

South Australia

Electoral Variation Regulations 2015

under the *Electoral Act 1985*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Electoral Regulations 2009*

- 4 Insertion of regulations 18 to 24
 - 18 Interpretation—definition of auditor (section 130A)
 - 19 Principles for determining amount or value of gifts other than money (section 130A)
 - 20 Public funding—prescribed period and manner for making of payments (section 130R)
 - 21 Special assistance funding for political parties—nomination of party entitled to rely on person (section 130T)
 - 22 Returns—prescribed details (sections 130ZF, 130ZG, 130ZH and 130ZI)
 - 23 Returns by registered political parties, associated entities or third parties—prescribed particulars (sections 130ZN, 130ZO and 130ZP)
 - 24 Public inspection of returns—prescribed period (section 130ZY)
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Electoral Variation Regulations 2015*.

2—Commencement

These regulations will come into operation on 1 July 2015.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Electoral Regulations 2009*

4—Insertion of regulations 18 to 24

After regulation 17 insert:

18—Interpretation—definition of auditor (section 130A)

For the purposes of the definition of *auditor* in section 130A(1) of the Act, a person has the prescribed qualifications if the person is a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth.

19—Principles for determining amount or value of gifts other than money (section 130A)

For the purposes of section 130A(2) of the Act, the amount or value of a gift consisting of, or including, a disposition of property other than money will be determined in accordance with—

- (a) the principle that the amount or value of the property disposed of is the amount or value that a competent valuer of the property would give to the property based on a fair and reasonable valuation of the property; and
- (b) the principle that written evidence should be obtained for the purpose of determining the amount or value of the property disposed of (and that amount or value should reflect the written evidence).

20—Public funding—prescribed period and manner for making of payments (section 130R)

For the purposes of section 130R(1) of the Act—

- (a) the prescribed period is—
 - (i) if the amount is payable for votes given in an election in respect of which a petition is filed in the Court of Disputed Returns under Part 12 Division 2 of the Act—as soon as is reasonably practicable after the completion of the Court proceedings; or
 - (ii) in any other case—the period ending 120 days after polling day for the election to which the payment relates; and
- (b) the prescribed manner is payment by electronic transfer or such other manner as is determined by the Electoral Commissioner.

21—Special assistance funding for political parties—nomination of party entitled to rely on person (section 130T)

For the purposes of section 130T(3)(b) of the Act, the Electoral Commissioner must give a person relied on by 2 or more registered political parties an opportunity to nominate the party entitled to rely on the person by giving the person a notice advising the person that—

- (a) the person is being relied on by 2 or more parties for the purposes of Part 13A Division 5 of the Act; and
- (b) the Act prevents the person from being so relied on; and
- (c) the person may nominate the party entitled to rely on the person for the purposes of Part 13A Division 5 of the Act; and
- (d) the nomination must be in writing and sent to the Electoral Commissioner; and
- (e) if no such nomination is received by the Electoral Commissioner within 30 days of the date of the notice, the person is not entitled to be relied on by any of the parties.

22—Returns—prescribed details (sections 130ZF, 130ZG, 130ZH and 130ZI)

- (1) For the purposes of sections 130ZF(3) and 130ZH(4) of the Act, the prescribed details that must be included in a return are the amount or value of each gift or loan received, the date on which each gift or loan was received and the details set out in subregulation (4).
- (2) For the purposes of section 130ZG(5) of the Act—
 - (a) the prescribed details that must be included in a return relating to a gift or loan of a kind referred to in section 130ZG(3)(a) of the Act are the name and address of the candidate, member of the group, person or body (as the case requires) to whom the gift or loan was made and the details set out in subregulation (4); and
 - (b) the prescribed details that must be included in a return relating to a gift or loan of a kind referred to in section 130ZG(3)(b) of the Act are the details set out in subregulation (4)
- (3) For the purposes of section 130ZI(1)(d) of the Act, the prescribed details that must be included in a return are the details set out in subregulation (4).
- (4) For the purposes of this regulation, the prescribed details in relation to each gift or loan are as follows:
 - (a) in the case of a gift or loan made—
 - (i) on behalf of the members of an incorporated or unincorporated association—

- (A) the name and address of the association; and
 - (B) the names of the members of the executive committee (however described) of the association; and
 - (ii) out of a trust fund or out of the funds of a foundation—
 - (A) the names of the trustees of the fund or of the funds of the foundation; and
 - (B) the title (or other description) and address of the trust fund or the name and address of the foundation, as the case requires; and
 - (iii) by or on behalf of a body corporate—
 - (A) the name and address of the body corporate; and
 - (B) the names of the members of the board of the body corporate; and
 - (C) the name of any parent, subsidiary or related body corporate of the body corporate; and
 - (iv) in any other case—the name and address of the person who made the gift or loan;
- (b) in the case of a gift or loan received—
 - (i) from an incorporated or unincorporated association (on behalf of its members)—
 - (A) the name and address of the association; and
 - (B) the names of the members of the executive committee (however described) of the association; and
 - (ii) from a trust fund or the funds of a foundation—
 - (A) the names of the trustees of the fund or of the funds of the foundation; and
 - (B) the title (or other description) and address of the trust fund or the name and address of the foundation, as the case requires; and
 - (iii) from a body corporate—
 - (A) the name and address of the body corporate; and
 - (B) the names of the members of the board of the body corporate; and

- (C) the name of any parent, subsidiary or related body corporate of the body corporate; and
- (iv) in any other case—the name and address of the person from whom the gift or loan was received.
- (5) However, a return to which this regulation applies need not include details of the names of—
 - (a) the members of the executive committee of an incorporated association or the board of a body corporate; or
 - (b) any parent, subsidiary or related body corporate of a body corporate,

if those details are contained in a publication that is generally available to be inspected by members of the public and the return identifies the publication and specifies a website address at which it may be accessed or inspected.

23—Returns by registered political parties, associated entities or third parties—prescribed particulars (sections 130ZN, 130ZO and 130ZP)

- (1) For the purposes of sections 130ZN(2)(b) and (d), 130ZO(1)(b) and (d) and 130ZP(1)(b) and (d) of the Act, the prescribed particulars that must be included in a return are the amount received or the sum owed, the date on which the amount was received or the debt was incurred and:
 - (a) in the case of an amount received from, or a sum owed to, an incorporated or unincorporated association (on behalf of its members)—
 - (i) the name and address of the association; and
 - (ii) the names of the members of the executive committee (however described) of the association; and
 - (b) in the case of an amount received from, or a sum owed to, a trust fund or the funds of a foundation—
 - (i) the names of the trustees of the fund or of the funds of the foundation; and
 - (ii) the title (or other description) and address of the trust fund or the name of the foundation, as the case requires; and
 - (c) in the case of an amount received from, or a sum owed to, a body corporate—
 - (i) the name and address of the body corporate; and
 - (ii) the names of the members of the board of the body corporate; and

- (iii) the name of any parent, subsidiary or related body corporate of the body corporate; and
 - (d) in any other case—the name and address of the person from whom the amount was received, or to whom the amount is owed (as the case requires).
- (2) However, a return to which this regulation applies need not include particulars of the names of—
 - (a) the members of the executive committee of an incorporated association or the board of a body corporate; or
 - (b) any parent, subsidiary or related body corporate of a body corporate,

if those particulars are contained in a publication that is generally available to be inspected by members of the public and the return identifies the publication and specifies a website address at which it may be accessed or inspected.

24—Public inspection of returns—prescribed period (section 130ZY)

The prescribed period for the purposes of section 130ZY(5) of the Act is 3 business days.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 18 June 2015

No 167 of 2015

AGO0054/15CS