

Legislative Council—No 114

As introduced and read a first time, 9 April 2008

South Australia

**Development (Political Donations) Amendment
Bill 2008**

A BILL FOR

An Act to amend the *Development Act 1993*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Development (Political Donations) Amendment Act 2008*.

2—Amendment provisions

- 5 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Development Act 1993*

3—Amendment of section 38—Public notice and consultation

Section 38—after subsection (5) insert:

- 10 (5a) A notice under subsection (4) or (5) must set out the information contained in the statutory declaration provided under section 39(1)(ab).

4—Amendment of section 39—Application and provision of information

(1) Section 39(1)—after paragraph (a) insert:

- 15 (ab) in the case of a prescribed development—be accompanied by a statutory declaration setting out any political donations made by the proponent, or an associate of the proponent, within the 2 years preceding the date on which the application is lodged; and

(2) Section 39—after subsection (3) insert:

- 20 (3a) A relevant authority must, if an application is not accompanied by the statutory declaration required under subsection (1)(ab), determine not to finalise the matter until such a declaration is provided to the relevant authority.

(3) Section 39—after subsection (9) insert:

(10) For the purposes of subsection (1)(ab), a development is a ***prescribed development*** if 1 or more of the following provisions apply to the development:

- 5 (a) the development costs (determined in accordance with the principles set out in the regulations) of the proposed development are \$4 million or greater;
- (b) the development includes the creation, by sub-division, of 10 or more allotments;
- 10 (c) the development is of a kind declared by the regulations as being within the ambit of this subsection.

(11) In this section—

15 ***disposition of property*** means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company; and
- (b) the creation of a trust in property; and
- (c) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property; and
- 20 (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property; and
- (e) the exercise by a person of a general power of appointment of property in favour of any other person; and
- 25 (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

30 ***election*** means—

- (a) an election of members of the Legislative Council or an election of a member of the House of Assembly; or
- (b) an election under the *Local Government (Elections) Act 1999* or the *Local Government Act 1999*;

35 ***gift*** means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include an annual subscription paid to a

40 registered political party by a person in respect of the person's membership of the party;

political donation means a gift made to—

- (a) a registered political party; or
- (b) a person who is or was a candidate at an election; or
- (c) any other person or body prescribed by the regulations,

with a value of not less than \$1 000 (whether or not such donation was required to be disclosed to the Australian Electoral Commission or any other body under any Act or law);

proponent, in relation to an application, includes any person who has the benefit of the proposed development that is the subject of the application;

registered political party has the same meaning as in the *Electoral Act 1985*.

(12) For the purposes of the definition of **political donation**—

- (a) the amount or value of a gift consisting of or including a disposition of property other than money will, if the regulations so provide, be determined in accordance with principles set out or referred to in the regulations;
- (b) multiple gifts of less than \$1 000 value each made to the same party or person will be taken to be a single gift of an amount equal to the total of all such gifts made on the date of the last such gift;
- (c) multiple gifts of less than \$1 000 value each made to different members of a registered political party will be taken to be a single gift of an amount equal to the total of all such gifts made to the party on the date of the last such gift.

5—Amendment of section 46—Declaration by Minister

(1) Section 46(6)(d)—after subparagraph (vi) insert:

- (via) a statutory declaration setting out any political donations made by the proponent, or an associate of the proponent, within the 2 years preceding the date on which the application or project proposal is lodged;

(2) Section 46—after subsection (6) insert:

- (6a) However, a proponent may only be excused from complying with subsection (6)(d)(via) if the proponent has provided the information required under that subparagraph under another provision of this Act.

(3) Section 46(13)(b)—delete paragraph (b) and substitute:

- (b) by public advertisement—
 - (i) give notice of—
 - (A) the Development Assessment Commission's determination under this section; and

(B) the place or places at which copies of the guidelines formulated by the Development Assessment Commission are available for inspection and purchase; and

5 (ii) publish the information contained in the statutory declaration referred to in subsection (6)(d)(via).

(4) Section 46—after subsection (16) insert:

(17) In this section—

10 ***disposition of property*** means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- 15 (a) the allotment of shares in a company; and
- (b) the creation of a trust in property; and
- (c) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property; and
- 20 (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property; and
- (e) the exercise by a person of a general power of appointment of property in favour of any other person; and
- 25 (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

election means—

- (a) an election of members of the Legislative Council or an election of a member of the House of Assembly; or
- 30 (b) an election under the *Local Government (Elections) Act 1999* or the *Local Government Act 1999*;

35 ***gift*** means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include an annual subscription paid to a registered political party by a person in respect of the person's membership of the party;

political donation means a gift made to—

- 40 (a) a registered political party; or
- (b) to a person who is or was a candidate at an election; or
- (c) to any other person or body prescribed by the regulations,

with a value of not less than \$1 000 (whether or not such donation was required to be disclosed to the Australian Electoral Commission or any other body under any Act or law);

proponent, in relation to an application, includes any person who has the benefit of the proposed development that is the subject of the application;

registered political party has the same meaning as in the *Electoral Act 1985*.

(18) For the purposes of the definition of *political donation*—

- (a) the amount or value of a gift consisting of or including a disposition of property other than money will, if the regulations so provide, be determined in accordance with principles set out or referred to in the regulations;
- (b) multiple gifts of less than \$1 000 value each made to the same party or person will be taken to be a single gift of an amount equal to the total of all such gifts made on the date of the last such gift;
- (c) multiple gifts of less than \$1 000 value each made to different members of a registered political party will be taken to be a single gift of an amount equal to the total of all such gifts made to the party on the date of the last such gift.

6—Amendment of section 48—Governor to give decision on development

Section 48(3)—delete subsection (3) and substitute:

- (3) However, the Governor must not grant a development authorisation under this section unless—
 - (a) in the case of a development within the ambit of a declaration of the Minister under section 46—the statutory declaration referred to in subsection (6)(d)(via) has been lodged with or otherwise provided to the Minister; and
 - (b) in any case—
 - (i) an EIS, PER or DR, and an Assessment Report, have been prepared in relation to the development in accordance with the requirements of this Division (as appropriate); or
 - (ii) the Governor is satisfied that an appropriate EIS, PER or DR, and an Assessment Report, that encompass the development have previously been prepared.