

2000

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Tucker)

Electoral Amendment Bill 2000 (No 3)

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(As presented)

(Ms Tucker)

Electoral Amendment Bill 2000 (No 3)

**A BILL
FOR**

An Act to amend the *Electoral Act 1992*

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

1 Name of Act

This Act is the *Electoral Amendment Act 2000 (No 3)*.

5 2 Commencement

This Act commences on the day it is notified in the Gazette.

3 Act amended

This Act amends the *Electoral Act 1992*.

4 Interpretation

Section 198 is amended—

- 5 (a) by omitting “independent” from the definitions of *associated entity* and *reporting agent*; and
- (b) by omitting the definition of *independent MLA*; and
- (c) by omitting paragraph (a) from the definition of *register* and substituting the following paragraph:
- 10 “(a) in relation to a reporting agent appointed by a party or an MLA—the Register of Party and MLA Reporting Agents kept under subsection 205 (1); or”.

5 Appointed agents

Section 203 is amended by omitting from subsection (1)

15 “independent”.

6 Non-appointed agents

Section 204 is amended by omitting from subsection (3)

“independent”.

7 Registers of reporting agents

Section 205 is amended by omitting from subsection (1)

20 “Independent” and substituting “MLA”.

8 Annual returns of donations

Section 221A is amended—

- (a) by omitting from subsections (1) and (2) “independent”; and
- 25 (b) by omitting from paragraphs (3) (c) and (4) (c) “independent”; and
- (c) by omitting from subsection (5) “independent”.

9 Advice of obligation to lodge return

Section 221B is amended by omitting from subsection (1) "independent".

10 Anonymous gifts

5 Section 222 is amended—

- (a) by omitting from subsection (1) "independent"; and
- (b) by omitting from paragraphs (2) (a) and (5) (c) "independent"; and
- (c) by omitting from paragraph (6) (b) "independent".

10 **11 Annual return by parties and MLAs**

Section 230 is amended—

- (a) by omitting from the heading "and MLAs"; and
- (b) by omitting from subsection (1) "or an independent MLA shall" and substituting "must"; and
- 15 (c) by omitting from subsection (2) "or MLA"; and
- (d) by omitting subsections (3), (4) and (7).

12 Insertion

After section 230 the following sections are inserted:

"230A Annual returns by MLAs

20 **"(1)** Subject to section 231, the reporting agent of an MLA must, within 16 weeks after the end of each financial year, give the commissioner a return in the approved form.

"(2) If an MLA is elected during the financial year, the MLA's reporting agent must, within 28 days of the MLA taking the oath or affirmation of office, give the commissioner a return in the approved form setting out the details of the MLA's financial interests.

25 *Note* The details of financial interests are set out in subsection 230B (3).

“(3) A return must state—

- (a) an amount received by, or on behalf of, the MLA during the financial year; and
- (b) an amount paid by, or on behalf of, the MLA during the financial year; and
- (c) an outstanding amount, as at the end of the financial year, of debt incurred by, or on behalf of, the MLA together with the particulars required by section 234; and
- (d) any financial interest held by, or on behalf of, the MLA during the financial year.

Note The details of income, expenditure and financial interests are set out in section 230B.

“(4) If a person ceases to be an MLA during a financial year, this section applies to the person in relation to the year as if the person were the reporting agent.

“230B Details of income, expenditure and financial interests

“(1) For paragraph 230A (3) (a), an amount received by, or on behalf of, the MLA is a reference to an amount received in the financial year by the MLA, the spouse of the MLA and each dependent of the MLA—

(a) from—

- (i) interest and dividends from a shareholding, trust, bank or other financial institution, if the total is \$1 000 or more; or
- (ii) any real estate investment, if the net income is \$1 000 or more; or
- (iii) gross income from a company directorship or business partnership; or
- (iv) gross salary and allowances (if any) from employment other than employment as an MLA of \$1 000 or more; or
- (v) a government pension, benefit or allowance; or

(b) by way of any gift, travel or hospitality received by the MLA in his or her capacity as an MLA that is valued at \$100 or more; or

- (c) from any source of income not mentioned in paragraphs (a) or (b) of \$1 000 or more.

Example for paragraph (b) of an amount not required to be stated in a return

5 A gift given to the MLA in a private capacity for his or her personal use eg a birthday gift from a family member.

“(2) For subparagraphs (1) (a) (iv) and (v) and paragraphs (1) (b) and (c), the MLA must provide details of the source of income in the annual return.

