

Electoral Review Expert Panel

Submission from the Victorian Electoral Commission

Part 1 — Background paper

29 June 2023

Acknowledgement of Country

The VEC pays respect to Victoria's traditional owners and their elders past and present who have been custodians of this country for many thousands of years. Their living culture and their role in the life of Victoria is acknowledged by the VEC.

Version history

This document was finalised in June 2023 as Part 1 of the VEC's submission to the Electoral Review Expert Panel appointed under section 222DC of the *Electoral Act 2002* (Vic).

Version	Version notes
1.0	Finalised for distribution.
1.1	Definitions updated. Appendix 1.2 updated to include recommendations by the Commonwealth Joint Standing Committee on Electoral Matters in June 2023. Appendix 2 added with indexed amounts by financial year. Minor formatting changes to improve readability.

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Definitions

Key definitions from the *Electoral Act 2002 (Vic)* (**Electoral Act**), as well as terms that are commonly referred to in this document, are summarised in the below table.

Word or term	Definition
ADI	Authorised deposit-taking institution within the meaning of the <i>Banking Act 1959 (Cth)</i> .
Administrative expenditure funding (AEF)	Funding provided to independent elected members and RPPs with at least one elected member to cover administrative expenses, including expenses incurred in complying with funding and disclosure obligations.
Amendment Act	<i>Electoral Legislation Amendment Act 2018 (Vic)</i>
Annual return	<p>The Electoral Act uses the term ‘annual return’ to refer to 2 different types of annual returns, including:</p> <ul style="list-style-type: none"> • annual returns in relation to AEF, which are provided to the VEC 16 weeks after the end of each calendar year. This type of annual return sets out the amount of claimable expenditure in relation to AEF for the calendar year; • annual returns in relation to a person or entity’s financial matters (including political donations received), which are provided to the VEC 16 weeks after the end of each financial year. This type of annual return sets out financial matters, including political donations received by a person or entity during the financial year. <p>These 2 types of annual returns are given the same broad definition under section 206(1) of the Electoral Act, with more specific requirements contained in subsequent sections.</p> <p>For the purposes of this document, the term ‘AEF annual return’ is used to refer to annual returns in relation to AEF, and the term ‘financial year annual return’ is used to refer to annual returns in relation to political donations.</p>
Associated entity(AE)	<p>An ‘associated entity’ is distinct from a nominated entity. Under the Electoral Act, it means an entity that:</p> <ul style="list-style-type: none"> • is controlled by one or more RPPs; or • operates wholly or to a significant extent, for the benefit of one or more RPPs; or • is a financial member of an RPP; or • on whose behalf another person is a financial member of an RPP; or • has voting rights in an RPP; or • on whose behalf another person has voting rights in an RPP.

Word or term	Definition
Candidate	<p>A 'candidate' for the purposes of Part 12 of the Electoral Act is either a person who has been selected by an RPP to be a candidate in an election, or someone, other than a member of a political party, who has publicly announced their intention to stand for election (i.e. an independent candidate).</p> <p>Note that a 'candidate' for the purposes of Part 12 differs from a 'candidate' under the rest of the Electoral Act, which is a person who has nominated for an election under section 69 of the Electoral Act.</p>
Capital asset	A 'capital asset' is any asset which is held solely for use and not for conversion into cash, such as vehicles or office equipment.
Charter of Human Rights	<i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic)
Coercive notice	A 'coercive notice' is a notice issued to a person or entity by a VEC compliance officer under section 222B requiring them to produce documents or other things specified in the notice, or to appear before the compliance officer to give evidence or produce documents or other things.
Compliance officer	<p>A 'compliance officer' is appointed by the VEC under section 222A of the Electoral Act. Compliance officers are responsible for conducting investigations and compliance activities with respect to possible political donation and disclosure offences under Part 12 of the Electoral Act.</p> <p>Compliance officers have various powers under Part 12 of the Electoral Act, including the power to issue a coercive notice. The powers of compliance officers do not extend beyond Part 12 of the Electoral Act.</p>
Corporations Act	<i>Corporations Act 2001</i> (Cth)
Crowdfunding	'Crowdfunding', also known as 'crowd sourced funding', is the collection of donations from a large number of individuals to fund a project or support a cause, primarily through an online fundraising platform.
Cryptocurrency	Any form of digital currency in which transactions are verified and records maintained by a decentralised system using cryptography, rather than by a centralised banking authority.

Word or term	Definition
Deputy registered officer	<p>A 'deputy registered officer' is nominated by an RPP's registered officer. A registered officer of an RPP can nominate multiple deputy registered officers.</p> <p>Although the term is not defined in the Electoral Act, section 44(2) of the Electoral Act implies that deputy registered officers can exercise the same functions and fulfill the same obligations as the RPP's registered officer under the Electoral Act.</p> <p>These obligations and functions include responsibilities of the registered officer under Part 12 of the Electoral Act, such as providing both types of annual returns.</p>
Disclosure return	<p>A 'disclosure return' is information provided to the VEC that describes the dollar amount of a political donation exchanged between 2 entities and identifies the entities involved. This information must be provided to the VEC by submitting an electronic form via the online VEC Disclosures portal.</p> <p>A disclosure return is required from a donor when a donation (or donations) is equal to or exceeds the disclosure threshold within a financial year. A recipient must provide a disclosure return to the VEC if they receive a political donation during a financial year and the donation is equal to or exceeds the disclosure threshold. A recipient only needs to provide a disclosure return for individual donations which exceed the disclosure threshold.</p>
Disclosure threshold	<p>The Electoral Act requires a donor to provide to the VEC a disclosure return for each political donation made by the donor during a financial year that is equal to or exceeds \$1,000 (indexed). A recipient must provide a disclosure return for each political donation that is equal to or exceeds \$1,000 (indexed). This amount is referred to as the 'disclosure threshold' under the Electoral Act.</p>
Donation recipient	<p>The entities and individuals that receive political donations under the Electoral Act are:</p> <ul style="list-style-type: none"> • RPPs; • a candidate at a Victorian State election, by-election or supplementary election; • a group of Legislative Council candidates at a Victorian State election; • an elected member of the Victorian Parliament; • an AE operating in Victoria; • an NE of an RPP; and • a TPC operating in Victoria. <p>The entities and individuals that receive donations are described as a 'donation recipient' in this document.</p>

Word or term	Definition
Donor	A 'donor' is a person who makes a political donation under the Electoral Act.
EAV	'Electronic Assisted Voting', as set out in Part 6A of the Electoral Act, to include voting by the use of electronic equipment, telephone or other technology.
Elected member	An 'elected member' is a person who is a member of the Legislative Council or Legislative Assembly.
Election campaigning period	'Election campaigning period' is the period, in a general election year, from 1 October to 6 pm on election day.
Election period	For the purposes of Part 12, an 'election period' is the 4-year period commencing on the day after the election day for a general election and ending on the next general election day.
Electoral Act	<i>Electoral Act 2002 (Vic)</i>
Electoral expenditure	'Electoral expenditure' under the Electoral Act means expenditure incurred in an election period on the production, publication, display, distribution and broadcasting of advertising (and its authorisation) related to the election, including fees and salaries. It also includes the costs of carrying out an opinion poll or other research in relation to the election.
Electoral Regulations	Electoral Regulations 2022 (Vic)
Endorsed candidate	An 'endorsed candidate' is a candidate who is endorsed by an RPP under the Electoral Act.
Entity	Under the Electoral Act, an 'entity' is an incorporated or unincorporated body or the trustee of a trust.
Failed election	Under section 72 of the Electoral Act, an election fails if: <ul style="list-style-type: none"> • a candidate for an Assembly election dies after noon on the final nomination day and before 6 pm on election day; or • the successful candidate for an Assembly election dies after 6 pm on election day and before being declared elected; or • no candidate is nominated or declared elected.
Financial controller	Associated entities or TPCs can appoint a person to be an agent to act on their behalf for the purposes of funding and disclosure. If no appointment is made, the financial controller of the AE or TPC is taken to be the agent. Under the Electoral Act, a 'financial controller', with respect to an AE or a TPC, can be: <ul style="list-style-type: none"> • the secretary of a corporation (if the AE or TPC is a corporation) • a trustee of a trust (if the AE or TPC is a trustee and the trustee is a natural person) or • the person responsible for keeping the financial records of the AE or TPC (if it is neither a corporation or a trustee).

Word or term	Definition
General cap	The general cap means \$4,000 (indexed). A political donation (or aggregated donations) must not exceed the general cap during an election period. A candidate donating to their own campaign is exempt from the general cap.
Gift	<p>The Electoral Act defines a ‘gift’ as any disposition of property (otherwise than by will) made by a person to another person without consideration in money or money’s worth (or with inadequate consideration). This includes:</p> <ul style="list-style-type: none"> • the provision of a service • the payment of an amount in respect of a guarantee • the making of a payment or contribution at a fundraising function • the disposition of property from an RPP, its branch or an AE. <p>A gift does <u>not</u> include:</p> <ul style="list-style-type: none"> • a funding payment made by the VEC under Part 12 of the Electoral Act (or any payment under Part 12) • gifts made in a private capacity • annual subscriptions or affiliation fees paid to a party • gifts between a party and its NE • the provision of volunteer labour.
IBAC	Independent Broad-based Anti-corruption Commission
Independent candidate	<p>An ‘independent candidate’ is a candidate at an election who is not endorsed by an RPP under the Electoral Act.</p> <p>An independent candidate is not to be confused with an independent elected member, which means an elected member of Parliament who is not a member of an RPP. If an independent candidate is successful in an election, the candidate will become an independent elected member.</p>
LGI	Local Government Inspectorate
Nominated entity (NE)	<p>A ‘nominated entity’ is an entity whose name and address is entered on the Register of Nominated Entities as the nominated entity of an RPP.</p> <p>Gifts between a nominated entity and its RPP are not considered political donations under the Electoral Act.</p>
Organisation	<p>An “organisation” under the Electoral Act includes:</p> <ul style="list-style-type: none"> • a body corporate; or • an association or other body of persons; or • an association that consists of 2 or more organisations; or • a part (including a branch or division) of an organisation.
Panel	The Electoral Review Expert Panel, appointed under section 222DC of the Electoral Act.

Word or term	Definition
Policy development funding (PDF)	Funding provided to RPPs who are not eligible for AEF or PF, to reimburse expenses in relation to policy development.
Political donation	<p>The Electoral Act defines a 'political donation' as a gift to an RPP, candidate, group, elected member, AE, TPC or NE of an RPP.</p> <p>If the gift is used by an AE or TPC to make a donation or incur political expenditure (or reimburse the recipient to do either), it is also considered a political donation. An annual subscription or levy paid into the SCA of an AE or TPC is a political donation.</p>
Political expenditure	<p>Under the Electoral Act, 'political expenditure' means any expenditure for the dominant purpose of directing how a person should vote at an election by promoting or opposing the election of any candidate, an RPP or an elected member.</p> <p>It does not include expenditure incurred by an AE or TPC on any material that is disseminated outside of the 'election campaigning period' unless the material refers to a candidate or RPP and how a person should vote at an election.</p>
Political party	<p>A 'political party' is an organisation whose object or activity is to promote the election of a member of the party to the Victorian Parliament.</p> <p>A political party is eligible for registration if it is established on the basis of a written constitution that sets out the aims of the political party, and has at least 500 members who are: electors; members in accordance with the rules of the political party; and not members of an RPP or another political party applying for registration.</p>
Public funding (PF)	Public funding is provided to eligible RPPs and candidates to reimburse political and electoral expenditure incurred in relation to an election. A candidate is only eligible for public funding if they receive at least 4 per cent of the total number of first preference votes in the election. An RPP or candidate that is eligible to receive public funding may also opt to receive instalment payments of advance public funding for the subsequent State general election.
Reconciliation	The VEC 'reconciles' donation disclosures by comparing disclosure returns provided by donors and recipients and matching them. The purpose of this is to monitor whether a donor or recipient has failed to disclose, or has inaccurately disclosed, a reportable political donation.
Register of Political Parties	The 'Register of Political Parties' is established and maintained by the VEC under Part 4 of the Electoral Act. It contains a list of the political parties that are registered and their registered particulars.

Word or term	Definition
Registered agent	<p>A 'registered agent' is a person nominated as the agent of a candidate, group, an elected member, an AE or a TPC whose name and address are entered on the Register of Agents under the Electoral Act.</p> <p>The registered officer of an RPP is taken to be the registered agent of any endorsed candidates or elected members of the RPP.</p> <p>If a candidate has not nominated a registered agent, the person who is taken to be the registered agent is the candidate themselves.</p> <p>For AEs or TPCs with no registered agent appointed, the financial controller of the AE or TPC is taken to be the registered agent. If the TPC is an individual, the individual is taken to be the registered agent.</p>
Registered officer	A 'registered officer' is a person shown on the Register of Political Parties as the registered officer of that party under the Electoral Act.
Registered Political Party (RPP)	<p>A 'registered political party' is a political party that applied for registration and that the VEC has determined may be registered by entering it in the Register of Political Parties.</p> <p>Under the Electoral Act, an RPP has entitlements and obligations with regard to funding and disclosures.</p>
Scheduled general election period	A 'scheduled general election period' is the period from 1 July until election day (inclusive) in a year that a general election is held.
Sentencing Act	<i>Sentencing Act 1991 (Vic).</i>
Silent elector	Under the Electoral Act, a 'silent elector' is a person who has been granted silent elector status by the VEC (or by the Australian Electoral Commission on behalf of Victoria) having satisfactorily shown that printing their address on an electoral roll would place their or their family's personal safety at risk. The particulars of silent electors are 'confidential information' under Part 12 and must be excluded from publication by the VEC.
Small contribution amount	The Electoral Act defines a small contribution amount as a political donation that is equal to or less than the value of \$50 (indexed).
Special Report	IBAC's Special report on corruption risks associated with donations and lobbying

Word or term	Definition
State campaign account (SCA)	A 'State campaign account' is an account or accounts kept by a registered officer of an RPP or a registered agent of a candidate, group, elected member, NE, AE or TPC for political donations that a donation recipient must hold for the purpose of State elections. It holds any money used for State election political expenditure and therefore, must hold PF and any donations that are intended to be used for political expenditure. The purpose of the account is to separate Commonwealth campaign funds, AEF, PDF and other monies from funding for a State election campaign.
Statement of expenditure	A 'statement of expenditure' is a submission to the VEC that either confirms the claimable expenditure in relation to public funding incurred by the RPP, independent elected member or independent candidate during the relevant period is in excess of the maximum entitlement amount, or reports the value of the actual amount spent, whichever is lower.
Supplementary election	Under section 72(2) of the Electoral Act, a supplementary election must be held in the event of a failed election to fill the vacancy that the failed election had intended to fill.
TAV	Telephone Assisted Voting, the mechanism through which the VEC provides EAV to eligible electors.
Third party campaigner (TPC)	<p>A 'third party campaigner' is any person or entity other than:</p> <ul style="list-style-type: none"> • an RPP; or • a candidate at an election; or • a group; or • an elected member; or • an AE; or • an NE of an RPP <p>that receives political donations or incurs political expenditure which exceeds a total of \$4,000 (indexed to \$4,320 for financial year 2022-23) in a financial year.</p>
Uncharged interest	Uncharged interest on a loan is the amount of expected interest that the maker of a loan waives or discounts (given the prevailing interest rate) when making a loan to a recipient.

1. Introduction

The Victorian Electoral Commission (**VEC**) has developed this background package to outline the administrative and regulatory framework for political donations and disclosures in Victoria. This document also contains comparisons of political donations and disclosure laws across Australian jurisdictions, as well as a description of electronic assisted voting in Victoria.

This document forms Part 1 of the VEC's public submission to the expert panel. The purpose of the document is to inform the expert panel appointed under section 222DC of the Electoral Act (**Panel**) and assist its examination of Victoria's funding and disclosure laws and electronic assisted voting in accordance with its terms of reference, as well as members of the public who may be interested to provide input to the review.

An earlier version of this document was provided to the expert panel during a VEC background briefing.

2. About the VEC

The VEC is an independent statutory authority that administers the *Electoral Act 2002 (Vic)* (**Electoral Act**).¹ The *Electoral Legislation Amendment Act 2018 (Vic)* (**Amendment Act**) amended the Electoral Act and significantly extended Part 12 of the Electoral Act. Among other electoral process amendments, the Amendment Act introduced the current political funding and donation reporting requirements scheme that now operates in Victoria and expanded public funding for political entities. The VEC does not regulate political funding and disclosure at Victorian local government elections, as these matters are regulated by the Local Government Inspectorate.

