance of political donations to registered political parties, candidates and associated entities from 1 July 2022;
- increasing public election funding for eligible registered political parties and candidates from 1 July 2022;
- increasing policy development funding from \$3 million to \$6 million per annum, allowing independent members to receive policy development payments and making modifications to the distribution of policy development payments from 1 January 2022; and
- introducing arrangements to support the election funding and disclosure reforms, including registration requirements for third parties and clarification of accountabilities of agents and electoral participants from 1 August 2020.

The policy objectives of the *Electoral Amendment Regulation 2020* (the Amendment Regulation) are to amend to the *Electoral Regulation 2013* (Electoral Regulation), as a consequence of the Amendment Act, to:

- amend the provision prescribing the amount of policy development funding to refer to the amended section providing entitlement under the Electoral Act;
- omit a redundant provision prescribing the period for entities to give returns about large gifts to registered political parties under section 266B of the Electoral Act, which is to be repealed from 1 August 2020;
- amend the provision prescribing the days and times by which a return must be made about a gift received by an associated entity so that it is expanded to include a loan received in addition to a gift received, and applies to an associated entity of a candidate in an election in addition to an associated entity of a registered political party;
- amend the prescribed qualifications of auditors to update a reference to the Institute of Chartered Accountants in Australia to Chartered Accountants Australia and New Zealand; and
- prescribe the information and particulars that must be included in:
  - an election participant’s register of non-monetary gifts for section 305F of the Electoral Act;
  - a registered political party’s register of subscribed members and affiliates for section 305G of the Electoral Act; and
  - a record made by or for an election participant about a stated matter for section 305AB of the Electoral Act.

These amendments will:

- ensure that the Electoral Regulation is consistent with the Electoral Act, as amended by the Amendment Act;
- in relation to auditors, ensure that the Electoral Regulation accurately refers to relevant professional bodies; and
- prescribe information and particulars to be kept in records and registers to enable an election participant to demonstrate compliance with various provisions in part 11 of the Electoral Act, as amended by the Amendment Act.

## **Achievement of policy objectives**

The policy objectives are achieved by the making of the Regulation.

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

The Amendment Regulation is consistent with the policy objectives of the authorising law. The Amendment Regulation makes changes as a consequence of the Amendment Act. The information or particulars that must be kept in records and registers under the Amendment Regulation are necessary to demonstrate with compliance specific provisions in part 11 of the Electoral Act.

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

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

## **Benefits and costs of implementation**

The Amendment Regulation updates the Electoral Regulation (including for consistency with the Electoral Act). It also promotes compliance and provides certainty by prescribing the information and particulars that must be kept in records and registers for the purposes of specific provisions in part 11 of the Electoral Act relating to election funding and financial disclosure.

There will be costs in implementing the Amendment Regulation for the Electoral Commission of Queensland (ECQ), which is responsible for administering the Electoral Act and Electoral Regulation. In particular, there may be costs to educate stakeholders about relevant requirements and information technology systems changes to give effect to changes to requirements for returns about gifts and loans to associated entities. As the Amendment Regulation is made as a consequence of the Amendment Act, any costs will be addressed in relation to costs for the Amendment Act, in accordance with budgetary processes.

## **Consistency with fundamental legislative principles**

The Amendment Regulation potentially breaches the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals under section 4(2)(a) of the *Legislative Standards Act 1992*.

The amendment expanding disclosure requirements in relation to associated entities may impact on an individual's right to privacy. This is because personal information about those who give gifts or make loans of \$1,000 or above to an associated entity of a registered political party or candidate will be made publicly available on the ECQ's website. However, safeguards in the Electoral Act will require the ECQ to delete the street address of any individual identified in the return, and the full address of a silent elector where the person giving the return informs the ECQ of the silent elector status. The deletion of street addresses will limit the publicly available address information to the suburb, town, city or other locality and State.

The amendment expanding disclosure requirements is justified on the basis that it is necessary to provide transparency and inform the public, including voters, about the financial dealings of associated entities of registered political parties and candidates in an election. This will assist voters to form judgements about registered political parties and candidates with a defined relationship with those associated entities, as financial dealings of associated entities may involve potential for improper, corrupting or undue influence.

The amendments specifying information to be kept as records and in registers may also impact on an individual's right to privacy. This is because personal information contained in those records and registers may be made available to an appointed auditor or authorised officer who is undertaking compliance activity in relation to part 11 of the Electoral Act.

The amendments specifying information to be kept as records and in registers are justified on the basis that the personal information is necessary to allow compliance with part 11 of the Electoral Act concerning funding and disclosure arrangements, including financial disclosure, caps on political donations and electoral expenditure and related State campaign account requirements, to be ascertained through audit and compliance activity and detected non-compliance can be appropriately prosecuted.

## **Consultation**

The ECQ has been consulted on the Amendment Regulation and has not raised any issues.

Approval was given for the Amendment Regulation to not be subject to regulatory impact analysis.