



New South Wales

Election Funding, Expenditure and Disclosures Consequential Amendment Act 2014 No 28

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Act No 28, 2014

An Act to make consequential amendments to the *Election Funding, Expenditure and Disclosures Act 1981* following the High Court's decision in *Unions NSW & Ors v State of New South Wales*.
[Assented to 24 June 2014]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Election Funding, Expenditure and Disclosures Consequential Amendment Act 2014*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Consequential amendment of Election Funding, Expenditure and Disclosures Act 1981 No 78

[1] Section 84 Definitions—general

Omit “individual (not being an elected member or candidate)” from the definition of *major political donor* in section 84 (1).

Insert instead “entity or other person (not being a party, elected member, group or candidate)”.

[2] Section 84 (5)

Insert after section 84 (4):

- (5) A reference in this Part to the name and address of a person making a donation or loan is:
 - (a) in the case of a donation or loan made by an unincorporated association—a reference to the name of the association and the names and addresses of the members of the executive committee (however described) of the association, and
 - (b) in the case of a donation or loan purportedly made out of a trust fund or out of the funds of a foundation—a reference to the names and addresses of the trustees of the fund or of the funds of the foundation and the title or other description of the trust fund or the name of the foundation.

[3] Section 86 Meaning of “reportable political donation”

Omit “individual” wherever occurring in section 86 (2) and (3).

Insert instead “entity or other person”.

[4] Section 92 Political donations required to be disclosed

Insert “(in the case of an individual) or the address of the registered or other official office of the donor (in the case of an entity)” after “donor” in section 92 (2) (d).

[5] Section 92 (2) (f)

Insert after section 92 (2) (e):

- (f) in the case of a donor that is an entity and not an individual—the relevant business number of the entity referred to in section 96D.

[6] Section 95A Applicable cap on political donations

Omit “individual” wherever occurring in section 95A (2) and (3).

Insert instead “entity or other person”.

[7] Section 95B Prohibition on political donations that exceed applicable cap

Insert after section 95B (5):

(6) Donors required to disclose related corporation donors

It is unlawful for an individual to make a political donation on behalf of a corporation that is related to another corporation (referred to in section 84 (6)) that has made a political donation to the same party, elected member, group, candidate or third-party campaigner in the same financial year unless the individual complies with the requirements of the regulations relating to the

disclosure to the person accepting the donation of particulars of the other corporation and its political donations.

[8] Section 95G Aggregation of applicable caps

Omit section 95G (6) and (7).

[9] Section 96D

Omit the section. Insert instead:

96D Restrictions on persons from whom donations can be accepted

- (1) It is unlawful for a political donation to a party, elected member, group, candidate or third-party campaigner to be accepted unless the donor is:
 - (a) an individual who is enrolled on the roll of electors for State elections, on the roll of electors for federal elections, or on the roll of electors for a local government election, or
 - (b) an entity that has a relevant business number.
- (2) A relevant business number is:
 - (a) an Australian Business Number (ABN), or
 - (b) any other number allocated or recognised by the Australian Securities and Investments Commission for the purposes of identifying the entity.

[10] Section 96E Prohibition on certain indirect campaign contributions

Omit the note after section 96E (3).

[11] Section 96G Prohibition on receiving loans unless details recorded

Insert “entity or other” before “person” in section 96G (1) (b) and where firstly occurring in section 96G (3) (a).

[12] Section 96GAB Superseded provision of Division relating to corporate donations

Omit the section.

[13] Schedule 2 Savings, transitional and other provisions

Omit Part 6 (Provisions consequent on enactment of *Election Funding, Expenditure and Disclosures Amendment Act 2012*).

[14] Schedule 2, Part 9

Insert at the end of the Schedule:

Part 9 Provisions consequent on enactment of Election Funding, Expenditure and Disclosures Consequential Amendment Act 2014

26 Application of amendments

- (1) This Act is taken to operate, after the commencement of the *Election Funding, Expenditure and Disclosures Consequential Amendment Act 2014*, as if the amendments made by that Act had commenced on 18 December 2013 (being the date of the High Court’s decision in *Unions NSW & Ors v State of New South Wales* [2013] HCA 58).

- (2) Any act, matter or thing that was required by or under this Act to have been done after 18 December 2013 and before the commencement of the *Election Funding, Expenditure and Disclosures Consequential Amendment Act 2014* (if that Act had commenced on 18 December 2013) is required to be done within 28 days after the commencement of that Act or such longer period as the Electoral Commissioner may allow.
- (3) Any political donation that was made by a corporation after the commencement of the *Election Funding, Expenditure and Disclosures Amendment Act 2012* (being 9 March 2012) that has not been disclosed in a declaration lodged with the Authority before 18 December 2013 is required to be disclosed in a declaration lodged after the commencement of the *Election Funding, Expenditure and Disclosures Consequential Amendment Act 2014* even though the donation was made before the relevant disclosure period to which the declaration relates.

[Second reading speech made in—
Legislative Assembly on 27 May 2014
Legislative Council on 17 June 2014]