As the body responsible for administering and regulating Victoria's State funding and disclosure scheme, the VEC has certain powers, duties and functions conferred by the Electoral Act to help donors and donation recipients meet their compliance obligations. This includes the establishment and maintenance of a publicly accessible disclosure portal, VEC Disclosures,² for donors and recipients to report donations made and received in real-time.

It is also the responsibility of the VEC to make funding payments to eligible entities. There are 3 funding streams available to eligible independent candidates, elected members of parliament or RPPs (see chapter 3.2):

- Administrative expenditure funding (**AEF**), available to independent elected members and RPPs with at least 1 elected member (see chapter 3.2.1).
- Public funding (**PF**), available to a candidate for an election who received at least 4% of total number of first preference votes or is elected (see chapter 3.2.2).
- Policy development funding (**PDF**), available to eligible RPPs that did not receive AEF or PF nor were entitled to AEF during the relevant calendar year (see chapter 3.2.3).

¹ The VEC is a 'special body' under the *Public Administration Act 2004 (Vic)* and is not subject to the direction or control of the relevant Minister. See *Public Administration Act 2004 (Vic)* s 6; *Electoral Act 2002 (Vic)* (**Electoral Act**) s 10.

² The portal and donations records are accessible to the public through: <https://disclosures.vec.vic.gov.au/public-donations/>

3. Overview of Victoria's funding and disclosure scheme

3.1. Victoria's donation and disclosure rules

The political donations and disclosure scheme are detailed in Part 12 of the Electoral Act. Part 12 defines what is and is not a political donation, the donations cap from any single donor, how these donations are to be disclosed to the VEC and establishes public funding entitlements.

3.1.1. General cap

The scheme implements a general cap on political donations of \$4,000 (the amount that can be donated in the 4-year period between elections) and a donations disclosure threshold of \$1,000 (per financial year). These amounts are varied annually according to the consumer price index (**CPI**) on 1 July. Accordingly, for the 2022-23 financial year, the general cap is \$4,320, and the disclosure threshold is \$1,080. It is unlawful to make or receive a donation above the cap or to fail to disclose a donation over the disclosure threshold. The Electoral Act currently has no limits on political campaign expenditure. Gifts between a party and its NE are not considered a donation and do not contribute to the general cap.

There are some instances where it is legal to donate or receive a gift over the general cap. It is legal to accept a donation that exceeds the cap after being aggregated, if the recipient could not reasonably know the value of the other donations included in the aggregation. In this instance, the recipient must return the donation to either the donor or forfeit it to the state. Another example is that candidates can exceed the general cap when contributing to their own campaign.

Associated entities and third party campaigners (**TPCs**) can also receive gifts above the general cap provided that the gift is not used for political expenditure (for example, general office upkeep). It is also legal to receive a donation that exceeds the general cap provided the excess money goes to Commonwealth campaign purposes and does not enter the State campaign account.

3.1.2. Restricted donations

Part 12 bans foreign donations by requiring that donations can only be made by Australian citizens, residents or businesses with a relevant business number (e.g. an ABN). Anonymous donations of \$1,000 or more (indexed to \$1,080 for financial year 2022-23) are also unlawful. Donating to more than 6 TPCs within the 4 years between elections is also banned. Aggregated donations to a single recipient that exceed the general cap are banned. This means during the 4 years between State elections, a single donor must not circumvent the donation cap by giving smaller donations to a single recipient that combined would exceed the donations cap of \$4,000 (indexed to \$4,320 for financial year 2022-23). The Electoral Act does not ban donations from particular industry sectors.

3.1.3. State campaign account

Donation recipients must keep a State campaign account (**SCA**). An SCA is a distinct account that holds money for State election expenditure. PF and political donations are paid

into the SCA. The account is intended to separate funding for a State campaign from funding for Commonwealth electoral purposes, although the Electoral Act does not set out any consequences if funding for Commonwealth electoral purposes is paid into the SCA. An SCA also separates state campaign-related income from PDF and AEF, as well as other monies. Political and electoral expenditure must be paid out of the SCA.

For RPPs only, the registered officer must ensure that the following are not paid into the SCA:

- annual membership fees paid by a person to an RPP;
- annual affiliation fees paid by an associated entity (**AE**) to an RPP;
- and annual levies paid by an elected member (or an elected member's staff) to the RPP.

The Electoral Act specifies that only RPPs are subject to these provisions. These provisions do not apply to associated entities and TPCs. Annual subscriptions and levies paid into an SCA by associated entities or TPCs are considered political donations and are subject to the provisions of Part 12 (subject to the general cap, for example). This effectively means that RPPs cannot use affiliation fees, subscription or levies paid to them for political or electoral expenditure, but associated entities and TPCs can, although those fees are subject to the limitations of permitted political donations.

3.1.4. Disclosure threshold

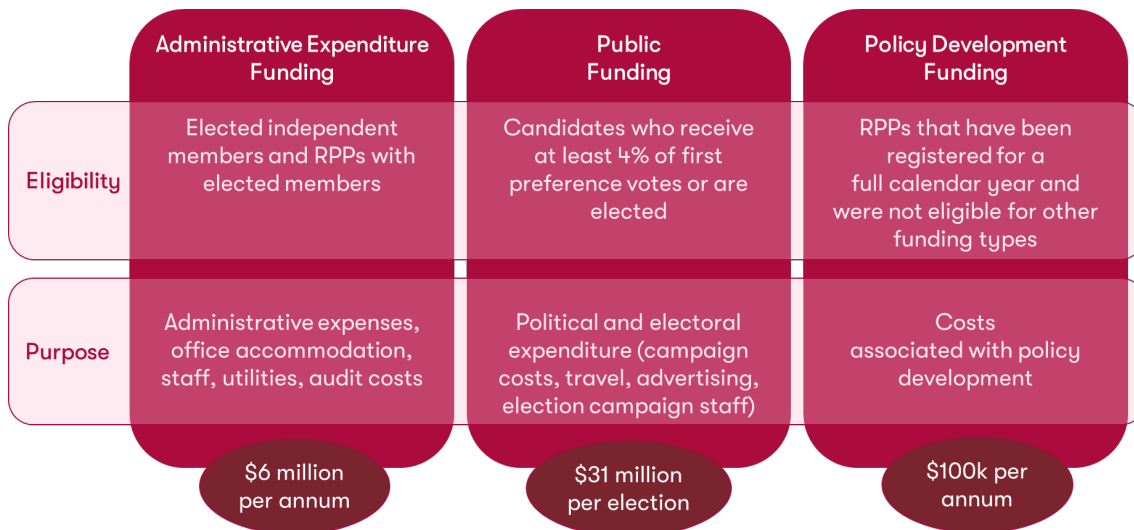
Both donors and donation recipients are responsible for disclosing donations worth more than the disclosure threshold. This must be done within 21 days of a donation being made or received in a financial year. A registered officer (registered by an RPP), agent (registered by a candidate or group) or financial controller (registered by associated entities or TPCs) is responsible for managing the disclosure obligations of a donation recipient by managing their SCA and submitting financial year annual returns. The registered agent (however described) is required to file financial year annual returns and disclosure returns.

Some donations do not contribute to the disclosure threshold. Small donations of \$50 or less (indexed to \$54 for financial year 2022-23) are not subject to a disclosure requirement unless any persons involved are intentionally creating a scheme to circumvent disclosure rules.

The VEC must publish a disclosure return of a political donation on the internet within 7 days of receiving the disclosure return. The VEC may withhold publication of the return if it determines there is false or misleading information within the return.

3.2. Funding streams

There are 3 distinct funding streams available to eligible RPPs, independent elected members and candidates, which are summarised in the diagram below:



- **PF**: for electoral expenditure and political expenditure of elections;
- **AEF**: for RPPs and independent elected members' administrative costs of meeting their obligations of Part 12 of the Act; and
- **PDF**: for the costs of developing policy for a State election.

For each stream, the entitlement amount is indexed annually and varies depending on the stream. Certain eligibility requirements also need to be met in order to receive funding from the VEC.³

The 3 funding streams have varying timelines in terms of application processes, reporting requirements and payment schedules. The table in chapter 3.3 shows a side-by-side comparison of the timelines of each stream.

3.2.1. Administrative expenditure funding

AEF may be used for the expenses incurred in operating a political office and complying with funding and disclosure requirements. Specifically, the funding covers the costs of general activities such as seminars, functions where the RPP or the elected member's policies are discussed, the costs of an audit, paying staff, interest payments or buying office equipment. Funds under this stream must not be used for political or electoral expenditure. AEF must not be paid into the SCA and is to be kept in a separate account.

³ AEF figure is based on funding provided by the VEC in 2022. PF figure is based on the result of the 2022 State election. PDF figure is based on VEC's internal projection, as no party applied for the funding in 2022. It is anticipated that the number of eligible RPPs will increase in election period 2022-2026.

Entitlement

The VEC pays the full AEF entitlement amount quarterly in advance under section 207GA(2) of the Electoral Act. A subsequent annual acquittal process recoups any monies not spent on claimable expenditure.

The administrative expenditure entitlement is indexed to CPI and varied according to a tiered system based on the number of elected members of Parliament:⁴

- An independent elected member is paid an annual amount of \$200,000 (\$216,210).
- RPPs for their first elected member are paid an annual amount of \$200,000 (\$216,210), \$70,000 (\$75,660) for the second elected member and \$35,000 (\$37,850) for the third to forty-fifth elected members. The funding is capped to a maximum of \$1,505,000 (\$1,919,420) at the forty-fifth elected member.

In a non-election year, annual payments are made quarterly (Jan-March, April-June, July-Sep, Oct-Dec) in advance on a pro-rata basis for each day an elected member is either an independent elected member or a member of an RPP. If a party-endorsed member becomes an independent member or vice versa, their entitlement is varied accordingly.

Example 1a: AEF entitlement of an RPP during a non-election year

Party A is an RPP. It has 2 elected members at the Legislative Council and one elected member at the Legislative Assembly for a full calendar year with no general election. The party made a request for funding through its registered officer to the VEC. The party is entitled to \$200,000 (indexed) for the first elected member, \$70,000 (indexed) for the second elected member and \$35,000 (indexed) for the third elected member, with a total entitlement of \$305,000 (indexed) for the entire calendar year.

As payments are pro-rated on a daily basis, each quarterly payment Party A is entitled to receive is calculated as follows: \$305,000 (indexed) x (number of days in quarter) / (number of days in year). This is approximately \$76,250 (indexed) each quarter.

RPPs during the scheduled general election period (1 July in an election year to the end of the election) are only entitled to the amount based on how many of their elected members stand for re-election.

The payment arrangement is different during an 'election quarter', being the period from 1 October of an election year until the day of the general election. In this period, AEF payments are made in advance on a pro-rata basis until the day of the general election. The return of the election writ is the administrative trigger for the VEC to identify eligible recipients and calculate entitlement amounts for the period between the day after the general election until 31 December that year. This element of the entitlement is paid in arrears on a pro-rata basis.

The payment of this element coincides with the AEF payment for the January-March quarter in the subsequent year. Although the Electoral Act anticipates these payments will be made by 31 December of the election year, the timing is dependent on when the VEC receives the request for funding. Of the 10 entities eligible to receive AEF following the 2022 State

⁴ Dollars in parenthesis are indexed for the financial year 2022-23.

election, 3 submitted their request for funding in December, 4 in January, 2 in March and 1 in April. Subsequent quarterly funding payments are made in accordance with the regular schedule of quarterly in advance.

Example 1b: AEF entitlement of an RPP during an election quarter

Party A in Example 1a decides to contest an upcoming general election, which is scheduled to occur on 26 November. As noted in Example 1a, Party A has 2 elected members at the Legislative Council and one elected member at the Legislative Assembly. Party A endorses and nominates all their current MPs as candidates at the general election.

All Party A's Legislative Council candidates were successfully re-elected. However, Party A's Legislative Assembly candidate was not re-elected.

Party A's AEF entitlement during the election quarter is calculated as follows:

1. \$305,000⁵ (indexed) x (the number of days from 1 October to 26 November that year) / number of days in a year; **plus**
2. \$270,000⁶ (indexed) x (the number of days from 27 November to 31 December that year) / number of days in a year.

This is approximately \$74,725 (indexed) for the election quarter. The first portion is paid in advance and the second portion is paid in arrears after the election.

AEF application

For RPPs, the registered officer must inform the VEC the number of candidates that intend to contest the election. For independent members, the agent must inform the VEC if the member intends to contest the election.

Outside of the scheduled general election period, applicants must submit a new request by 31 December of an election year to the VEC to receive funding for each quarter for the election period, being the 4-year period between general elections.⁷

Example 1c: AEF application deadlines

AEF applications have different due dates based on election years and election periods.

Party A in Examples 1a and 1b intends to receive AEF during the election quarter. The registered officer of the party must make an application to the VEC and notify whether all of its elected members are going to contest the general election.

Party A also wants to apply for AEF for the election period of 2022-2026.

The registered officer of Party A must submit an application as soon as possible after the start of an election period, which is 27 November 2022. By default, the date that an AEF

⁵ The normal quarterly AEF entitlement of 3 elected members.

⁶ The normal quarterly AEF entitlement of 2 elected members.

⁷ Please refer to the definitions of 'scheduled general election period' and 'election period'

annual return needs to be submitted by (22 April 2023) becomes a de facto due date for an application for the period post-election.

Notification to the VEC

The registered officer of an RPP is required to notify the VEC within 28 days of any reduction in the number of elected members, for example after an elected member resigns or is no longer part of the party. The VEC will make a retrospective adjustment as required, either in the subsequent quarterly payment or by invoice, and recalculate the ongoing entitlement. Any newly independent member's agent must make an AEF application to the VEC within 28 days to enable the VEC to calculate a varied entitlement. Similarly, the registered officer of an RPP must submit a new AEF application to the VEC if the number of elected members increases within an RPP.

AEF annual return

Within 16 weeks after the end of the calendar year (i.e. no later than 22 April), the registered officer or agent must provide an AEF annual return to the VEC. It must detail how much administrative expenditure has been spent over the prior year and whether it is more or less than the administrative expenditure entitlement. The return must be accompanied by an audit by a registered company auditor (for RPPs) or an independent auditor (for independent elected members). The Electoral Act does not enable the VEC to extend the timeframe to accept late submissions. This means a recipient will not be entitled to AEF for that year if they fail to provide the AEF annual return in time.

Recovery of AEF

The VEC can withhold or recover AEF if it is evident an audit certificate contains incorrect information or requires more information. If a registered officer or agent receives AEF on behalf of an RPP or an elected member that exceeds their actual expenditure, an amount equal to the excess payment must be deducted by the VEC from the next quarterly payment of funding or repaid to the VEC by the RPP or elected member.

There are penalties that apply to persons who transfer AEF into an SCA. Enforcement and penalties are further elaborated in section 3.3 'Offences'.

3.2.2. Public funding

PF entitles independent candidates and RPPs to receive reimbursement (indexed to CPI) based on the amount of first preference votes received at an election. The aim of this funding stream is to cover political and electoral expenditure incurred for an election. PF must be paid into the candidate's or the RPP's SCA. Electoral and political expenditure is incurred in relation to the four years between elections (the election period) or during a by-election.⁸

⁸ Electoral expenditure and political expenditure incurred in relation to supplementary elections is not set out in the Electoral Act. However, section 72(4)(b) of the Electoral Act allows the Governor-in-Council to make modifications and adaptations of any sections of the Electoral Act as are necessary

Entitlement

To be eligible to receive PF, a candidate must receive at least 4% of first preference votes in an election or be elected to Parliament. Candidates for an Assembly (lower house) election receive \$6 (indexed to \$6.49 for financial year 2022-23) per first preference vote and Council (upper house) candidates receive \$3 (indexed to \$3.24 for financial year 2022-23) per first preference vote. These are maximum entitlement amounts.

PF can be used for the costs of office rental, hiring staff, buying equipment or advertising in relation to an election campaign. Unlike AEF, it cannot be used to pay for general administration expenses. It also cannot be used by an independent candidate or RPP as security or collateral for a loan. When applying for PF, a registered officer or agent must submit an independently audited statement of expenditure to the VEC within 20 weeks of the day after a general election. It must specify whether the political expenditure incurred is more or less than the maximum entitlement amount. If the amount of claimable expenditure is less than the maximum entitlement, the amount must be specified. This lower amount will be paid to the candidate or RPP.

Example 2a: An independent candidate's PF entitlement

Alex ran as an independent candidate and received over 4% of the first preference votes in an election. It is determined that the value of Alex's entitlement is worth \$20,000 based on the number of first preference votes received.

