2009

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

ELECTORAL AMENDMENT REGULATION 2009 (No 1)

SL 2009 -50

EXPLANATORY STATEMENT

Circulated by authority of
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OUTLINE

The purpose of this amendment of the *Electoral Regulation 1993* is to prescribe that fees received by an associated entity totalling less than $50 in a financial year for membership of the entity are excluded from the requirements for reporting to the Electoral Commissioner by the entity in its annual return of receipts, payments, capital and outstanding debts.

Section 231B of the *Electoral Act 1992* provides that an associated entity must provide an annual return of receipts, payments, capital and outstanding debts to the Electoral Commissioner within 16 weeks of the end of each financial year.

Subsection 232(3) provides for the detail required to be included in the return, and subsection 232(4) provides for the information that is not required to be included in the return. This latter subsection provides for other amounts to be prescribed by regulation.

Amendments made to the Electoral Act in 2008 removed the threshold under which the details of persons who made payments to an associated entity need not be provided. The amendment made it a requirement to disclose the name and address of all persons who made payments of any amount. An unintended outcome of that amendment was to require the disclosure of the name and address of all members of the entity paying a yearly membership fee, regardless of the amount of the membership fee.

The intent of the disclosure provisions is to make public the details of persons and organisations making donations of a material amount to political parties, MLAs, candidates or associated entities. Where the membership fee of an entity is a substantial amount, the details of members should be disclosed as the charging of a substantial membership fee could be otherwise seen as attempting to circumvent the disclosure provisions. However, many organisations that have the potential to be an associated entity, should they meet the definition, carry out business that includes, for example, the commercial supply of food and alcohol and provision of gaming facilities, and charge a nominal fee for membership of the organisation. As such the entity may have thousands of ordinary members, whose only interest in the entity is to be able to avail themselves of the entity's normal business services and facilities. Under the current provision, the name and address of those thousands of members would have to be disclosed to the Electoral Commissioner. In turn, the Electoral Commissioner would be required to publicly disclose these details, including on the Commissioner's website.

This amendment excludes from an associated entity's reporting any payment for membership fees to the entity, where the total of payments made is less than $50 in a financial year.

NOTES ON CLAUSES

Clause 1 Name of regulation

This clause states that the name of the regulation is the *Electoral Amendment Regulation 2009 (No 1).*

Clause 2 Commencement

This clause states that the regulation commences on the day after its notification.

Clause 3 Legislation amended

This clause states that the regulation amends the *Electoral Regulation 1993*.

Clause 4 New section 6

This clause inserts a new subsection 6(1) to prescribe amounts under section 232(4)(c) of the *Electoral Act 1992* that are excluded from the reporting requirements by an associated entity under section 232(3) of the Act. Where the sum of all amounts received by an associated entity from a person or organisation for membership of the entity during a financial year is less than $50, the associated entity is not required to disclose the name and address of the member in its annual return of receipts, payment, capital and outstanding debts to the Electoral Commissioner.

The clause also inserts a new subsection 6(2) that provides that subsection 6(1) applies for returns of associated entities for the 2008-09 financial year and following years.

Further, the clause also inserts a new subsection 6(3) that provides for the expiry of subsections 6(2) and (3) on 1 July 2010, thereby removing the transitional provision of subsection 6(2), but ensuring that the new subsection 6(1) will apply for the 2010-11 and following years.