

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Meredith Hunter)

Electoral (Limit on Gifts) Amendment Bill 2012

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Electoral (Limit on Gifts) Amendment Bill 2012

A Bill for

An Act to amend the *Electoral Act 1992*

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

- 1 **1 Name of Act**
- 2 This Act is the *Electoral (Limit on Gifts) Amendment Act 2012*.
- 3 **2 Commencement**
- 4 This Act commences immediately after the commencement of the
- 5 *Electoral Amendment Act 2012*, section 3.
- 6 *Note* The naming and commencement provisions automatically commence on
- 7 the notification day (see Legislation Act, s 75 (1)).
- 8 **3 Legislation amended**
- 9 This Act amends the *Electoral Act 1992*.
- 10 **4 Limit on gifts received**
- 11 **New section 205I (1A)**
- 12 *insert*
- 13 (1A) For this section, a gift made by an entity within a grouping to
- 14 another entity within the grouping is taken to be a gift made by a
- 15 person to the grouping.
- 16 **5 Section 205I (4)**
- 17 *substitute*
- 18 (4) Also, a receiver other than a third-party campaigner must not accept
- 19 a gift from a person who is not an individual enrolled to vote in the
- 20 ACT unless—
- 21 (a) if the gift is an amount of money—the gift is paid into an
- 22 account kept only for federal election campaigns; or
- 23 (b) if the gift is not an amount of money—
- 24 (i) if an amount of money is derived from the gift—the
- 25 amount is paid into an account kept only for federal
- 26 election campaigns; or

1 (ii) in any other case—the gift is used only for federal
2 election campaigns.

3 **6 Section 205I (7)**

4 *after*
5 amount
6 *insert*
7 or value

8 **7 Section 205I (8) (a)**

9 *omit*
10 the federal election account
11 *substitute*
12 an account kept only for federal election campaigns

13 **8 Section 205I (9)**

14 *omit*
15 subsection (5), subsection (6) (b) or subsection 8 (b)
16 *substitute*
17 subsection (5), (6) (b), (7) or (8) (c)

18 **9 New section 205I (12)**

19 *insert*
20 (12) For this section, an account is kept only for federal election
21 campaigns if payments are made from the account only for goods or
22 services used for a federal election campaign.

10 New section 205IA

insert

205IA Transfer of funds between accounts prohibited

- (1) This section applies to any of the following (a *receiver*):
- (a) a party grouping;
 - (b) a non-party MLA and an associated entity of the MLA;
 - (c) a non-party candidate grouping;
 - (d) a non-party prospective candidate grouping.
- (2) A receiver must not transfer any amount from an account kept by the receiver only for federal election campaigns to another account held by the receiver.
- (3) If a receiver contravenes subsection (2), the receiver is liable to pay a penalty to the Territory equal to twice the amount transferred.
- (4) However, if the receiver repays the transferred amount into the account kept only for federal election campaigns within 30 days after the amount is transferred—no amount is payable to the Territory.
- (5) The commissioner may recover an amount payable under subsection (3) from—
- (a) if the receiver is a party grouping—the party; or
 - (b) if the receiver is a non-party MLA or associated entity of the MLA—the non-party MLA; or
 - (c) if the receiver is a non-party candidate grouping—the non-party candidate; or
 - (d) if the receiver is a non-party prospective candidate grouping—the non-party prospective candidate.

(6) This section does not apply to an amount transferred by a prospective candidate for an election if the prospective candidate is not later declared as a candidate for the election under section 109.

(7) For this section, an account is kept only for federal election campaigns if payments are made from the account only for goods or services used for a federal election campaign.

11 New section 205JA

insert

205JA Offence—give indirect gift to avoid prohibition

(1) A person commits an offence if—

- (a) the person is not an individual enrolled to vote in the ACT; and
- (b) the person gives an amount or thing (a **donation**) to an individual enrolled to vote in the ACT (the **donor**); and
- (c) the person directs or requests the donor to give all or part of the donation to a party, MLA, candidate, or an associated entity of a party or MLA.

Maximum penalty: 100 penalty units.

(2) This section does not apply to a gift that is returned by the donor to the person within 30 days after it is received.

12 Anonymous gifts Section 222 (1)

omit

A party, MLA, non-party candidate or associated entity

substitute

A party grouping, non-party MLA and an associated entity of the MLA, non-party candidate grouping, or non-party prospective candidate grouping

1 **13 Section 222 (1)**

2 ~~omit~~

3 \$1 000

4 ~~substitute~~

5 \$250

6 **14 Section 222 (2)**

7 ~~substitute~~

8 (2) Subsection (1) applies—

9 (a) for a party grouping, non-party MLA or associated entity of the
10 MLA—to gifts received at any time; or

11 (b) for a non-party candidate grouping or non-party prospective
12 candidate grouping—to gifts received during the disclosure
13 period.

14 **15 Section 222 (2A)**

15 ~~omit~~

16 A party, MLA or associated entity of a party or MLA

17 ~~substitute~~

18 A party grouping, non-party MLA or associated entity of the MLA

19 **16 Section 222 (2A)**

20 ~~omit~~

21 the party, MLA or entity

22 ~~substitute~~

23 the party grouping, or the non-party MLA and associated entity of
24 the MLA,

1 **17 Section 222 (2B)**

2 *omit*

3 candidate

4 *substitute*

5 non-party candidate grouping or non-party prospective candidate
6 grouping

7 **18 Section 222 (3)**

8 *substitute*

9 (3) For this section, 2 or more gifts made by the same person to or for
10 the benefit of a party grouping, non-party MLA or associated entity
11 of the MLA, non-party candidate grouping or non-party prospective
12 candidate grouping are taken to be a single gift.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 6 June 2012.

2 Notification

Notified under the Legislation Act on 2012.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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