Since the PF entitlement is only paid up to the amount of political or electoral expenditure incurred, Alex cannot receive more than \$20,000. For example, if Alex spent \$25,000 on the election campaign only \$20,000 will be paid. If Alex spent less than \$20,000 on the election campaign, for example \$15,000, then \$15,000 of PF will be paid.

PF is paid as a single lump sum payment within 30 days of the VEC receiving a properly completed application (a statement of expenditure plus audit certificate). However, independent candidates and RPPs that receive PF in a general election can apply for advance PF payments for the next general election. Advance PF is paid in four instalments. 40% of the entitlement is paid within 30 days after the VEC receives a statement of expenditure from the RPP or independent candidate. 20% is paid on 30 April in each of the 2 years preceding the general election year. The final 20% is paid on 30 April of the general election year.

PF application and statement of expenditure

A statement of expenditure is a written notice given by a registered officer of an RPP or an independent candidate to the VEC. It must be submitted (along with an audit certificate) in order to receive PF and must be received by the VEC within 20 weeks of the day after election day. The administrative process to receive PF and to request advance PF for the next election period usually coincide.

The registered officer (for an RPP) or independent candidate must outline in the statement the amount of political and electoral expenditure they incurred in relation to an election

to facilitate supplementary elections. After the failed Narracan District election in 2022, an order was made to modify section 208(3) to enable PF to apply to political expenditure and electoral expenditure incurred in relation to the Narracan supplementary election.

period, which is the period that starts on the end of the previous general election and ends the election day of the next general election (essentially, the four years between elections).

The statement is used as a reference for the VEC to calculate the payment of PF a recipient is entitled to. Using the information from the statement, the PF entitlement is either the maximum amount owed based on first preference votes received over 4%, or if the amount of expenditure incurred by the recipient is lower than the maximum entitlement, the actual expenditure. PF can only be received based on the information in a statement of expenditure, meaning it is a necessary item for eligible recipients to submit if they want to receive PF.

Recovery of PF

Overpayment of advance PF must be repaid to the VEC or deducted from the first instalment of advance PF in relation to the next general election. This can occur if the independent candidate or RPP becomes ineligible to receive advance PF (for example, an independent candidate subsequently decides not to contest the next general election, or they receive less than 4% of first preference votes and were not elected in the next general election) or the actual PF entitlement for the next general election is lower than their advance PF received. If a payment of PF was made and the recipient was not entitled to receive it, the VEC may recover that payment (either in part or whole as a debt owed to the State) by invoicing them, or, as a last resort, by action against the recipient in a court of competent jurisdiction.

Example 2b: Repayment of advance PF

Continuing from previous Example 2a, Alex also chooses to receive advance PF for the next general election. Alex received less than 4% of first preference votes at that subsequent general election and was not elected.

Receiving less than 4% of first preference votes and not being elected means that Alex is not entitled to receive PF in relation to that subsequent election. Alex must repay the entire amount of advance PF received in relation to that election.

PF entitlement is reduced if a prohibited donation has been accepted. This includes donations accepted in contravention of Part 12 of the Electoral Act such as foreign donations, anonymous donations above the \$1,000 (\$1,080 for the 2022-23 financial year) disclosure threshold, or donations that exceed the general cap. The entitlement is reduced by twice the amount of the prohibited donation that was accepted. If the recipient has applied for advance PF, these payments are also reduced by the same amount.

Example 2c: Reduction of PF

Continuing from the previous Examples 2a and 2b, Alex accepted a foreign donation of \$4,320. The PF entitlement for Alex would normally be \$20,000. The \$20,000 entitlement Alex would normally receive is reduced by twice the amount of the illegal donation received.

Twice the amount of the illegally accepted foreign donation is \$8,640. Accordingly, Alex's varied entitlement for PF in relation to the immediately preceding election becomes \$11,320 (\$20,000 - \$8,640). If Alex had chosen to receive advance PF for the subsequent election, Alex's entitlement would have originally been \$20,000 over the next election period.

However, the advance PF entitlement is also now reduced to the overall amount of \$11,320 over 4 years. This sanction only applies to PF, not to the other funding streams.

In addition to the reduced PF entitlements, the foreign donation of \$4,320 received by Alex is considered unlawful and forfeited to the State.

The calculation of the reduction of PF can happen anytime when the VEC discovers that an unlawful donation was accepted. If any PF entitlement had already been paid to Alex, the VEC would invoice Alex for the PF overpayment, in addition to amount of the foreign donation.

If Alex fails to pay the invoices, the Electoral Act enables the VEC to recover the amount as a debt due to the State by action in a court of competent jurisdiction.

Once the first preference votes have been counted and the actual entitlement calculated for the subsequent general election, if the amount paid by the VEC in advance PF is less than the actual entitlement, the VEC must remedy the underpayment by making a payment equal to the balance. In the case of overpayment (paying more than the entitlement) the VEC must deduct the amount of the overpayment from the next instalment of PF and any balance outstanding must be invoiced by and repaid to the VEC.

In the instance where a candidate does not receive over 4% of first preference votes at an election and is not elected, but received advance PF for that election, the candidate must repay the full advance PF amount they received over that election period.

3.2.3. Policy development funding

PDF is used by eligible RPPs to help cover the costs of developing policy for a State election. An RPP can only receive PDF if they have been a registered party for the whole calendar year, were not eligible for AEF (which means they have no elected members) and did not receive PF in that year. PDF cannot be used for political or electoral expenditure. Therefore, payment received cannot be paid into the SCA.

Entitlement

PDF is an annual payment. The entitlement (indexed to CPI) is calculated based on the greater of either the amount of first preference votes the RPP received at an election (valued at \$1 per first preference vote, \$1.08 for 2022-23) or \$25,000 (\$27,020 for 2022-23). An eligible recipient of this payment will only receive up to what they are entitled to even if their policy development expenditure exceeds the entitlement. The VEC will make the payment to the registered officer within 30 days after receiving a properly completed statement of expenditure.

PDF application

A payment under this stream can only be made once an RPP provides a statement of policy development expenditure within 20 weeks after the end of a calendar year (no later than 20 May) and an audit certificate from a registered company auditor. The policy development expenditure statement is similar to the statement of expenditure provided for PF by stating

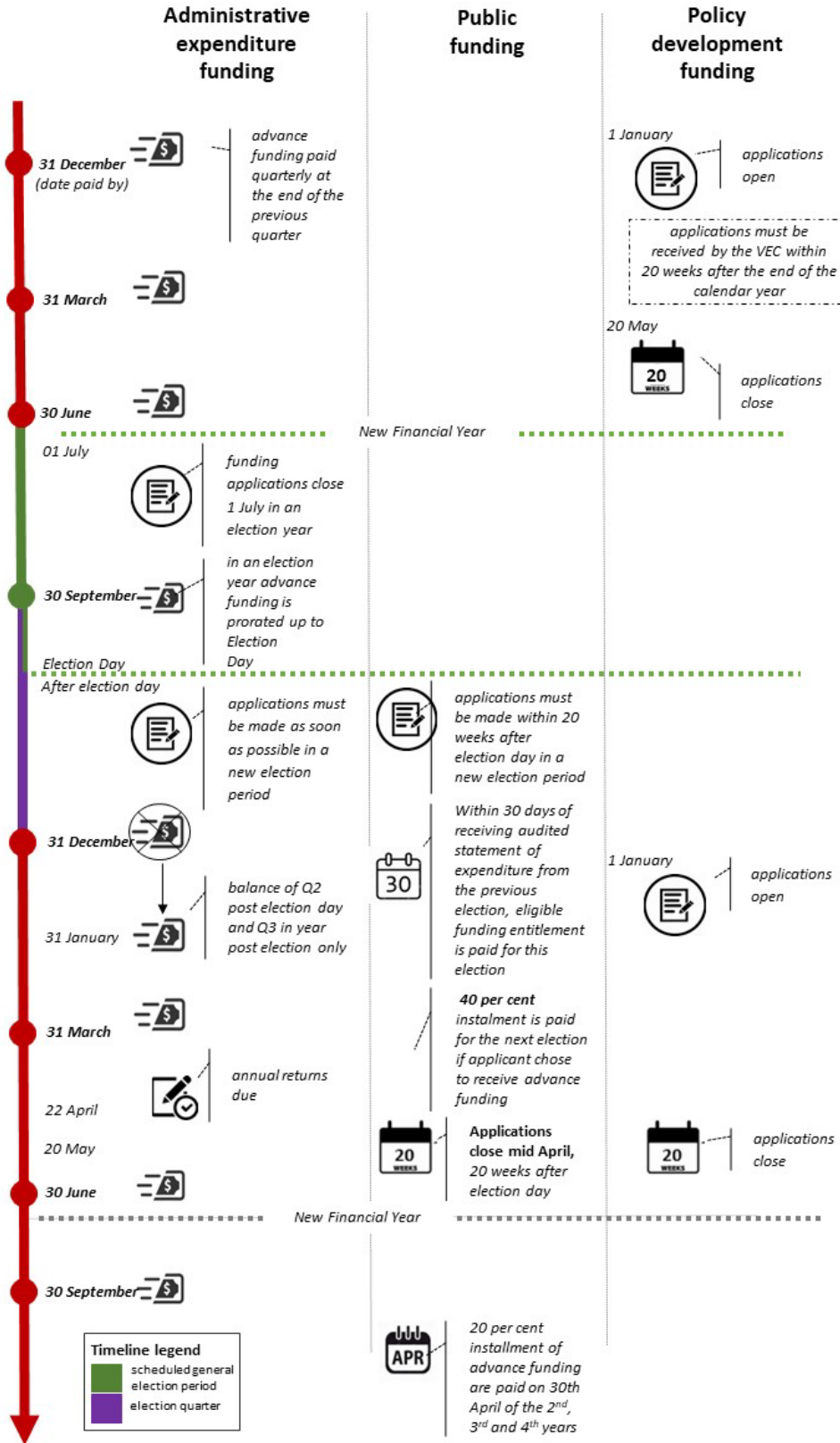
that more or less than the entitlement amount has been spent, supported by a certificate from an auditor.

Recovery of PDF

If a PDF payment is made and the VEC subsequently identified that the RPP is not entitled to receive the whole or part of the payment, the Electoral Act allows the VEC to recover the amount as a debt due to the State.

3.3. Comparison of the timelines of AEF, PF and PDF

Funding Timelines



3.4. Disclosure of political donations and financial year annual returns

3.4.1. Donation disclosures

When a political donation exceeds the disclosure threshold, the donor and recipient must provide the VEC with a 'disclosure return'. A disclosure return is information provided to the VEC which describes the dollar amount or value of a political donation (or donations) exchanged between two entities and identifies the entities involved. This information must be provided to the VEC by submitting an electronic form in the online VEC Disclosures portal.

All donors must provide a disclosure return for a political donation they make that is equal to or above the disclosure threshold of \$1,000 (indexed to \$1,080 for financial year 2022-23) within 21 days of making the political donation. A donor must provide a disclosure return for each individual political donation to a single recipient in a financial year if, when aggregating these political donations together, they exceed the disclosure threshold. This disclosure return must be completed within 21 days of making the first political donation that, when aggregated, exceeds the disclosure threshold. Further disclosure returns are required for each subsequent political donation within the same timeframe.

Political donation recipients are required to complete a disclosure return for each donation that is equal to or exceeds the threshold within 21 days of receiving the donation. Recipients must notify a donor of their obligation to submit a disclosure return if the donation needs to be disclosed.

3.4.2. Financial year annual returns

Financial year annual returns are due within 16 weeks of the end of each financial year (i.e. no later than 20 October each year). They must be submitted by RPPs, associated entities, nominated entities and TPCs. Candidates, groups and independent members must only submit a financial year annual return in this timeframe if they have received political donations from a single source that are above the disclosure threshold when aggregated. AN RPP must submit a financial year annual return for the whole financial year even if it did not receive any political donations or incur any political expenditure. Money that is not paid into the SCA and is solely for Commonwealth campaign purposes is not to be included in the financial year annual return.

A financial year annual return must contain specific information if it is from an RPP, AE, NE or a TPC. It must contain:

- the total amount received by or on behalf of the entity;
- if the sum of all amounts received from a single source during a financial year is above the disclosure threshold, the sum must be accompanied by the name and address of the donor, the sum of the amount received and whether the amount is a political donation or a receipt for another purpose;
- the total amount paid by, or on behalf of, the entity during the financial year;
- the total amount of all outstanding debts incurred by or on behalf of the entity; and

- if the sum of all outstanding debts to a single entity during a financial year is above the disclosure threshold, the sum must be accompanied by the full name and address of the entity to whom the debt is owed, the sum of the debt and whether the debt is owed to a financial or non-financial institution.

The financial year annual return required of a registered agent of a candidate, group or elected member requires different information. A candidate, group or elected member does not need to submit a financial year annual return if they did not receive any donations that, when aggregated, are above the disclosure threshold. If donations from a single source received by the candidate, group or elected member in a financial year are equal or greater than the disclosure threshold when aggregated, a financial year annual return must be submitted. It must contain:

- the full name and address of the donor; and
- the sum of the political donations received from that donor.

A registered officer or agent must keep any records that are required to be specified in a disclosure return. These records must be kept and not destroyed for at least 4 years from the date the document is provided to the VEC.⁹ The VEC may request any of these items and they must be kept electronically or physically. Examples of records include audit reports, receipts, transaction records, deposit or cash books and payroll records.

The Electoral Act contains a provision unique to associated and nominated entities. Under this section, an agent of an entity must provide a copy of the following information to the VEC as soon as practicable after they have been prepared: a loan, grant or donation statement or general-purpose financial statement under the *Fair Work (Registered Organisations) Act 2009* (Cth), financial statements under the *Associations Incorporation Reform 2012* (Vic) and a financial report under the *Corporations Act* (Cth).¹⁰

The VEC must publish a submitted financial year annual return within 6 months of the end of the relevant financial year. The VEC may not publish the financial year annual return if it is evident details in it are false, misleading or made in error.

3.5. Offences and compliance powers

3.5.1. Offences

The Electoral Act establishes specific offences and penalties for persons who contravene funding and disclosure requirements under Part 12 of the Electoral Act. These offences are summarised below.

Section 175 of the Electoral Act allows the VEC to initiate proceedings against a person for an offence under the Electoral Act.

Proceedings (prosecutions) for offences under sections 218 and 218A must be commenced within 3 years after the alleged offence was committed. Proceedings for an offence under section 222D must be commenced within 1 year. The offence under section 218B(1) is indictable and there is no limit on the commencement of proceedings.

⁹ This requirement also applies to annual returns, including AEF annual returns and financial year annual returns. Electoral Act s 218A(4).

¹⁰ Electoral Act s 217O.

Offence	Penalty
<p>Section 218(1) - False or misleading statements by a registered officer of an RPP</p> <p>The registered officer of an RPP commits an offence if they knowingly give the VEC a statement that contains false or misleading information in a material particular.</p>	<p>300 penalty units or 2 years imprisonment or both.</p> <p>Upon conviction, the court may also order the forfeiture of any payments obtained under Part 12.</p>
<p>Section 218(2) – False or misleading statements by a candidate</p> <p>A candidate commits an offence if they knowingly give the VEC a statement that contains false or misleading information in a material particular.</p>	<p>300 penalty units or 2 years imprisonment or both.</p> <p>Upon conviction, the court may also order the forfeiture of any payments obtained under Part 12.</p>
<p>Section 218(5) – False or misleading statements by a person to another person</p> <p>A person commits the offence if the person knowingly gives a statement that contains false or misleading information in a material particular to a person who is required to give a statement to the VEC (the false information relating to the statement).</p>	<p>300 penalty units or 2 years imprisonment or both.</p>
<p>Section 218(5A) – Accepting or making an unlawful political donation</p> <p>A person commits the offence if the person knowingly makes or accepts a political donation that is prohibited by Part 12.</p>	<p>300 penalty units or 2 years imprisonment or both.</p>
<p>Section 218A(1) – Failing to provide a disclosure return or an annual return</p> <p>A person commits the offence if the person fails to provide a disclosure return or an annual return under Part 12. This offence covers both AEF donation returns and financial year annual returns.</p>	<p>200 penalty units.</p>
<p>Section 218A(2) – Providing a disclosure return or an annual return that contains false or misleading information</p> <p>A person commits an offence if the person provides an annual or disclosure return which contains knowingly false or misleading information in a material particular. This offence covers both AEF donation returns and financial year annual returns.</p>	<p>300 penalty units or 2 years imprisonment or both.</p>

Offence	Penalty
<p>Section 218A(3) – Providing a person who is required to provide a disclosure return or annual return with false or misleading information</p> <p>A person commits an offence if the person knowingly provides someone who is required to complete an annual return or disclosure return with false or misleading information in a material particular that relates to the disclosure return or annual return. This offence covers both AEF donation returns and financial year annual returns.</p>	300 penalty units or 2 years imprisonment or both.
<p>Section 218A(4) – Failing to retain record</p> <p>A person commits an offence if the person does not keep records that relate to a matter particular of which are, or could be, required to be included in a disclosure return or an annual return for at least 4 years. This offence covers both AEF donation returns and financial year annual returns.</p>	200 penalty units.
<p>Section 218B(1) – Carrying out a scheme</p> <p>A person commits an offence if the person enters into or carries out a scheme, whether alone or with any other person, with the intention of circumventing a prohibition or requirement under Part 12.</p>	10 years imprisonment.
<p>Section 222D(1) – Refusing to comply with a notice issued by a compliance officer</p> <p>A person commits an offence if the person refuses to comply with a notice issued by a compliance officer under section 222B.</p>	200 penalty units.
<p>Section 222D(2) – Giving false or misleading evidence as a response to a notice issued by a compliance officer</p> <p>A person commits an offence if the person gives evidence, in purported compliance with a notice issued under section 222B by a compliance officer, that contains particulars that are, to the knowledge of the person, false or misleading in a material particular.</p>	200 penalty units.