10 “(3) For paragraph 230A (3) (b) or (c), an amount paid, or an outstanding amount of debt incurred, by or on behalf of an MLA, is a reference to an amount paid for, or an outstanding amount of debt incurred on—

- (a) broadcasting an advertisement; or
- (b) publishing an advertisement in a newspaper or periodical; or
- (c) displaying an advertisement at a theatre or other place of entertainment; or
- 15 (d) producing an advertisement mentioned in paragraphs (a) to (c); or
- (e) producing any printed electoral matter to which section 292 applies (other than material mentioned in paragraphs (a) to (c) of this section); or
- (f) producing and distributing electoral matter that is addressed to
- 20 particular persons or organisations; or
- (g) consultant’s or advertising agent’s fees for services provided; or
- (h) carrying out an opinion poll or other research; or
- (i) payment to a political party, MLA or candidate, if the total amount is \$200 or more.

25 “(4) For paragraph 230A (3) (d), a financial interest held by or on behalf of an MLA is a reference to a financial interest held during the financial year by the MLA, the spouse of the MLA and each dependent of the MLA in—

- (a) a company in which shares are held; or
- 30 (b) a trust in which a beneficial interest is held; or
- (c) an interest in real estate; or

- (d) a business in which the person is a director or partner; or
- (e) any other financial institution; or
- (f) a mortgage, lease agreement, loan, credit contract or overdraft facility; or
- 5 (g) any other asset valued at \$5 000 or more, other than a motor vehicle, household item or personal effect; or
- (h) any organisation in which the person was an office-holder or to which the person contributed \$100 or more in that financial year.

10 “(5) A return must state whether the amounts were received, or financial interests were held, by the MLA, the spouse of the MLA or any dependent of the MLA.

“(6) In this section:

credit contract—see the *Credit Act 1985*, subsection 5 (1) (Interpretation).

15 *spouse*, of a person, includes a person who is not legally married to the person but who lives with the person as husband or wife.

“230C Change in financial interests

“(1) This section applies if there is a change to a financial interest held by, or on behalf of, an MLA.

20 “(2) The MLA’s reporting agent must, within 28 days of the change, give the commissioner a fresh return setting out the details of the MLA’s financial interests.”

13 Periods of less than financial year

Section 231 is amended—

- 25 (a) by omitting “independent”; and
- (b) by inserting “or 230A” after “section 230”.

14 Amounts received

Section 232 is amended by omitting from subsection (1) “, an MLA” and “, MLA”.

15 Amounts paid

Section 233 is amended by omitting from subsection (1) “, MLA”.

16 Outstanding amounts

Section 234 is amended—

- 5 (a) by omitting from subsection (1) “or MLA”; and
 (b) by renumbering subsection (2) as (3); and
 (c) by inserting after subsection (1) the following subsection:

10 “(2) If, at the end of a financial year, the total of all debts mentioned in paragraph 230A (3) (c) that are owed by an MLA to a particular person or organisation is \$1 500 or more, the return by the MLA under section 230A must specify the total and include the defined particulars.”.

17 Regulations

15 Section 234A is amended by inserting in subsection (1) “, 230A” after “section 230”.

18 Records

Section 239 is amended by omitting from subsections (2) and (3) “independent”.

19 Amendment of returns

20 Section 242 is amended by omitting from paragraph (3) (b) “independent”.

20 Inspection and supply of copies of returns

Section 243 is amended—

- 25 (a) by renumbering paragraphs (1) (b) and (c) as (1) (a) and (b); and
 (b) by omitting from subsection (4) “or (b)”; and

- (c) by omitting subsection (5) and substituting the following subsections:

“(5) A person may examine, or obtain a copy of, a return mentioned in paragraph (1) (b)—

- (a) for an annual return by an MLA—from the day following the day when the return is received by the commissioner; or
(b) for any other return—from 1 February in the year following the year in which the return is given to the commissioner.

“(6) The commissioner—

- (a) may allow a person to examine, or obtain a copy of, a return under paragraph (5) (a) only if is satisfied about the identity of the person; and
(b) must give an MLA the name of any person who has examined, or obtained a copy of, the MLA’s return under this section within 7 days of the examination or the giving of the copy.

“(7) The commissioner must not allow a person to examine, or obtain a copy of, a return under paragraph (5) (a) of a person who has ceased to be an MLA.”.

21 Evidentiary certificates

Section 337 is amended by omitting from paragraphs (1) (h) and (j) “independent”.

22 Insertion

After section 341 the following Part is inserted:

“PART 20—TRANSITIONAL

“342 Application of amendments made by Electoral Amendment Act 2000 (No 3)

(1) The amendments made by the *Electoral Amendment Act 2000 (No 3)* do not apply in relation to the financial year that began on 1 July 2000.

Electoral Amendment (No 3) No , 2000

(2) This section expires on 30 June 2002.”

Endnote

Act amended

1 Republished as in force on 31 March 1999. See also Acts 2000 Nos 50 and #.

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