

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELECTORAL AMENDMENT BILL 2000 (No 3)

EXPLANATORY MEMORANDUM

**Circulated by authority of
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Outline

The Electoral Amendment Bill 2000 (No. 3) (the Bill) standardises the annual reporting requirements under the *Electoral Act 1992* (the Act) between independent MLAs and MLAs who represent political parties.

The Bill also introduces new annual reporting requirements for each MLA which requires them to submit annual returns to the Electoral Commissioner which disclose certain information on the income, electoral expenditure and financial interests of themselves, their spouses and dependent children. The Electoral Commissioner will provide conditional public access to the returns.

These reporting requirements merge the existing annual reporting requirements for independent MLAs in the Act with the Declarations of the Private Interests of Members provided by MLAs to the Clerk of the Assembly under the resolution agreed by the Assembly in April 1992. Once this Bill is passed, the Register of Members' Interests held by the Clerk will no longer be needed as all this information will be contained in the MLA returns provided to the Electoral Commissioner.

Clauses

Clauses 1, 2 and 3 are formal requirements which set out the name of the Act, commencement provisions and the name of the Act amended.

Clauses 4, 5, 6, 7, 8, 9, 10 convert existing references to an *independent MLA* in the Act to just *MLA*.

Clause 11 - Annual Returns by Parties and MLAs

Removes references to independent MLAs in Section 230 so that the annual reporting provisions set out in this Section only apply to Parties.

Clause 12 - Insertion of new Sections 230A, 230B and 230C relating to Annual Returns by MLAs

New Section 230A - Annual Returns by MLAs

Once an MLA is elected, the MLA (or their reporting agent) must, within 28 days of the MLA taking office, give the Electoral Commissioner a return setting out the MLA's financial interests.

Within 16 weeks after the end of each financial year an MLA (or their reporting agent) must give the Electoral Commissioner a return detailing amounts received, amounts paid,

and debts incurred by the MLA and any financial interests held by the MLA during the financial year (or part of the year they were an MLA, see Section 231).

New Section 230B – Details of income, expenditure and financial interests

This section sets out the details to be provided by the MLA in their return for the purposes of Section 230A. Note that references in Section 230B to the income, expenditure and financial interests of the MLA include the income, expenditure and financial interests of the MLA's spouse and dependent children.

Subsection 230B(1) sets out the types and thresholds of income to be disclosed by the MLA, apart from their MLA remuneration, eg interest and dividends, income from real estate and company partnerships or directorships, government benefits, other employment and gifts received in their capacity as an MLA.

Under Subsection 230B(2), details of the source of the income must also be provided in some cases (where such information is not disclosed in the financial interests part of the return).

Subsection 230B(3) sets out the types of expenditure or outstanding debt to be disclosed by the MLA. These categories relate to election expenditure and are already contained in the Act, eg in Subsection 230(4).

Subsection 230B(4) sets out the types of financial interests to be disclosed by the MLA. These types are modelled on the Register of Members' Interests maintained by the Clerk of the Assembly, eg the names of companies, trusts, and financial institutions in which an MLA's funds are invested or to which money is owed, details of real estate owned, ownership interests in any businesses, significant assets held by the MLA, and organisations in which the MLA is an office-holder.

New Section 230C – Change in financial interests

An MLA (or their reporting agent) must provide the Commissioner with a new return within 28 days of a change in the MLA's financial interests.

Clause 13 converts existing references to an *independent MLA* in Section 231 to just *MLA*.

Clauses 14 and 15 amend Sections 232 and 233 to remove references to MLAs so that these sections apply only to annual returns of Parties. This is consequential to clause 11.

Clause 16 – amends Section 234 to separate the reporting requirements for Parties and MLAs regarding outstanding amounts at the end of a financial year.

Clause 17 amends Section 234A to allow the regulations to require greater detail to be provided in the MLAs' returns than what is listed in Section 230B.

Clauses 18 and 19 convert existing references to an *independent MLA* in Sections 239 and 242 to just *MLA*.

Clause 20 – Inspection and copies of returns

Amends Section 243 to separate the provisions relating to inspection and copying of MLAs' returns from the existing provisions applying to other returns.

MLAs' returns must be made available for public inspection and copying from the day after a return is received by the Commissioner. The Commissioner may allow a person to inspect a MLA's return only if the person provides proof of identity. The Commissioner must then advise the MLA of the name of the person who has inspected the MLA's return. Once an MLA ceases to be an MLA their returns will not be available for inspection.

Clause 21 converts existing references to an *independent MLA* in Section 337 to just *MLA*.

Clause 22 inserts a transitional provision that the new requirements for MLA returns as specified in this Bill will apply from the 2001-2002 financial year.