3.5.2. Compliance powers

If the VEC is satisfied on reasonable grounds that information provided in an AEF annual return, a financial year annual return or an audit certificate in relation to AEF or PDF is materially incorrect, the VEC may by notice in writing request the RPP/independent candidate/independent elected member's auditor to provide further information. The VEC may similarly request information from an auditor in relation to a statement of expenditure or certificate with respect to PF.

If the auditor fails to provide the requested information, the VEC can request the registered officer of the RPP (with respect to AEF, PDF and PF) or the registered agent of the independent elected member (with respect to AEF) or the independent candidate (with respect to PF) to provide the relevant information.¹¹ The VEC can withhold or recover an AEF, PF or PDF payment if the requested information is not provided after this process.

If an RPP or independent elected member has received AEF that exceeds their entitlement, an amount equal to the excess is either deducted by the VEC from the next quarterly payment or repaid to the VEC by the officer or agent. The VEC must send a written request to the officer or agent specifying when the overpayment needs to be paid back. If the RPP or independent elected member is not entitled to payment in the next quarter, it must be repaid to the VEC within 60 days of receiving a notice requesting payment.

The Electoral Act also gives the VEC the power to bring proceedings in court to recover overpayments, misuse of funds by recipients or unlawful donations amounts as a debt due to the State.

3.5.3. Compliance officers and coercive notices

The VEC has the ability to appoint compliance officers to conduct investigations and compliance activities with respect to possible offences under Part 12 of the Electoral Act.

Section 222B(1) of the Electoral Act enables compliance officers to issue a notice to compel an RPP, candidate, group, elected member, NE, AE, TPC or donor to produce documents or other things, or to appear before the compliance officer to give evidence either orally or in writing; and produce the documents or other things specified in the notice

Section 222B(2) of the Electoral Act enables compliance officers to issue a notice to any person if the compliance officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence in relation to contravention or possible contravention of Part 12. The compliance officer can require the person by notice to produce the documents or other things, or to appear before the compliance officer to give evidence either orally or in writing; and produce the documents or other things specified in the notice.

A notice under section 222B of the Electoral Act must be in writing and may be served personally or by post.

3.5.4. Review of coercive notices

A person who is served with a notice under section 222B of the Electoral Act has the right to request that the VEC review the decision of the compliance officer to issue the notice. The

¹¹ Electoral Act ss 207GE, 210, 215C.

request must be in writing and be given to the VEC within 14 days of the day on which the notice was received. Section 222C of the Electoral Act requires the VEC to review the decision made by the compliance officer in issuing the notice and to decide whether to affirm, vary or set aside the notice. The VEC must also notify the person of the outcome of the review in writing.

The notice is effectively placed on hold for the duration of the review and the person is not taken to have refused or failed to comply with the notice during this period.

4. Overview of electronic assisted voting

This chapter seeks to provide an overview of the operation of electronic assisted voting (**EAV**), as well as background statistics which may assist the Panel.

Division 2, Part 6A of the Electoral Act allows for EAV to be implemented for Victorian State elections. In practice, the VEC offers a telephone-assisted voting (**TAV**) service throughout the early voting period and on election day for eligible electors as a form of EAV for State elections.

Section 110HB of the Electoral Act enables the VEC to approve a TAV registration application to enable electronic assisted voting. This application provides eligible electors an opportunity to cast their vote over the telephone in an election, in a similar way to attendance voting.

To use the TAV service, electors were required to make two phone calls in order to preserve the secrecy of their ballot:

- The first phone call to establish eligibility and to register to vote using TAV; and
- A second phone call to cast their vote.

The registration and vote-taking call centres are separately located and staffed by different teams of VEC election officials to ensure confidentiality is maintained. During the final hour of voting on election day only, TAV officials transferred electors directly from the registration call centre to the vote-taking call centre, to avoid electors being required to make a second call.

The VEC's TAV registration application, in conjunction with the approved script that is read out by TAV operators, provides electors with an auditory description of the ballot paper and voting instructions so they could cast their vote over the phone. The application enables electors to select consecutive preferences and make a correction before their vote is cast. It also enables electors to cast an informal vote or abandon the process at any stage should they choose to do so.

The application, script and approved procedures provide a written record of the elector's vote by way of the TAV operator filling out an ordinary ballot paper in real time during the call on behalf of the elector.

The VEC ensures that relevant security arrangements are in place to prevent interference or inappropriate use of the application and to maintain the integrity of the voting process for eligible electors. Although the application is computer-based, the voting process itself involves physical ballot papers, which remain secure at all times and are managed in accordance with established procedures as per attendance voting requirements.

4.1. Eligibility criteria

As per sections 110F and 110G of the Electoral Act and Part 9 of the *Electoral Regulations 2022 (Vic)* (**Electoral Regulations**), TAV was available to electors in the 2022 State election who could not otherwise vote without assistance because they met the following criteria:

- are blind or have low vision;

- have a motor impairment; or
- were in an area identified to be impacted by the floods in October and November 2022. Eligible electors were only able to access TAV during the last week of voting, in accordance with the temporary provisions under regulation 51A and the emergency determination issued by the Electoral Commissioner (Determination T01/2022 – issued by Commissioner on 18 November 2022).

Although not needed for the 2022 State election, the VEC retains the power under regulation 52 of the Electoral Regulations to make a determination specifying a class of electors for the purposes of accessing TAV if:

- an emergency declaration is in force; and
- the VEC considers that electors of that class may be unable to travel to a voting centre to vote because of the declared emergency; and
- the VEC considers that it has the ability to deliver electronic assisted voting to that class of electors.

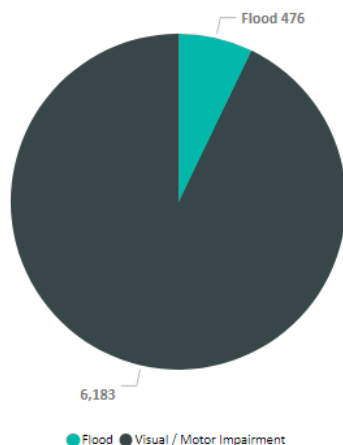
In planning for the 2022 State election, the VEC prepared additional surge capacity for TAV to be available to a broader subset of electors, particularly regarding the COVID-19 pandemic. While the regulations were amended to expand TAV to electors affected by a COVID-19 pandemic order, this ceased to have effect when pandemic orders were lifted prior to the voting period.

4.2. 2022 State election TAV volumes

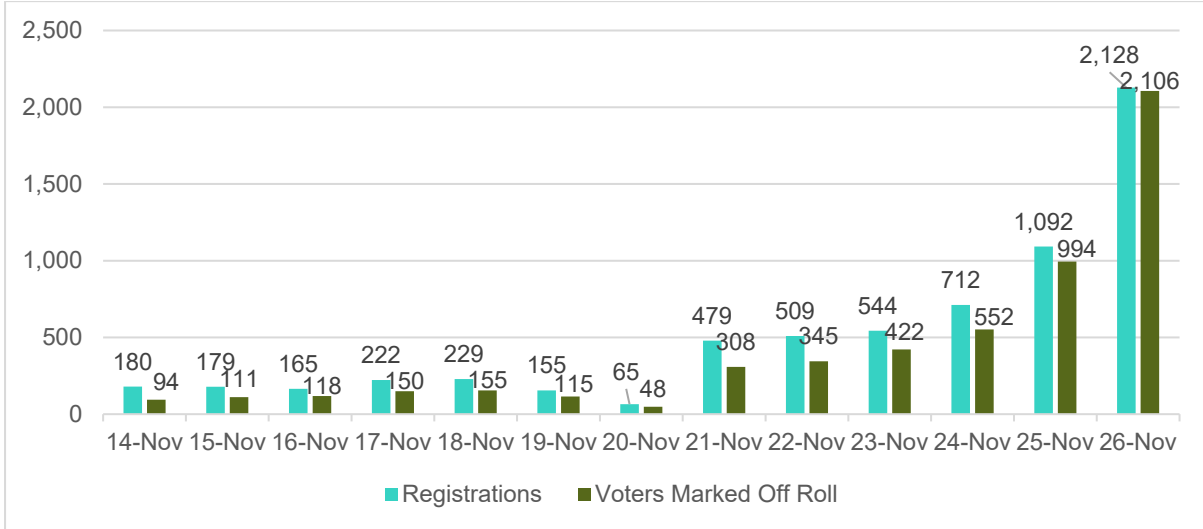
The VEC observes that the demand for TAV is increasing. For the 2022 State election, the TAV service was accessed by 6,659 electors who registered to utilise the service, which ultimately saw 5,518 voters marked off the roll via the TAV platform. This compared with 1,199 electors who utilised the service in 2018, though it should be noted that this value only relates to eligible electors who had either vision or mobility impairments.

Of the 6,659 registrations, 6,183 were eligible due to visual or motor impairments whereas 476 electors qualified for TAV services due to being impacted by the floods.

Eligibility



Of the 6,659 registrations, approximately one third of these occurred on election day on 26 November (2,128), with the other 4,531 registrations occurring in the early voting period (14 November – 25 November). Similar to in-person early voting, these volumes increased significantly in the second week of early voting, with the highest volumes seen in the days prior to election day.



5. Overview of contemporary trends and issues

The panel may determine what contemporary issues need to be investigated in relation to electoral funding. However, the panel has discretion to investigate issues beyond funding.

Victorian political donation and disclosure laws are a topical community issue. The wider Victorian community is interested in matters of transparency, trust and influence in relation to these laws. Changes to Victoria's democratic framework need to reflect community values. The current legislation was introduced to address these concerns and to 'give Victorians confidence' in their government.¹²

Matters relating to the political donation and disclosure laws also need to be considered in the context of an increasingly digital era of democratic participation. For instance, social media communications increasingly shape elector participation during an election. The potential impacts of digitisation become more relevant when considering the increase of enrolled Victorian electors over the past twenty years from 3.2 million to 4.4 million. With 1.2 million new electors and new ways to get involved and be part of the discussion, new challenges will emerge.

With elections becoming more complex, questions may arise as to the need for reform of the Electoral Act. This may include whether the Electoral Act is contemporary and fit for purpose.

The following is an overview of matters which have been given wider community attention. It is not meant to be an exhaustive or comprehensive review of all relevant matters.

5.1. Digital campaign financing

Recent research conducted by the International Institute for Democracy and Electoral Assistance and the Electoral Regulation Research Network argues for the regulation of digital campaign financing. The report compares multiple jurisdictions in the Asia and the Pacific region including Australia and investigates whether they effectively regulate political donations and digital campaigning. This was considered a relevant and contemporary issue by the then Electoral Commissioner Warwick Gately AM, who endorsed the report and its recommendations.¹³

The Electoral Act currently does not expressly consider digital campaign financing, and these matters are regulated as other electoral matters, subject to the same disclosure and donation rules under Part 12 of the Electoral Act.

5.2. Event attendance fees and donations

One matter receiving significant community attention is the treatment of event attendance donations under the Electoral Act. The Independent Broad-based Anti-corruption Commission (**IBAC**) published its report on the investigation and outcomes of 'Operation Clara', which included that Theo Theophanous – prior to the implementation of changes introduced by the Amendment Act – solicited tickets for a fundraising event which cost

¹² See: *RMIT ABC Fact Check* (2017), '[Fact check: Is Victoria set to legislate the strictest political donation laws in the country?](#)', 17 October.

¹³ See: [Digital Campaigning And Political Finance In The Asia And The Pacific Region \(unimelb.edu.au\)](#).

between \$2,000 and \$2,500 per ticket.¹⁴ Concerns about event attendance donations arise because the costs of running the event are likely to be less than the cost of the ticket and the difference in amounts (which may be significant) can act as a contribution to the campaign.¹⁵

5.3. IBAC special report on corruption risk associated with donations and lobbying

IBAC's special report on corruption risk associated with donations and lobbying, prompted by Operation Watts, also attracted significant public attention; it stressed the importance of regulating political donations and considered the variations between State and local government elections.¹⁶ The report recommended several areas of reform to reduce corruption risks in relation to political donations at state and local government levels, including:

- Strengthening rules against donors and candidates from concealing donations
- Improving compliance, enforcement and timely public reporting on donations
- Clearer rules with regards to soliciting political donations and fundraising events
- Caps on political expenditure.

5.4. Other operational matters

On the operational side, the VEC regularly receives queries from electoral participants concerning Victoria's political funding and disclosure laws. The VEC will consolidate its experience in administering Part 12 of the Electoral Act and provide detailed recommendations on various operational and technical reforms in its substantive submission to the panel. The funding of independent candidates under the new scheme is also a point of community discussion, considering the large increase in independents and smaller RPPs over time.¹⁷

¹⁴ See: [Operation Clara | IBAC](#).

¹⁵ see '6.4.5 Funding streams' for a cross-jurisdictional comparison with NSW on this matter.

¹⁶ See: [Corruption risks associated with donations and lobbying | IBAC](#).

¹⁷ The number of independent candidates contesting the 2018 Victorian state election was 111, which increased to 129 contesting the 2022 state election. This means there was an increase in independent candidates of 16% from 2018 to 2022.

Following the 2022 state election, 34 independent candidates were eligible for PF, of which 31 made an application to the VEC to receive PF. The increase of total overall nominations was significant. For the 2018 state election, there were a total of 887 nominations whereas the 2022 state election had 1,194 nominations. That is a 35% increase in nominations from 2018 to 2022.

6. Cross-jurisdictional analysis

Every state, territory and Commonwealth jurisdiction in Australia has at least some regulation concerning political donations and disclosures. The following cross-jurisdiction comparison includes summaries of regulatory regimes across Australian jurisdictions. Information is up to date as of April 2023. The comparison table in 6.1 provides a high-level overview of schemes across each jurisdiction, with the details of each jurisdiction's regime outlined in 6.2. All dollar amounts appearing in the table are according to current indexation as of the 2022-23 financial year (or the most recent indexation information published) where indexation information is available.

Please note that the Tasmanian Parliament is considering legislative reform in relation to political donations and funding.¹⁸ The comparison table in 6.1 covers the scheme in Tasmania as of June 2023.

For a more detailed overview of the regulation of political donations and disclosures in other jurisdictions individually, please refer to Appendix 1 of this document.

¹⁸ The Tasmanian [Electoral Disclosure and Funding Bill 2022](#) if passed by the Tasmanian Parliament would establish a donations and funding regime. See: [Electoral Act Review – Electoral Disclosure and Funding Bill 2021 and Electoral Matters \(Miscellaneous Amendments\) Bill 2021 \(justice.tas.gov.au\)](#).

