

South Australia

Electoral (Funding, Expenditure and Disclosure) Variation Regulations 2017

under the *Electoral Act 1985*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Electoral (Funding, Expenditure and Disclosure) Variation Regulations 2017*.

2—Commencement

These regulations come into operation on the day on which they are made.

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 regulation 18A

After regulation 18 insert:

18A—Interpretation—definition of political expenditure (section 130A)

- (1) For the purposes of paragraph (e) of the definition of *political expenditure* in section 130A(1) of the Act, political expenditure includes expenditure incurred for the following purposes:
 - (a) the production, display and distribution of electoral matter;
 - (b) stationery for use in the production of electoral matter;
 - (c) postage of electoral matter;
 - (d) mobile telephones used by a candidate or prescribed staff primarily for election campaign purposes;
 - (e) employing or engaging a person as prescribed staff under a contract, agreement or other arrangement entered into during the capped expenditure period;
 - (f) office accommodation and associated expenditure for a candidate in an election or for prescribed staff, other than office accommodation and associated expenditure in relation to an office that is the headquarters of a registered political party.
- (2) Despite paragraph (e) of subregulation (1)—
 - (a) political expenditure does not include expenditure incurred for the purpose of employing or engaging a replacement for prescribed staff employed or engaged before the commencement of the capped expenditure period; and
 - (b) if prescribed staff employed or engaged before the commencement of the capped expenditure period undertake additional hours of work during the capped expenditure period, political expenditure does not include expenditure incurred on remuneration paid to staff for the additional hours of work.
- (3) For the purposes of paragraph (j) of the definition of *political expenditure* in section 130A(1) of the Act, political expenditure does not include expenditure of the following kinds:
 - (a) expenditure incurred in employing or engaging—
 - (i) an auditor required for the purposes of the Act; or
 - (ii) any other person for the purpose of ensuring compliance with the Act;

- (b) expenditure incurred on holding a meeting or advertising for the purposes of selecting or nominating a candidate in an election;
 - (c) expenditure incurred by a registered political party or an organisation for the purpose of holding a meeting relating to the general administration of that party or organisation (including the expenditure incurred in advertising such a meeting);
 - (d) expenditure incurred on the following:
 - (i) motor vehicles and motor vehicle accessories;
 - (ii) maintaining or running a motor vehicle;
 - (iii) insuring or registering a motor vehicle;
 - (iv) televisions and television equipment;
 - (v) radios and radio equipment;
 - (vi) electronic devices or equipment for recording sound or visual images;
 - (vii) photographic equipment;
 - (viii) purchasing computer software, hardware and accessories;
 - (ix) purchasing office furniture and equipment;
 - (x) food and drink;
 - (xi) travel undertaken by a candidate in an election or prescribed staff, and associated accommodation.
- (4) In this regulation—

associated expenditure, in relation to office accommodation, includes expenditure on the following:

- (a) rental payments (including on property and office equipment);
- (b) mortgage and related interest payments;
- (c) utilities such as gas, water and electricity, telephone and Internet;

motor vehicle has the same meaning as in the *Motor Vehicles Act 1959*;

prescribed staff means a person employed or engaged under a contract, agreement or other arrangement—

- (a) as election campaign staff; or
- (b) to promote, or assist in the promotion of, a registered political party, candidate or group in an election; or
- (c) to undertake research relating to a matter in an election.

5—Variation of regulation 23—Returns by registered political parties or third parties—prescribed particulars (sections 130ZN and 130ZP)

Regulation 23(1)—delete ", 130ZO(1)(b) and (d)"

6—Insertion of regulation 23A

After regulation 23 insert:

23A—Returns by associated entities (sections 130ZO and 130ZU)

- (1) In accordance with section 130ZU(3) of the Act, the information to be provided in a return under section 130ZO of the Act is reduced such that an associated entity return need only set out—
 - (a) the information required under section 130ZO(1)(a) of the Act; and
 - (b) the prescribed details set out in subregulation (2) in relation to each gift or loan of more than \$5 000 (indexed) received by, or on behalf of, the entity from a person or organisation since the last associated entity return was furnished or, if no previous associated entity return has been furnished, since Part 13A of the Act first applied to the entity.
- (2) For the purposes of this regulation, the prescribed details are as follows:
 - (a) the amount or value of each gift or loan received and the date on which each gift or loan was received;
 - (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.
- (3) However, an associated entity return 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.

7—Variation of regulation 26—Application and modification of Part 13A where candidate disendorsed by party (section 139)

- (1) Regulation 26(a)—delete "(10)" and substitute:
 - (8)
- (2) Regulation 26(a)—redesignate inserted subsection (11) as subsection (9)
- (3) Regulation 26(b)—delete inserted subsection (4) and substitute:
 - (4) If a candidate endorsed by a registered political party in relation to an election ceases to be so endorsed, the agent's appointment as agent of the candidate is taken to be revoked on the date of the disendorsement.
- (4) Regulation 26(d)—redesignate inserted subsections (3a), (3b), (3c), (3d) and (3e) as subsections (3aa), (3aab), (3aac), (3aad) and (3aae) respectively
- (5) Regulation 26(d), inserted subsection (3a)(a) (now designated as subsection (3aa)(a))—delete paragraph (a) and substitute:
 - (a) if—
 - (i) a candidate ceases to be endorsed after the hour of nomination; and
 - (ii) the party does not endorse another candidate in the relevant electoral district,any amount allocated by the party to the candidate under subsection (2) prior to the disendorsement is, for the purposes of determining the party's applicable expenditure cap under subsection (1)(b)(i), to be included in the calculation of the sum of the amounts allocated to candidates in accordance with subsection (2);

- (6) Regulation 26(d), inserted subsection (3b)(a) (now designated as subsection (3aab)(a))—after subparagraph (ii) insert:
- and
- (iii) the amount agreed between the candidate and the agent of the party (if any) under section 130Z(2)(a) of the Act; and
- (7) Regulation 26(d), inserted subsection (3c) (now designated as subsection (3aac))—delete "(3b)" and substitute:
- (3aab)
- (8) Regulation 26(d), inserted subsection (3d) (now designated as subsection (3aad))—delete "(3b)" wherever occurring and substitute in each case:
- (3aab)
- (9) Regulation 26(d), inserted subsection (3e) (now designated as subsection (3aae)), definition of *prescribed candidate expenditure*—delete "(3b)" and substitute:
- (3aab)
- (10) Regulation 26(d), inserted subsection (3e) (now designated as subsection (3aae)), definition of *prescribed party expenditure*—delete "(3b)" and substitute:
- (3aab)

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 22 June 2017

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