6.1. Comparison table

Funding scheme elements	Vic	ACT	Cth	NSW	NT	QLD	SA	Tas	WA
Donation cap	\$4,320	X	X	\$7,000 to an RPP. \$3,300 to unregistered party or candidate.	X	\$4,000 to RPPs. \$6,000 to candidates.	X	X	X
Donation disclosure timeframe	21 days	Monthly basis, weekly around the time of an election.	15 weeks after an election.	Half-yearly basis, every 21 days near an election.	Annually	Weekly. Within 24 hours near an election.	Half-yearly. Weekly during an election period.	X	Annually
Donation disclosure threshold	\$1,080	\$1,000	\$15,200	\$1,000	\$1000 for RPPs, assoc. entities and TPCs. \$200 for candidates.	\$1,000	\$5,838	X	\$2,600

Funding scheme elements	Vic	ACT	Cth	NSW	NT	QLD	SA	Tas	WA
PF (or equivalent) entitlement (per first preference vote)	\$6.49 for lower house elections. \$3.24 for upper house elections.	\$9.16	\$3.12 + automatic payment of \$11,426.	\$4.66 for lower house elections. \$3.50 for upper house.	X	\$6 for RPPs. \$3 for ind.	\$3.51	X	\$2.13
Threshold of first preference votes needed to receive PF	4%	4%	4%	4%	-	4% (formerly 6%)	4% for lower house, 2% for upper house	-	4%

Funding scheme elements	Vic	ACT	Cth	NSW	NT	QLD	SA	Tas	WA
<p>PF (or equivalent) funding mechanism</p> <p>Standard: Applied for retrospectively on submission of audited statement and invoices after an election.</p> <p>Advance option: 40% available in advance for entitled independents and RPPs, with 20% paid each year on 30 April up to the next election.</p>	Applied for retrospectively on submission of audited statement and invoices after an election.	Applied for retrospectively on submission of audited statement and invoices after an election.	Applied for retrospectively on submission of audited statement and invoices after an election.	<p>For RPPs: 50% available in advance, 25% after writ issued, final payment after audit complete.</p> <p>Independents: receive funding retrospectively.</p>	X	Applied for retrospectively on submission of audited statement and invoices after an election.	Applied for retrospectively on submission of audited statement and invoices after an election.	X	Applied for retrospectively on submission of audited statement and invoices after an election.

Funding scheme elements	Vic	ACT	Cth	NSW	NT	QLD	SA	Tas	WA
AEF (or equivalent) entitlement	Tiered system per MPs elected. \$1.88mil max entitlement for RPPs.	For major parties, max entitlement is \$649,300	X	Tiered system per MPs elected. Max \$3.8mil yearly for RPPs.	X	X	Max \$70,048.	X	X
PDF (or equivalent) entitlement	\$1.08 per first preference vote or \$27,020.	X	X	\$0.70 per first preference vote or \$13,300.	X	Entitlement based on seat and vote ratios of an RPP or independent member	X	X	X
Political expenditure cap	X	✓	X	✓	✓	✓	Opt-in system	✓	X
Political expenditure cap value	X	Max cap for major parties is \$1.06m	X	Max cap for major parties is \$12.3mil	Max cap for major parties is \$1.04mil	Max cap for major parties is \$8.9mil	Max cap for major parties is ~\$4.7mil	\$19,000 (upper house candidates only)	X

Funding scheme elements	Vic	ACT	Cth	NSW	NT	QLD	SA	Tas	WA
Political and electoral expenditure disclosure requirements	Disclosure through PF statement of expenditure within 20 weeks after election day. Not a requirement if not applying for PF.	All expenditure incurred during capped expenditure period to be disclosed within 60 days after an election.	Expenditure must be provided in an election return to the AEC. Must be provided within 15 weeks after election day.	All expenditure to be disclosed on or before 22 September for the 12 months prior to 30 June.	All expenditure for an election to be disclosed within 60 days after election.	All expenditure during capped period to be disclosed within 15 weeks after election.	Expenditure incurred during capped exp. period to be disclosed if incurred over \$5000, return submitted within 60 days after election.	All expenditure for upper house elections disclosed within 60 after election.	All expenditure in relation to an election to be disclosed within 15 weeks of an election.
Capped political expenditure period	X	Starts beginning of election year, ends on election day	X	1 Oct in a year before election year until election day	1 Jan in an election year, ends 30 days after the election	Beginning of April in an election year until election night	Beginning of FY of election year, ends 30 days after election	Does not specify	X
Capped event attendance fees	X	X	X	✓	X	No strict cap, attendance fee that exceeds \$200 is considered a gift.	✓	X	X

Funding scheme elements	Vic	ACT	Cth	NSW	NT	QLD	SA	Tas	WA
Capped affiliation, levy or subscription fees	X	X	X	✓	X	✓	X	X	X
Indexation for donation disclosure threshold	✓	X	✓	X	X	X	✓	X	X
Bans foreign donations	✓	X	Bans foreign donations of \$1,000 or more.	✓	X	✓	X	X	X
Bans anonymous donations	✓	✓	✓	✓	✓	✓	✓	X	✓
Bans donations from certain industries	X	✓	X	✓	X	✓	X	X	X
Prohibition on cash donations	X	X	X	✓	X	X	X	X	X

Funding scheme elements	Vic	ACT	Cth	NSW	NT	QLD	SA	Tas	WA
Donation/gifts annual returns	✓	✓	✓	✓	✓	X	Annual returns required for gifts used for expenditure	X	✓

Appendix 1 – Jurisdictional breakdown

These Appendices outline the regulation of political donations and disclosure across all Australian jurisdictions.

Most jurisdictions, except Victoria and Northern Territory, do not make a distinction between ‘electoral expenditure’ and ‘political expenditure’ and use either one of the two terms. For consistency, when this is the case, this chapter uses the term ‘political and electoral expenditure’ to refer to the expenditure in the first instance.¹⁹

Most jurisdictions do not use the terms AEF, PF and PDF to refer to their streams of funding. When this is the case, this document refers to the terms prescribed by each jurisdiction’s respective legislation.

Appendix 1.1. Australian Capital Territory (ACT)

ACT summary	
Donation cap	N/A
Donation disclosure timeframe	Monthly basis, weekly around the time of an election.
Donation disclosure threshold	\$1,000
PF (or equivalent) entitlement (per first preference vote)	\$9.16
Threshold of first preference votes needed to receive PF	4%
PF (or equivalent) funding mechanism	Applied for retrospectively on submission of audited statement and invoices after an election.
AEF (or equivalent) entitlement	For major parties, max entitlement is \$649,300
PDF (or equivalent) entitlement	N/A
Political expenditure cap	Yes, max cap for major parties is \$1.06mil
Political and electoral expenditure disclosure requirements	All expenditure during capped expenditure period to be disclosed within 60 days after an election.
Capped political expenditure period	Starts beginning of election year, ends on election day.
Capped event attendance fees	N/A

¹⁹ Please refer to the Definitions chapter of this document for the definitions of ‘political expenditure’ and ‘electoral expenditure’ under the Electoral Act.

ACT summary	
Capped affiliation, levy or subscription fees	N/A
Indexation for donation disclosure threshold	N/A
Bans foreign donations	N/A
Bans anonymous donations	Yes
Bans donations from certain industries	Yes
Prohibition on cash donations	N/A
Donation/gifts annual returns	Yes

General summary

Similar to Victoria's Electoral Act, Part 14 of the *Electoral Act 1992 (ACT)* (**ACT Electoral Act**) sets out political donation and disclosure thresholds and the provision of AEF and public funding (titled 'Election Funding' under the ACT Electoral Act). The ACT Electoral Act also bans anonymous political donations over a threshold.²⁰ A notable point of difference from the Victoria's Electoral Act is that the ACT Electoral Act does not have a general (donation) cap or a funding stream similar to PDF in Victoria. However, the ACT Electoral Act establishes a political and electoral expenditure cap.²¹ The ACT Electoral Act also restricts property developers from donating and people from receiving any political donations from property developers.²² By contrast, the Electoral Act only places a ban on foreign and anonymous political donations.²³ Under the ACT Electoral Act, financial year annual returns and disclosure returns are required from donation recipients or when certain donations or expenditure disclosure limits are met.²⁴

Expenditure limits

A distinct provision of the ACT Electoral Act when compared to Victoria's Electoral Act is the implementation of an expenditure limit. Victoria's Electoral Act currently has no expenditure limit in Part 12. Under the ACT Electoral Act, the capped expenditure period begins the year of the election and ends on election day.²⁵ As defined by the ACT Electoral Act, expenditure pertains mainly to advertising or advertising agent fees and does not include administrative expenditure.²⁶ The expenditure cap is indexed annually and for the 2020 ACT territory election was \$42,750 for candidates, associated entities and TPCs. The expenditure cap is multiplied by the number of party candidates contesting the election up to 5 candidates per

²⁰ *Electoral Act 1992 (ACT)* (**ACT Electoral Act**) s 222.

²¹ 'Electoral expenditure' is the term being used in the ACT Electoral Act (pt 14 div 14.2B).

²² *Ibid*, pt 14 div 14.4A.

²³ Electoral Act s 217A.

²⁴ *Ibid*, pt 14 div 14.4; div 14.5; div 14.6.

²⁵ *Ibid*, s 198.

²⁶ *Ibid*.

party in each electorate.²⁷ This made the maximum cap \$1,068,750 for major parties fielding 25 candidates across 5 electorates in the 2020 territory election.

Disclosure requirements

Donations

The ACT Electoral Act requires the regular disclosure of political donations. The reporting agent of the recipient must disclose the gift to ACT Electoral Commission in a return. The disclosure threshold is \$1,000. If the total amount of gifts received from a single source is equal to or exceeds \$1,000, a return must be submitted to ACT Electoral Commission within 7 days of the end of each month. Any additional gifts over the disclosure threshold must be reported within the same timeframe. In an election period (that is, 36 days before polling day to 30 days after the election), a disclosure return is required within 7 days for political donations over \$1,000.²⁸ Victoria's Electoral Act does not require a shorter timeframe of making donation returns in the lead up to the election, but it requires disclosures to occur within 21 days, as compared to monthly as in the ACT Electoral Act outside of an election period.

The ACT Electoral Act considers annual subscriptions over \$250 paid to a party for membership purposes as a gift (the amount that is more than \$250 is the gift),²⁹ whereas Victoria's Electoral Act does not have a similar provision.

These limits are not indexed under the ACT Electoral Act.

Expenditure

The ACT Electoral Act requires the reporting agent of RPPs, candidates, associated entities and TPCs to provide an expenditure return to the ACT Electoral Commission within 60 days of election day.

Political donation limits

The ACT's Electoral Act restricts political donations from property developers and anonymous donors. Donations from close associates to property developers are also restricted. A property developer is defined as a corporation that carries on a business involving the residential or commercial development of land to sell or lease for a profit.³⁰ As a property developer or close associate, it is prohibited to donate \$250 or more to a recipient in a financial year. The recipient is also prohibited from accepting the donation.³¹ If the value of the donation is less than \$250, the donor must pay to the territory an amount equal to the amount of the donation.³²

The ACT Electoral Act does not ban foreign donations.

²⁷ *Ibid*, s 205F.

²⁸ *Ibid*, s 216A.

²⁹ *Ibid*, s 199AA.

³⁰ *Ibid*, s 222C.

³¹ *Ibid*, s 222G.

³² *Ibid*, s 222F.

Victoria's Electoral Act currently has no prohibitions on industry donors but does have prohibitions on foreign donations.

Under the ACT Electoral Act, anonymous gifts over \$1,000 are banned. Victoria's Electoral Act similarly has a provision banning the acceptance of anonymous political donations above the disclosure threshold of \$1,000. Under the ACT Electoral Act, a recipient cannot keep more than \$25,000 of anonymous political donations worth under \$1,000 in a financial year.³³ However, the ACT Electoral Act does not implement a general donations cap, whereas Victoria's Electoral Act does.

These limits are not indexed under the ACT Electoral Act.

Funding streams

Both the ACT Electoral Act and Victoria's Electoral Act establish a public funding (or 'election funding' under the AEC Electoral Act) entitlement and administrative expenditure funding. However, the ACT Electoral Act does not outline a PDF stream.

For a candidate or party to receive election funding under the ACT Electoral Act, a candidate must receive at least 4% of total first preference votes in that electorate.³⁴ This approach is similar to how Victoria's Electoral Act provides PF to candidates. The payment of the entitlement is then varied based on the number of first preference votes received.

The dollar value is detailed in the ACT Electoral Act as \$8 per first preference vote and is varied bi-annually according to a formula. For the period from 1 July 2022 to 31 December 2022, the entitlement amount was \$9.16 per first preference vote.³⁵ This amount is greater than the current entitlement in Victoria's Electoral Act and does not distinguish separate amounts for upper or lower house votes. However, funding is not paid up to the amount of expenditure incurred under the ACT Electoral Act. This means that RPPs or candidates could, in theory, profit from this scheme if they incurred expenditure less than their entitlement.

RPPs and independents are also eligible for administrative expenditure funding under the ACT Electoral Act. This amount is indexed and paid quarterly per each member of the ACT lower house. The ACT Electoral Act establishes the amount owed as \$5,000 per quarter per member of the lower house (meaning \$20,000 annually). This amount is indexed based on a formula.³⁶ Currently, the payment for 2023 is set to \$6,432.86 per member of the lower house. This universal entitlement system is different to the tiered system that Victoria's Electoral Act implements whereby the largest entitlement is for the first member elected and reduces per subsequent elected members.

³³ Ibid, s 222.

³⁴ Ibid, s 208.

³⁵ Ibid, s 207.

³⁶ Ibid, ss 215E-215F.

Appendix 1.2. Commonwealth

Commonwealth summary	
Donation cap	N/A
Donation disclosure timeframe	15 weeks after an election.
Donation disclosure threshold	\$15,200
PF (or equivalent) entitlement (per first preference vote)	\$3.12 + automatic payment of \$11,426.
Threshold of first preference votes needed to receive PF	4%
PF (or equivalent) funding mechanism	Applied for retrospectively on submission of audited statement and invoices after an election.
AEF (or equivalent) entitlement	N/A
PDF (or equivalent) entitlement	N/A
Political expenditure cap	N/A
Political and electoral expenditure disclosure requirements	Expenditure must be provided in an election return to the AEC. Must be provided within 15 weeks after election day.
Capped political expenditure period	N/A
Capped event attendance fees	N/A
Capped affiliation, levy or subscription fees	N/A
Indexation for donation disclosure threshold	Yes
Bans foreign donations	Bans foreign donations of \$1,000 or more.
Bans anonymous donations	Yes
Bans donations from certain industries	N/A
Prohibition on cash donations	N/A
Donation/gifts annual returns	Yes

General summary

Part XX of the *Commonwealth Electoral Act 1918* (Cth) (**Commonwealth Electoral Act**) establishes provisions for election funding and financial disclosure. The primary focus of the provisions in the Commonwealth Electoral Act are political donation disclosures. There is a disclosure threshold and the obligation to submit an annual return for donations received, but not a general cap. There are also requirements to disclose political and electoral expenditure.³⁷ Public funding is also paid to eligible candidates per first preference vote. By contrast, Victoria's Electoral Act has a general donations cap, a lower donation disclosure threshold, no disclosure requirements for electoral expenditure and funding for administrative expenditure and policy development. Neither Acts have an expenditure cap.

Expenditure limits

The Commonwealth Electoral Act does not establish an expenditure limit for local entities. However, it restricts electoral expenditure ('electoral expenditure' being the term used in the Commonwealth Electoral Act) incurred by or with the authority of a foreign campaigner to \$1,000 in a financial year. This restriction is not indexed.³⁸

Disclosure requirements

The donation disclosure threshold within the Commonwealth Electoral Act is equal to or greater than \$13,800.³⁹ Indexation (to CPI) occurs every 1 July meaning the disclosure threshold is currently \$15,200.⁴⁰ People who make or receive gifts over the disclosure threshold must submit a return to the AEC.⁴¹ The AEC must publish any submitted return on the internet. A disclosure return must be submitted by the registered agent within 15 weeks after the end of an election.

Contained within the return are the value of all gifts, the number of persons who made gifts and any relevant details of a gift received by a person running for an election. Gifts made over the threshold to RPPs, their state branches or significant third parties must be disclosed to the AEC within 20 weeks after the end of the financial year. A financial year annual return must be submitted by the agent of an RPP or significant third party within 16 weeks after the end of a financial year. It must detail the total amount received or paid by the entity, the outstanding amount of debts and the expenditure of third parties (if submitted by a third party).

If a person is a member of either house of the Commonwealth Parliament, a financial year annual return must be submitted disclosing any gift made for federal purposes and expenditure for the financial year.⁴²

Separately, all candidates and Senate groups at an election must provide an 'election return' detailing the donations they received and expenditure incurred during an election. An election return is required 15 weeks after polling day. Financial year annual returns and

³⁷ 'Electoral expenditure' being the term used in the *Commonwealth Electoral Act 1918* (Cth) (**Commonwealth Electoral Act**).

³⁸ Commonwealth Electoral Act pt XX div 5B.

³⁹ *Ibid*, s 287.

⁴⁰ *Ibid*, s 321A.

⁴¹ *Ibid*, ss 304, 305A, 305B, 306.

⁴² *Ibid*, s 309.

election returns are required of donors who make a political donation which exceeds the disclosure threshold during the financial year and/or during an election.⁴³

The AEC must publish election returns on their website within 24 weeks after the end of an election. Financial year annual returns must be published at the start of every February.⁴⁴

Victoria's Electoral Act's disclosure threshold is currently \$1,080, compared to \$15,200 in the Commonwealth Electoral Act. In addition, Victoria's Electoral Act's disclosures are more timely by requiring that political donations are reported within 21 days. The Electoral Act also requires the disclosure of political donations that when aggregated are equal to or exceed the donation disclosure threshold.

The VEC must publish financial year annual returns (detailing donations received over the disclosure threshold and other details from RPPs, candidates, groups, associated entities or TPCs) within 6 months after the end of the financial year, which is a similar timeframe as the AEC. Victoria's Electoral Act, however, does not require a published return containing expenditure during an election from election participants – this is explored further under chapter 6.3.5 'Funding streams'.

Victoria's Electoral Act requires a statement of expenditure from eligible candidates and RPPs to the VEC for the purposes applying for PF, which is not published by the VEC. This is distinct from the Commonwealth Electoral Act which requires expenditure disclosure, which it is published by the AEC.

Political donation limits

The Commonwealth Electoral Act places certain prohibitions on political donations. Under the Commonwealth Electoral Act, loans cannot be made to political parties, state branches, significant third parties, candidates or groups that are more than the disclosure threshold unless the loan is made from a financial institution or the loan contains clear terms and conditions and information about the lender.⁴⁵ By contrast, Victoria's Electoral Act does not impose restrictions on the acceptance of loans. Under the Commonwealth Electoral Act, the only way a loan can be made more than the disclosure threshold is if the recipient keeps a record of the terms and conditions of the loan and the details of the lender. The amount of unlawful loan may be recovered by the Commonwealth as a debt.⁴⁶

The Commonwealth Electoral Act bans foreign donations worth \$1,000 or more in a financial year. However, it is legal to accept a political donation under \$100 without having to discern if the donor is a foreign donor. By comparison, Victoria's Electoral Act bans all foreign political donations.

A disclosure return under the Commonwealth Electoral Act must contain the 'relevant details' of the name and address of the person who made a reportable gift. However, compared to Victoria's Electoral Act it does not explicitly prohibit anonymous political donations above the disclosure threshold.

In addition, the Commonwealth Electoral Act does not place a general donation cap, whereas Victoria's Electoral Act has a general cap of \$4,320 (indexed).

⁴³ See: [Financial disclosure - Australian Electoral Commission \(aec.gov.au\)](https://www.aec.gov.au/financial-disclosure).

⁴⁴ Commonwealth Electoral Act, s 320.

⁴⁵ Ibid, s 306A.

⁴⁶ Ibid, s 306A(6).

The Commonwealth Electoral Act requires that recipients deposit any gifts received into a federal account (or accounts) for federal election purposes and that the money must not be taken out of it for State campaign purposes.⁴⁷ This complements Victoria's Electoral Act which establishes that recipients must manage an SCA and that no money is to be taken out and used for federal campaign purposes.

Funding streams

The Commonwealth Electoral Act establishes public funding (or 'election funding') according to the number of first preference vote a candidate receives, but the entitlement amount is less and there is only a single funding stream as compared to Victoria's Electoral Act.⁴⁸

Election funding under the Commonwealth Electoral Act is paid to eligible candidates and parties who contested a federal election and received more than 4% of first preference votes. The entitlement is varied to CPI and is currently \$3.125 per eligible first preference vote and varies accordingly every six months. This amount coincides with an automatic payment of \$10,000 (also indexed, currently adjusted to \$11,426), which is paid 20 days after an election for candidates who receive over 4% of first preference votes.⁴⁹ In Victoria, PF is only payable up to the amount of electoral expenditure incurred. The AEC takes a different approach as the automatic \$11,426 payment is provided to an eligible candidate who received over 4% of first preference votes.

To receive more election funding than the automatic entitlement at the Commonwealth level, the eligible entity must submit a claim (within six months after the end of the election) accompanied with a return for political expenditure incurred during an election. The entitlement paid is either the varied amount (based on first preference votes) or up to the expenditure that was incurred during an election, whichever amount is lesser. The final calculated payment is reduced by the amount that has been paid automatically - currently \$11,426.

This election funding entitlement is less than what is established in Victoria's Electoral Act. PF under Victoria's Electoral Act is \$6.49 for a lower house election and \$3.24 for an upper house election. The Commonwealth Electoral Act also does not distinguish the dollar amounts between upper or lower house elections, meaning that all candidates are eligible for the same amount.

The Commonwealth Electoral Act currently has no funding streams that are similar to AEF or PDF, whereas Victoria's Electoral Act has all 3 funding streams.

Proposed reforms by the Commonwealth Joint Standing Committee on Electoral Matters

In June 2023, the Commonwealth Joint Standing Committee on Electoral Matters (**JSCEM**) published the Interim Report on the Conduct of the 2022 Federal Election and Other Matters (interim report).⁵⁰ The interim report recommended significant reforms in relation to political

⁴⁷ Ibid, s 302CA.

⁴⁸ Ibid, pt XX div 3.

⁴⁹ Ibid, s 321.

⁵⁰ Joint Standing Committee on Electoral Matters, Parliament of Australia, *Inquiry into the 2022 Federal Election Interim Report* (Parliamentary Paper, June 2023).

donations and electoral expenditure at Commonwealth elections. These recommendations will be considered by the Commonwealth Government in the coming months.

The reforms recommended by the JSCEM include:

Disclosure of donations

- Reducing the donation disclosure threshold to \$1000 to align with many Australian jurisdictions
- Introducing 'real-time' disclosure requirements for donations
- Amending the definition of 'gift' to ensure it meets community expectations of transparency in political donations

Caps

- Introducing donation caps for Commonwealth elections
- Introducing expenditure caps for Commonwealth elections
- Ensuring any donation cap or expenditure cap applies to third parties and associated entities

Compliance

- Requiring electoral participants to establish a Commonwealth Campaign Account for the purposes of Commonwealth elections

Additional funding for electoral participants

- Introducing a new system of administrative funding for electoral participants to address the increased burden of a reformed system
- Introducing a new system of public funding for electoral participants to address the restriction on private funding in Commonwealth elections

Additional resources for the Australian Electoral Commission

- Providing additional resources to the AEC to support, implement and enforce the proposed reforms

Appendix 1.3. New South Wales (NSW)

NSW summary	
Donation cap	\$7000 to an RPP. \$3,300 to unregistered party or candidate.
Donation disclosure timeframe	Half-yearly basis, every 21 days near an election.
Donation disclosure threshold	\$1,000.
PF (or equivalent) entitlement (per first preference vote)	\$4.66 for lower house elections. \$3.50 for upper house.
Threshold of first preference votes needed to receive PF	4%
PF (or equivalent) funding mechanism	For RPPs: 50% available in advance, 25% after writ issued, final payment after audit complete. For independents: receive funding retrospectively.
AEF (or equivalent) entitlement	Tiered system per MPs elected. Maximum entitlement is \$3.8mil.
PDF (or equivalent) entitlement	\$0.70 per first preference vote or \$13,300.
Political expenditure cap	Yes, max cap for major parties is \$12.3mil
Political and electoral expenditure disclosure requirements	All expenditure to be disclosed in an annual financial statement on or before 22 September for the 12 months prior to 30 June.
Capped political expenditure period	1 Oct in a year before election year until election day.
Capped event attendance fees	Yes
Capped affiliation, levy or subscription fees	Yes
Indexation for donation disclosure threshold	N/A
Bans foreign donations	Yes
Bans anonymous donations	Yes
Bans donations from certain industries	Yes
Prohibition on cash donations	Yes
Donation/gifts annual returns	Yes

General summary

The *Electoral Funding Act 2018* (NSW) (**NSW Electoral Funding Act**) contains an extensive scheme including political and electoral expenditure limits,⁵¹ donation prohibitions, a general cap, public funding, disclosure requirements and disclosure thresholds. Victoria's Electoral Act by comparison shares most of these provisions but does not include an expenditure cap or the same prohibited industry donors.

Expenditure limits

Victoria's Electoral Act does not establish an expenditure cap. In comparison, the NSW Electoral Funding Act implements multiple provisions detailing an expenditure cap. The cap on expenditure is in place during an election period (1 October in the year before the election till the end of the election)⁵², indexed and varies between political participants.

The cap applies to RPPs and their associated entities, candidates, candidate groups and TPCs. For a party with more than 10 endorsed lower house candidates contesting an election, the cap is (currently indexed to) \$132,600 multiplied by the number of electoral districts in which the candidates are endorsed by the party. This means that for a major party running candidates in all 93 lower house districts in the 2023 State election, the expenditure cap was \$12,331,800. The cap is \$1,389,900 for independent groups contesting an upper house election. Candidates for either house must ensure their spending in a single district or electorate does not exceed the cap of \$198,700.⁵³

Like the Northern Territory's *Electoral Act 2004*, expenditure incurred by an AE is aggregated with that of the party they are associated with. The High Court recently found an NSW expenditure cap on third parties during by-elections was invalid.⁵⁴

Disclosure requirements

Donations

Like Victoria's Electoral Act, the NSW Electoral Funding Act requires frequent reporting of political donations. The donations disclosure threshold is \$1,000.⁵⁵ During an election period (1 October in the year before the election till the end of the election), donations are to be disclosed within 21 days.⁵⁶ During a non-election period, political donations must be disclosed every half-year by RPPs, candidates, groups of candidates and associated entities.⁵⁷ This is different to Victoria's Electoral Act where donors must disclose their donation within 21 days regardless of proximity to an election. Donors must also provide an annual disclosure return under the NSW Electoral Funding Act.

⁵¹ 'Electoral expenditure' being the term used in the *Electoral Funding Act 2018* (NSW) (**NSW Electoral Funding Act**).

⁵² NSW Electoral Funding Act s 27.

⁵³ *Ibid*, pt 3 div 4.

⁵⁴ *Unions NSW v New South Wales* [2023] HCA 4. See: Byrne E (2023), '[High Court throws out NSW cap on spending by third parties in by-election campaigns](#)', ABC, 15 February.

⁵⁵ NSW Electoral Funding Act, s 6.

⁵⁶ *Ibid*, s 15.

⁵⁷ *Ibid*.

Expenditure

Under the NSW Electoral Funding Act, an RPP must submit to the NSWEC an audited annual financial statement 16 weeks after the end of each financial year. It must detail the amount received by the RPP, the total amount paid by the RPP and the outstanding amount of debts.⁵⁸ Expenditure (and also political donation received) must be reported annually in this statement which is published by NSWEC.⁵⁹ Victoria's Electoral Act differs by only requiring the submission of a statement of expenditure within 20 weeks after election day when applying for PF payments that is not published by the VEC.

Political donation limits

Similar to Victoria's Electoral Act, the NSW Electoral Funding Act has limits and a cap on political donations.⁶⁰ For instance, under both Acts it is illegal to accept a donation over the disclosure threshold from an unknown source.

The NSW Electoral Funding Act requires an annual variation of the donations cap to inflation. The amount of the cap differs according to who is receiving the donation. The cap is currently \$7,000 to an RPP and \$3,300 to an unregistered party or candidate in a financial year.⁶¹ The NSW Electoral Funding Act also caps the amount that a candidate for the lower house can donate to their own party during the year when the election is held, which is currently \$66,400.⁶² A candidate's contributions to their own election campaign is not counted towards the donation cap, however the expenditure cap still operates to make it unlawful for the candidate to incur expenditure that exceeds the expenditure cap.⁶³ By comparison, candidates under Victoria's Electoral Act can donate an unlimited amount to their campaign. Both Acts consider aggregation when determining if the cap has been exceeded.

Under the NSW Electoral Funding Act, affiliation and subscription fees for party membership are capped at \$2,000 (not indexed), and any amount paid as such above the cap is considered to be a political donation,⁶⁴ which is a provision that is currently not included in Victoria's Electoral Act.

Under the NSW Electoral Funding Act, certain indirect campaign contributions are banned (for example free equipment or accommodation).⁶⁵ These are not banned in Victoria's Electoral Act, but are considered political donations and subject to disclosure rules and the general cap.

Both Acts ban foreign political donations. The NSW Electoral Funding Act bans foreign donations as donations cannot be accepted from someone who is not on the electoral roll, does not have an Australian residential address or relevant ABN, or has provided satisfactory identification to the NSWEC.⁶⁶ A key distinction is that the NSW Electoral Funding Act only prohibits receiving a foreign donation, whereas Victoria's Electoral Act prohibits both making or receiving. The NSW Electoral Funding Act bans cash donations

⁵⁸ *Ibid*, s 97.

⁵⁹ *Ibid*, s 22.

⁶⁰ *Ibid*, pt 3 div 3.

⁶¹ See: [Caps on political donations - NSW Electoral Commission](#).

⁶² NSW Electoral Funding Act, s 26(3).

⁶³ *Ibid*, s 23(5).

⁶⁴ *Ibid*, s 26(8).

⁶⁵ *Ibid*, s 47.

⁶⁶ *Ibid*, s 46.

exceeding \$100 (donations over \$100 must be made electronically, not indexed),⁶⁷ which is not a provision that also appears in Victoria's Electoral Act.

The NSW Electoral Funding Act bans property developers and tobacco, liquor or gambling industry businesses (and their close associates) from donating.⁶⁸ Victoria's Electoral Act makes no prescription on banning specific industry donors from donating. In addition, Victoria's Electoral Act bans donations to more than six TPCs, whereas the NSW Electoral Funding Act bans making or receiving donations from more than 3.⁶⁹

The NSW Electoral Funding Act specifically considers attendance fees as a donation by defining a political donation as the 'amount paid by a person as a contribution, entry fee or other payment to entitle that or any other person to participate in or otherwise obtain any benefit from a fundraising venture or function'.⁷⁰ This contrasts with Victoria's Electoral Act's definition which acknowledges 'the making of a payment or contribution at a fundraising function'.⁷¹ The difference is that Victoria's Electoral Act places emphasis on a donation made 'at' an event, suggesting attendance fees made prior to an event do not need to be disclosed or subject to the general donations cap.

Funding streams

Both Victoria and NSW contain 3 similar funding streams. Both have public funding per first preference vote over 4%,⁷² administration expenditure funding and PDF (referred to as the 'New Parties Fund' under the NSW Electoral Funding Act).⁷³

The 'election campaigns fund' (as it is referred to in the NSW Electoral Funding Act) is similar to PF under Victoria's Electoral Act. Public funding under both Acts is intended to be paid up to the amount of expenditure incurred during an election. To receive a payment, a claim must be made by a candidate to the NSWEC.

Currently, the entitlement amount is \$4.66 per first preference vote received in a lower house election and \$3.50 per first preference vote in an upper house election.⁷⁴ Therefore, the lower house entitlement under the NSW Electoral Funding Act is comparatively less than Victoria's Electoral Act, which is \$6.49. However, the upper house entitlement in the NSW Electoral Funding Act when compared to Victoria's Electoral Act is slightly higher (\$3.50 compared to \$3.24).

For the NSWEC to pay public funding, a claim must be submitted to the NSWEC by the eligible candidate within 120 days of the return of the writ for the election.⁷⁵ The claim must be supported by a statement of expenditure similar to Victoria's Electoral Act, and applicants can apply for advance payment prior to an election. A recipient is paid 50% of the entitlement on 1 October in the year prior to an election. A further 25% may be paid to the

⁶⁷ Ibid, s 50A.

⁶⁸ Ibid, pt 3 div 7.

⁶⁹ Ibid, s 25.

⁷⁰ Ibid, s 5(2).

⁷¹ Electoral Act s 206(1). See the definition for 'gift' under paragraph (c).

⁷² NSW Electoral Funding Act pt 4.

⁷³ Ibid, pt 5.

⁷⁴ See: [Election Campaigns Fund - NSW Electoral Commission](#).

⁷⁵ NSW Electoral Funding Act s 73.

applicant after the issue of the writs. The final payment is made after the audit has been submitted pertaining to the expenditure statement.⁷⁶

AEF (called the 'administration fund' for the NSW Electoral Funding Act) is paid under both Acts. Administrative fund is also paid quarterly under the NSW Electoral Funding Act.⁷⁷ Similar to Victoria's Electoral Act, the payment is based on the amount of administrative expenditure incurred and the number of sitting members of Parliament that an RPP has. These amounts are indexed. For 1 endorsed elected member the amount is \$100,400, for 2 it is \$171,900 and 3 is \$214,700. If the party has more than 3 elected members, they are entitled to \$214,700 plus \$34,500 for each additional member up to a maximum of 22 members. For independent elected members, they are entitled to \$64,900, which is the maximum amount payable per quarter.⁷⁸ A claim for quarterly payment may be accompanied by an expenditure statement.

The New Parties Fund is similar to PDF under Victoria's Electoral Act. It is available under similar conditions. To be eligible, a party must be registered for 12 months or more for the full financial year in which the policy development expenditure was incurred.⁷⁹ The NSWEC must be satisfied that the party operates as a genuine political party and that they were not entitled to administration expenditure funding. The amount owed is indexed and paid annually up to the policy development expenditure incurred. The entitlement is based on the number of first preference votes an RPP endorsed candidate received at a previous election. The dollar amount per first preference vote is \$0.70 up to a maximum of \$13,300.⁸⁰ This amount is slightly less than the PDF entitlement under Victoria's Electoral Act where the dollar amount per first preference vote is currently indexed to \$1.08 or a payment of \$27,020, whichever amount is greater. Victoria's Electoral Act requires that the applicant submit an audited statement of policy development expenditure, so the correct entitlement is paid.

⁷⁶ Ibid, s 72.

⁷⁷ Ibid, s 87.

⁷⁸ See: [Administration Fund - NSW Electoral Commission](#).

⁷⁹ NSW Electoral Funding Act pt 4 div 3.

⁸⁰ See: [New Parties Fund - NSW Electoral Commission](#).

Appendix 1.4. Northern Territory (NT)

NT summary	
Donation cap	N/A
Donation disclosure timeframe	Annually
Donation disclosure threshold	\$1000 for RPPs, associated entities and TPCs. \$200 for candidates.
PF (or equivalent) entitlement (per first preference vote)	N/A
Threshold of first preference votes needed to receive PF	N/A
PF (or equivalent) funding mechanism	N/A
AEF (or equivalent) entitlement	N/A
PDF (or equivalent) entitlement	N/A
Political expenditure cap	Yes, max cap for major parties is \$1.04mil.
Political and electoral expenditure disclosure requirements	All expenditure for an election to be disclosed within 60 days after election.
Capped political expenditure period	1 Jan in an election year, ends 30 days after the election.
Capped event attendance fees	N/A
Capped affiliation, levy or subscription fees	N/A
Indexation for donation disclosure threshold	N/A
Bans foreign donations	N/A
Bans anonymous donations	Yes
Bans donations from certain industries	N/A
Prohibition on cash donations	N/A
Donation/gifts annual returns	Yes

General summary

Part 10 of the *Electoral Act 2004* (NT) (**NT Electoral Act**) primarily establishes an electoral expenditure limit and disclosure requirements. Victoria's Electoral Act does not have an expenditure limit in comparison. However, Victoria's Electoral Act has more frequent donations disclosure requirements, a general donations cap and public funding streams.

Expenditure limits

The NT Electoral Act implements an electoral expenditure⁸¹ limit whereas Victoria's Electoral Act does not. The capped electoral expenditure period is from 1 January in an election year and ends 30 days after the election. The cap on electoral expenditure is \$40,000 per division. As of 2020, this amount has been indexed to \$41,600, for a maximum of \$1.04 million for parties running candidates in all 25 seats.⁸² Electoral expenditure by an AE is aggregated with the spending of the RPP that it is associated with.

Disclosure requirements

The NT Electoral Act requires donors and recipients to submit a disclosure return containing donations made and received above certain thresholds (**financial year annual return**), and a return that sets out electoral expenditure incurred during an election (**election return**).

Financial year annual returns and election returns are published as soon as practicable by the NTEC.

Donations

The disclosure for donations required under the NT Electoral Act are made yearly, with more donation disclosure returns required in the lead up to an election.⁸³ Victoria's Electoral Act by comparison requires donations disclosure returns within 21 days of making or receiving a donation.

The disclosure threshold is different according to the recipient. The disclosure threshold for candidates is significantly lower and must disclose gifts they receive which total \$200 or more, as compared to \$1,500 or more for other entities.⁸⁴ RPPs, associated entities and TPCs must not accept anonymous donations greater than \$1,000⁸⁵ or anonymously made loans of \$1,500 or greater.⁸⁶ These amounts are not indexed. Victoria's Electoral Act has a universal disclosure threshold and does not distinguish differing amounts.

Disclosure periods under the NT Electoral Act are less timely than in Victoria's Electoral Act. Donors who donate more than \$1,500 must disclose the donation to the NTEC within 60 days⁸⁷ after the end of the financial year. Agents of RPPs must give the NTEC a financial

⁸¹ The *Electoral Act 2004* (NT) (**NT Electoral Act**) defines 'electoral expenditure' as expenditure incurred during the capped expenditure period in relation to a number of of electoral advertising activities and opinion poll, well as receiving gifts for these purposes (s 176A).

⁸² NT Electoral Act s 203B.

⁸³ See this resource for a timeline of NTEC reporting requirements on page 3: [Overview \(nt.gov.au\)](https://www.nt.gov.au/n-tec/overview).

⁸⁴ NT Electoral Act s192D(2)(a).

⁸⁵ *Ibid*, s 197.

⁸⁶ *Ibid*, s 193.

⁸⁷ *Ibid*.

year annual return within 60 days after the end of each financial year detailing donations received and amounts paid.

Expenditure

Agents of RPP and candidates and other entities must also give the NTEC an election return within 60 days after election day. For a general election, the reporting period starts on 1 January in the year in which the election is held and ending 30 days after election day. For other elections the reporting period starts from the day of the issue of the writ until 30 days after election day.⁸⁸

Political donation limits

Both NT Electoral Act and the Victorian Electoral Act make it illegal to accept an anonymous donation that equals or exceeds the disclosure threshold. A point of difference is the disclosure threshold established by the NT Electoral Act is \$1,500 (not indexed)⁸⁹ compared to the current disclosure threshold of \$1,080 in Victoria's Electoral Act. Another point of difference is that the NT Electoral Act does not implement a donations cap or a ban on foreign political donations.

Funding streams

The NT Electoral Act does not outline any entitlement to public funding, whereas Victoria's Electoral Act has 3 distinct funding schemes.

⁸⁸ *Ibid*, s 200.

⁸⁹ *Ibid*.

Appendix 1.5. Queensland

QLD summary	
Donation cap	\$4,000 to RPPs. \$6,000 to candidates.
Donation disclosure timeframe	Weekly. Within 24 hours near an election.
Donation disclosure threshold	\$1000
PF (or equivalent) entitlement (per first preference vote)	\$6 for RPPs. \$3 for independents.
Threshold of first preference votes needed to receive PF	4% (formerly 6%)
PF (or equivalent) funding mechanism	Applied for retrospectively on submission of audited statement and invoices after an election.
AEF (or equivalent) entitlement	N/A
PDF (or equivalent) entitlement	Entitlement based on seat and vote ratios of an RPP or independent member.
Political expenditure cap	Yes, max cap for major parties is \$1.04mil.
Political and electoral expenditure disclosure requirements	All expenditure during capped period to be disclosed within 15 weeks after election.
Capped political expenditure period	Beginning of April in an election year until election night.
Capped event attendance fees	No strict cap, attendance fee that exceeds \$200 is considered a gift.
Capped affiliation, levy or subscription fees	Yes
Indexation for donation disclosure threshold	N/A
Bans foreign donations	Yes
Bans anonymous donations	Yes
Bans donations from certain industries	Yes
Prohibition on cash donations	N/A
Donation/gifts annual returns	N/A

General summary

Part 11 of the *Electoral Act 1992* (QLD) (**QLD Electoral Act**) and Part 12 of Victoria's Electoral Act share similar provisions but differ in certain aspects. For example, the QLD Electoral Act has political and electoral expenditure caps,⁹⁰ whereas Victoria's Electoral Act does not.⁹¹ While it has election funding and policy development payment, which are similar to PF and PDF in Victoria respectively.⁹² The political donation disclosure timeframe under the QLD Electoral Act is shorter than Victoria's Electoral Act's disclosure timeframe - 7 days as compared to 21 days. The disclosure timeframe is shortened to 24 hours starting from 7 days before the election day.⁹³ The donations cap and limits between jurisdictions are similar except that the QLD Electoral Act prohibits certain industries from making political donations.⁹⁴

Expenditure limits

The QLD Electoral Act contains expenditure limits whereas Victoria's Electoral Act does not. The capped expenditure period for a general election is between the first business day after the last Saturday in March before the election until the 6pm on election night.⁹⁵ The cap is indexed after an election and differs between political participants. For 2024, RPPs may only incur electoral expenditure up to \$95,964.09 in each electoral district where they have an endorsed candidate. Independents can incur up to \$90,748.65 for a district.⁹⁶

The cap is multiplied by the number of electoral districts for which the party has endorsed a candidate in the election. Accordingly, for major parties running in all 93 districts the expenditure cap is \$8,924,652.⁹⁷ The expenditure cap applies to TPCs and differs based on whether the TPC is registered with the Electoral Commission of Queensland (**ECQ**) or not. Within the QLD Electoral Act, the expenditure cap for a registered third party sits around a total of \$1 million (indexed) but for third parties who are unregistered, the cap is reduced to \$6000.⁹⁸ This cumulative amount of \$6,000 for unregistered TPCs is not indexed. Like other Acts, an AE's expenditure is aggregated with the expenditure of the party they are associated with.

Disclosure requirements

Disclosure returns detailing donations and expenditure are separately published by the ECQ via the Electronic Disclosure System (EDS) and appears as it has been uploaded by the user.⁹⁹ This is unlike the VEC's administration of disclosures, which are inspected by the VEC before they are published to the VEC website.

⁹⁰ *Electoral Act 1992* (Qld) (**Qld Electoral Act**) pt 11 div 9.

⁹¹ 'Electoral expenditure' being the term used in the Qld Electoral Act.

⁹² Qld Electoral Act pt 11 div 4.

⁹³ *Electoral Regulations 2013* (Qld) reg 8A.

⁹⁴ Qld Electoral Act s 273.

⁹⁵ *Ibid*, s 280.

⁹⁶ *Ibid*, s 281C

⁹⁷ *Ibid*.

⁹⁸ *Ibid*, ss 281E, 281H.

⁹⁹ See: [Registered political parties | Electoral Commission of Queensland \(ecq.qld.gov.au\)](https://ecq.qld.gov.au) under 'disclosing gifts and loans' and 'incurring electoral expenditure'.

Donations

The donation disclosure threshold under the QLD Electoral Act is \$1,000,¹⁰⁰ which is similar to the disclosure threshold in Victoria's Electoral Act. However, the threshold in Queensland is not indexed and does not vary each financial year. Under the QLD Electoral Act, donations made or received over the threshold must be disclosed to the ECQ within 7 days. In the final week leading up to an election, donation disclosure returns must be lodged within 24 hours – this is not the case under Victoria's Electoral Act.¹⁰¹

If an election participant receives a gift or loan above the disclosure threshold, a disclosure return must be given within 15 weeks to the ECQ after polling day.¹⁰² The return mainly outlines gifts received and the details of the donors. Third parties which incur more than \$1,000 (not indexed) of expenditure must submit a disclosure return to the ECQ containing donations made or received.

Expenditure

Under the QLD Electoral Act, RPPs must disclose all expenditure incurred in a campaign by submitting an election summary return within 15 weeks after the election. This must contain all expenditure within or beyond of the capped expenditure period.¹⁰³

Political donation limits

Both Victorian and Queensland Electoral Acts establish political donation limits. An RPP or candidate must not, in either Act, accept foreign donations (called 'foreign property'¹⁰⁴ under the QLD Electoral Act). The QLD Electoral Act specifies that foreign political donations must not be received but does not acknowledge foreign donations that are made. Alternatively, Victoria's Electoral Act bans foreign donations made or received.

Anonymous political donations made over the disclosure threshold are also banned in both jurisdictions. However, under the QLD Electoral Act, an independent candidate must not accept an anonymous donation above \$200 (not indexed), instead of the disclosure threshold amount of \$1,000.¹⁰⁵ This is unlike Victoria's Electoral Act whereby all political donation recipients are subject to the anonymous donation disclosure threshold of \$1,000 (indexed).

Both acts contain donation caps. Under the QLD Electoral Act, the donation cap for an RPP is \$4,000 and for candidates it is \$6,000.¹⁰⁶ Victoria's Electoral Act by contrast does not distinguish between donation recipients and has a universal cap of \$4,000 (currently \$4,320). Both caps are indexed to CPI and consider aggregation in whether the cap has been contravened. However, the donation cap under the QLD Electoral Act is indexed every general election based on a formula,¹⁰⁷ instead of the yearly adjustment as set out in Victoria's Electoral Act.

¹⁰⁰ Qld Electoral Act s 201A.

¹⁰¹ *Electoral Regulation 2013* (Qld) reg 8A.

¹⁰² Qld Electoral Act s 261(2)(c).

¹⁰³ See: [Fact-sheet-09-Disclosure-of-electoral-expenditure.pdf \(ecq.qld.gov.au\)](#).

¹⁰⁴ Qld Electoral Act pt 11 div 8 sub-div 1.

¹⁰⁵ *Ibid*, pt 11 div 8 sub-div 2.

¹⁰⁶ *Ibid*, s 251.

¹⁰⁷ *Ibid*, s 253.

The QLD Electoral Act bans property developers and property developer industries (and their close associates) from making political donations.¹⁰⁸ Victoria's Electoral Act has no provisions that ban certain industry donors.

Funding streams

The QLD Electoral Act has two funding streams, election funding and policy development payments, compared to the 3 in Victoria's Electoral Act. Election funding is similar to PF in Victoria and policy development payments are similar to PDF in Victoria.

The QLD Electoral Act provides election funding to electoral participants who received more than 4% of first preference votes,¹⁰⁹ same as the threshold in Victoria's Electoral Act. The entitlement amount is different for RPPs and independent candidates, which is not a distinction that Victoria's Electoral Act makes. Under Victoria's Electoral Act, the entitlement amount only changes depending on if the votes were given for an upper or lower house election. As Queensland does not have a second chamber of parliament, the distinction is irrelevant in that jurisdiction.

Under the QLD Electoral Act, an RPP is entitled to \$6 (indexed) per first preference vote and independents are entitled to \$3 per first preference votes (indexed). Like Victoria's Electoral Act, public funding is paid up to the amount of expenditure an election participant has incurred.

Queensland also provides a funding stream similar to PDF in Victoria. Under the QLD Electoral Act, entitlement is based on whether a party has been registered for the last election and if they have at least one elected member of Parliament. The entitlement amount under the QLD Electoral Act is varied according to a formula in the legislation, which takes into account the overall combined vote and seat ratio for a political party or independent member in parliament.¹¹⁰

¹⁰⁸ Ibid, s 273.

¹⁰⁹ Ibid, pt 11 div 4 sub-div 2. See also: [Claiming election funding | Electoral Commission of Queensland \(ecq.qld.gov.au\)](#).

¹¹⁰ Qld Electoral Act pt 11 div 5; *Electoral Regulations 2013* (Qld) reg 8.

Appendix 1.6. South Australia (SA)

SA summary	
Donation cap	N/A
Donation disclosure timeframe	Half-yearly. Weekly during an election period
Donation disclosure threshold	\$5,838
PF (or equivalent) entitlement (per first preference vote)	\$3.51
Threshold of first preference votes needed to receive PF	4% for lower house, 2% for upper house.
PF (or equivalent) funding mechanism	Applied for retrospectively on submission of audited statement and invoices after an election.
AEF (or equivalent) entitlement	Max \$70,048
PDF (or equivalent) entitlement	N/A
Political expenditure cap	Opt-in system, max cap for major parties is ~\$4.7mil.
Political and electoral expenditure disclosure requirements	Expenditure incurred during capped expenditure period to be disclosed if incurred over \$5,000, return submitted within 60 days after election.
Capped political expenditure period	Beginning of financial year of election year, ends 30 days after election.
Capped event attendance fees	Yes
Capped affiliation, levy or subscription fees	N/A
Indexation for donation disclosure threshold	Yes
Bans foreign donations	N/A
Bans anonymous donations	Yes
Bans donations from certain industries	N/A
Prohibition on cash donations	N/A
Donation/gifts annual returns	Annual returns, required for gifts used for expenditure.

General summary

Part 13A of the *Electoral Act 1985 (SA)* (**SA Electoral Act**) shares many similarities with Victoria's Electoral Act but they differ in some key areas. For instance, the SA Electoral Act scheme provides public funding but the funding can be significantly reduced by any over-spending amount above the political and electoral expenditure cap.¹¹¹ Victoria's Electoral Act does not have this condition to be eligible for PF since it does not have an expenditure cap,¹¹² and it is also worth noting that this condition is unique across other Australian jurisdictions which do have an expenditure cap.

Both Acts have a disclosure threshold and administrative expenditure funding. A point of difference is the SA Electoral Act does not have a general cap on political donations whereas Victoria's Electoral Act has a cap of \$4,320 (indexed).

Limits under the SA Electoral Act are indexed on 1 July of each financial year.¹¹³

Expenditure limits

In order to receive public funding under the SA Electoral Act, a candidate, group or party must also opt-in to adhering to the expenditure cap,¹¹⁴ whereas Victoria's Electoral Act does not have an expenditure limit in any capacity. The capped expenditure period in the SA Electoral Act starts from the beginning of a financial year in which an election is to be held and ends 30 days after election day.¹¹⁵ The cap is indexed and is \$500,000 (currently \$583,730) for parties who have endorsed candidates only for upper house elections. For lower house elections, the cap is \$75,000 (currently \$87,560) multiplied by the number of electoral districts in which the party endorses a candidate. For major parties, the maximum cap is \$4,699,050 for running in all 47 lower house districts plus the upper house candidate cap.¹¹⁶

Disclosure requirements

Donations

Both SA Electoral Act and Victoria's Electoral Act establish a disclosure threshold. The SA Electoral Act has an indexed threshold of \$5,000 (currently \$5,838)¹¹⁷ whereas Victoria's Electoral Act's figure is \$1,000 (indexed to \$1,080). Donors and recipients under the SA Electoral Act must disclose political donations over the threshold on a half-yearly basis.

During an election period, donation disclosures are required more frequently. From 1 January in an election year, disclosure returns must be submitted prior to 5 February. After 5 February and until a month after election day, disclosure returns are required on a weekly basis.¹¹⁸ Returns must be accompanied by an audit certificate, like Victoria's Electoral Act. Victoria's Electoral Act requires disclosure returns more frequently - after 21 days of the donation being made or received. However, the timeframe in which a disclosure return

¹¹¹ *Electoral Act 1985 (SA)* (**SA Electoral Act**) s 130Q.

¹¹² 'Political expenditure' being the term used in the SA Electoral Act

¹¹³ SA Electoral Act s 130A(8).

¹¹⁴ *Ibid*, s 130Y(1)(a).

¹¹⁵ *Ibid*, s 130A(1).

¹¹⁶ *Ibid*, s 130Z.

¹¹⁷ *Ibid*, s 130ZF(4)(a).

¹¹⁸ *Ibid*, s 130ZH(7).

needs to be submitted does not change in the lead up to an election like it does under the SA Electoral Act. An exception to the SA Electoral Act timeframe is that an RPP must disclose a large gift over \$25,000 within 7 days of receiving the gift. This amount is not indexed.¹¹⁹ Both commissions are required to publish disclosure returns on the internet.

Expenditure

Expenditure incurred during capped expenditure period must be disclosed to the SA Electoral Commission if it is over \$5000. The SA Electoral Act requests a return to be submitted within 60 days after an election.

Political Donation limits

Both SA Electoral Act and the Victorian Electoral Act make it unlawful to accept anonymous political donations.¹²⁰ Where they differ is Victoria's Electoral Act makes it illegal to both make and receive an anonymous donation above the disclosure threshold. The SA Electoral Act specifies that it is unlawful only to receive an anonymous political donation over \$200, but it is not unlawful to make that anonymous political donation.

The dollar threshold in making an anonymous political donation under the SA Electoral Act is \$200 and not indexed, which is lower in comparison to Victoria's Electoral Act where it is \$1,000 (indexed). The difference between the two acts is that Victoria's Electoral Act makes it unlawful to both make and receive anonymous political donations above the threshold.

The SA Electoral Act does not establish a general donations cap like Victoria's Electoral Act does. However, Victoria's Electoral Act does not cap entry tickets (to a fundraiser for example) where the SA Electoral Act caps entry ticket fees at \$500. This amount is not indexed.¹²¹

Funding streams

Both SA Electoral Act and the Victorian Electoral Act outline public funding and administrative expenditure funding (or 'special assistance funding' under the SA Electoral Act). The SA Electoral Act does not have policy development funding as a distinct stream of funding.

To be eligible for public funding under the SA Electoral Act, an eligible recipient must submit a certificate to the ECSA. The certificate is an application for public funding which also applies an expenditure cap to the recipient. This means public funding can only be accessed if the eligible recipient also opts in the expenditure cap.¹²² Victoria's Electoral Act does not impose a similar condition to receive public funding.

Under both Acts, public funding is payable up to the amount of political expenditure incurred. Under the SA Electoral Act, payments are indexed and can only be made if a candidate running in a lower house election receives 4% of first preference votes, or 2% for upper house candidates.¹²³ By comparison, the upper house vote threshold detailed in the SA

¹¹⁹ Ibid, s 130ZI(1).

¹²⁰ Ibid, s 130ZJ.

¹²¹ Ibid, s 130ZL.

¹²² Ibid, s 130Y.

¹²³ Ibid, s 130Q.

Electoral Act is lower than Victoria's Electoral Act, since candidates contesting a Victorian election for either house need to receive at least 4%.

The funding rate under the SA Electoral Act (indexed for the 2022-23 financial year) is \$3.51 per first preference vote for independent members or candidates endorsed by an RPP that has at least one member in either house of Parliament. For all other candidates and groups not falling into either category, the entitlement amount is \$4.09 for every first preference vote up to 10% and \$3.51 for votes achieved above 10%.¹²⁴

Compared to Victoria's Electoral Act, these amounts are lower and differ based on the type of candidate, rather than the chamber of parliament they are running for. Under Victoria's Electoral Act, candidates running for the lower house who achieve more than 4% of votes are eligible to a greater amount of \$6.49 per first preference vote and \$3.24 for the upper house.

Similar to Victoria's Electoral Act, the SA Electoral Act establishes administrative expenditure funding. The SA Electoral Act designates this as 'special assistance funding'. To be eligible, an RPP must have at least one elected member. The amount is indexed, paid half-yearly and paid up to the amount of administrative expenditure incurred by an RPP. For a party with 5 or fewer elected members, an RPP is entitled to \$40,862. If an RPP has 6 or more elected members, they are entitled to \$70,048.¹²⁵

Victoria's Electoral Act by comparison has more delineations in the rates owed to a party and the entitlement reduces with more elected members instead of increasing. The entitlement is also greater and paid more frequently (on a quarterly advance basis) than the SA Electoral Act. Specifically, under Victoria's Electoral Act, the amount for the first member elected is \$216,210, for the 2nd it is \$75,660 and for the 3rd to 45th elected members it is \$37,850 per member.

¹²⁴ Ibid, s 130P.

¹²⁵ Ibid, s 130U.

Appendix 1.7. Tasmania

Tas summary	
Donation cap	N/A
Donation disclosure timeframe	N/A
Donation disclosure threshold	N/A
PF (or equivalent) entitlement (per first preference vote)	N/A
Threshold of first preference votes needed to receive PF	N/A
PF (or equivalent) funding mechanism	N/A
AEF (or equivalent) entitlement	N/A
PDF (or equivalent) entitlement	N/A
Political expenditure cap	Yes, \$19,000 for upper house independent candidates only. RPP upper house candidates cannot incur expenditure.
Political and electoral expenditure disclosure requirements	All expenditure for upper house elections disclosed within 60 days after election.
Capped political expenditure period	Does not specify
Capped event attendance fees	N/A
Capped affiliation, levy or subscription fees	N/A
Indexation for donation disclosure threshold	N/A
Bans foreign donations	N/A
Bans anonymous donations	N/A
Bans donations from certain industries	N/A
Prohibition on cash donations	N/A
Donation/gifts annual returns	N/A

General summary

Part 4 of the *Electoral Act 2004* (Tas) (**TAS Electoral Act**) only implements provisions regarding political and electoral expenditure.¹²⁶ It is the only state in Australia that does not currently have donation limits or donation disclosures of any kind. The TAS Electoral Act does not set out public funding for State elections.

It is important to note that the TAS Electoral Act is subject to change, with the *Electoral Disclosure and Funding Bill 2022* currently moving through the Tasmanian Parliament. The amendments, if passed, would implement disclosure requirements, political donation caps and other elements of a funding and disclosure scheme. What is described in this section are the current settings under existing legislation.

Expenditure limits

The TAS Electoral Act establishes expenditure limits, which Victoria's Electoral Act does not. However, this is limited specifically to upper house candidates. Within the TAS Electoral Act, the expenditure limit for upper house candidates is \$10,000 and increases by \$500 each subsequent year. Since this was implemented in 2005, the current expenditure cap is \$19,000.¹²⁷ Political parties are not to incur expenditure in a Legislative Council election.¹²⁸

Disclosure requirements

The TAS Electoral Act does not contain any requirements for disclosure returns. However, candidates must lodge an expenditure return to the TEC for Council elections within .¹²⁹

Political donation limits

There are currently no limits on the making or receiving of political donations under the TAS Electoral Act.

Funding streams

There are currently no funding streams under the TAS Electoral Act.

¹²⁶ 'Election expenditure' being the term used in the *Electoral Act 2004* (Tas) (**TAS Electoral Act**)

¹²⁷ Tas Electoral Act s 160(2).

¹²⁸ Ibid, s 162.

¹²⁹ Ibid, s 161.

Appendix 1.8. Western Australia (WA)

WA summary	
Donation cap	N/A
Donation disclosure timeframe	Annually
Donation disclosure threshold	\$2.600
PF (or equivalent) entitlement (per first preference vote)	\$2.13
Threshold of first preference votes needed to receive PF	4%
PF (or equivalent) funding mechanism	Applied for retrospectively on submission of audited statement and invoices after an election.
AEF (or equivalent) entitlement	N/A
PDF (or equivalent) entitlement	N/A
Political expenditure cap	N/A
Political and electoral expenditure disclosure requirements	All expenditure in relation to an election to be disclosed within 15 weeks of an election.
Capped political expenditure period	N/A
Capped event attendance fees	N/A
Capped affiliation, levy or subscription fees	N/A
Indexation for donation disclosure threshold	N/A
Bans foreign donations	N/A
Bans anonymous donations	Yes
Bans donations from certain industries	N/A
Prohibition on cash donations	N/A
Donation/gifts annual returns	Yes

General summary

Part VI of the *Electoral Act 1907 (WA)* (**WA Electoral Act**) primarily establishes donations disclosure, annual returns (for both donations and expenditure) and election funding. Election funding is similar to PF under Victoria's Electoral Act, which is also based on the number of eligible votes a candidate receives in an election. There are no prohibitions on particular types of political donations and the disclosure threshold is a higher dollar amount than Victoria's Electoral Act. The WA Electoral Act does not provide administrative expenditure or policy development funding and the electoral funding entitlement is less as compared to PF under Victoria's Electoral Act.

Expenditure limits

The WA Electoral Act does not establish an expenditure limit.

Disclosure requirements

The WA Electoral Act requires an annual disclosure of gifts and other income received by entities (**donation annual return**), as well as an election related disclosure return after an election. Donation annual returns and election related disclosure returns are published to the WAEC website, and donation annual returns are referred to in an annual political finance report to the Minister, which is then published by the WAEC.¹³⁰

Donations

Like Victoria's Electoral Act, the WA Electoral Act requires disclosure of donations in the period between and during elections. For the WA Electoral Act, donations over \$2,600¹³¹ must be disclosed, which is a greater amount than Victoria's Electoral Act's \$1,000. Both Acts account for aggregation in determining whether donations need to be disclosed.¹³²

Donation annual returns must be submitted by 30 November. The donation annual return must detail income, the amount and value of all gifts and the specific details of gifts that equal or exceed the disclosure threshold of \$2,600 (not indexed).¹³³ A nil return must be submitted if no income was received by the party.

Expenditure

An election-related return details political and electoral expenditure (mostly relating to advertisement broadcasting) and must be given to the WAEC,¹³⁴ except by associated entities, within 15 weeks after the end of the election.¹³⁵ A nil return must be submitted if no political and electoral expenditure was incurred.

¹³⁰ *Electoral Act 1907 (WA)* (**WA Electoral Act**) s 175ZG.

¹³¹ WA Electoral Act s 175. For disclosure threshold determined and published by the WAEC, please see: [Annual Returns | Western Australian Electoral Commission \(elections.wa.gov.au\)](https://elections.wa.gov.au/annual-returns).

¹³² WA Electoral Act s 175O(5).

¹³³ Ibid, ss 175N, 175NA.

¹³⁴ 'Electoral expenditure' being the term used in the WA Electoral Act.

¹³⁵ WA Electoral Act pt VI div 4.

Political donation limits

The WA Electoral Act bans making or receiving anonymous political donations that equal or above \$2,600. Alternatively, Victoria's Electoral Act bans anonymous political donations above \$1,000. Victoria's Electoral Act also bans foreign political donations, unlike the WA Electoral Act. The WA Electoral Act does not implement a general cap, whereas the Victorian Electoral Act does.

Funding streams

The WA Electoral Act does not establish administrative expenditure funding or policy development funding whereas Victoria's Electoral Act does.

The WA Electoral Act provides election funding (similar to PF in Victoria) per first preference vote if the number of eligible votes received in a district or region was 4% of the total votes.¹³⁶ The entitlement amount is based on the expenditure incurred by the party/candidate or is based on the first preference votes received. Whichever amount is lesser will be paid. This is similar to Victoria's Electoral Act which will pay the PF entitlement up to the amount of electoral expenditure or the PF entitlement, whichever is lesser.

The current amount of reimbursement for the WA Electoral Act (indexed annually) is \$2.13 per first preference vote as of 1 July 2022.¹³⁷

Both Acts require an audited statement of expenditure (or return under The WA Electoral Act) to accompany a claim for public funding. In the WA Electoral Act, the audited return must be submitted within 20 weeks¹³⁸ of election day, like Victoria's Electoral Act. However, only the WA Electoral Act requires the public reporting of political expenditure incurred by public agencies.¹³⁹

¹³⁶ Ibid, s 175LF.

¹³⁷ See: [Reimbursement of Electoral Expenditure | Western Australian Electoral Commission \(elections.wa.gov.au\)](https://elections.wa.gov.au).

¹³⁸ Ibid, s 175LD(6)(a).

¹³⁹ Ibid, s175ZE.

Appendix 2 – Indexed amounts by financial year

	2023-24	2022-23	2021-22	2020-21	2019-20	2018-19
Donation disclosure threshold	\$1,170	\$1,080	\$1,050	\$1,040	\$1,020	\$1,000
General donation cap	\$4,670	\$4,320	\$4,210	\$4,160	\$4,080	\$4,000
Small contributions	\$58 or less	\$54 or less	\$53 or less	\$52 or less	\$51 or less	\$50 or less
Administrative expenditure funding for independent elected members	\$233,490	\$216,210	\$210,870	\$208,200	\$204,100	\$200,000
Administrative expenditure funding for registered political parties (capped at 45 members)	\$233,490 for the first member \$81,710 for the 2nd to 45th	\$216,210 for the first member \$75,660 for the 2nd to 45th	\$210,870 for the first member \$73,790 for the 2nd to 45th	\$208,200 for the first member \$72,860 for the 2nd to 45th	\$204,100 for the first member \$71,430 for the 2nd to 45th	\$200,000 for the first member \$70,000 for the 2nd to 45th
Public funding (per first preference vote)	Legislative Assembly candidates: \$7.01 Legislative Council candidates: \$3.50	Legislative Assembly candidates: \$6.49 Legislative Council candidates: \$3.24	Legislative Assembly candidates: \$6.33 Legislative Council candidates: \$3.16	Legislative Assembly candidates: \$6.25 Legislative Council candidates: \$3.12	Legislative Assembly candidates: \$6.12 Legislative Council candidates: \$3.06	Legislative Assembly candidates: \$6 Legislative Council candidates: \$3
Policy development funding	\$1.17 per first preference vote or \$29,180 (whichever is more)	\$1.08 per first preference vote or \$27,020 (whichever is more)	\$1.05 per first preference vote or \$26,350 (whichever is more)	\$1.04 per first preference vote or \$26,020 (whichever is more)	\$1.02 per first preference vote or \$25,510 (whichever is more)	\$1 per first preference vote or \$25,000 (whichever is more)

