



New South Wales

Election Funding and Disclosures Amendment (Transitional and Miscellaneous) Regulation 2010

under the

Election Funding and Disclosures Act 1981

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Election Funding and Disclosures Act 1981*.

KRISTINA KENEALLY, MP
Premier

Explanatory note

The object of this Regulation is to amend the *Election Funding and Disclosures Regulation 2009* as a consequence of the *Election Funding and Disclosures Amendment Act 2010* which commences on 1 January 2011.

The Regulation makes provision for the following matters:

- (a) the time frame in which a disclosure of donations and expenditure must be made to the Election Funding Authority and the information that must accompany the disclosure,
- (b) the manner in which certain expenditure is to be vouched for in claims for payments from the Election Campaigns Fund kept by the Election Funding Authority,
- (c) various savings and transitional matters.

This Regulation is made under the *Election Funding and Disclosures Act 1981*, including sections 66, 91 (1) and (6) and 117 (the general regulation-making power) and clause 1A (1) of Schedule 2.

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Clause 1 Election Funding and Disclosures Amendment (Transitional and Miscellaneous) Regulation 2010

**Election Funding and Disclosures Amendment
(Transitional and Miscellaneous) Regulation 2010**

under the

Election Funding and Disclosures Act 1981

1 Name of Regulation

This Regulation is the *Election Funding and Disclosures Amendment (Transitional and Miscellaneous) Regulation 2010*.

2 Commencement

This Regulation commences on 1 January 2011 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Election Funding and Disclosures Regulation 2009

[1] Clause 4 Maximum expenditure allowed on audit

Omit the clause.

[2] Part 2 Public funding of election campaigns

Insert before clause 5:

Division 1 Payments under Part 5 of Act

[3] Clause 5 Expenditure that is not electoral communication expenditure

Omit “section 55 (1) (b) (iii)” from clause 5 (1).

Insert instead “section 87 (2) (j)”.

[4] Clause 5 (1) and (2)

Omit “expenditure for election campaign purposes” wherever occurring

Insert instead “electoral communication expenditure”.

[5] Clause 6 Vouching for election campaign expenditure in claim for Part 5 payment

Omit “section 76” from clause 6 (1). Insert instead “section 66”.

[6] Clause 7 Part 5 payments generally

Omit “section 76A” from clause 7 (3). Insert instead “section 67”.

[7] Part 2, Division 2

Insert after clause 8:

Division 2 Disclosures under Part 6 of Act

8A When disclosures under Part 6 of Act are to be made

For the purposes of section 91 (1) of the Act, a disclosure under Part 6 of the Act is to be made:

- (a) in the case of a disclosure made by a major political donor (other than a donor who is also a third-party campaigner)—within 16 weeks after the end of each relevant disclosure period, and
- (b) in any other case—within 12 weeks after the end of each relevant disclosure period.

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Schedule 1

Amendment of Election Funding and Disclosures Regulation 2009

8B Information to accompany Part 6 declaration by party

The following information in respect of the financial year to which the declaration relates is to accompany a Part 6 declaration by a party:

- (a) financial records from the party's accounting records (including the general ledger and subsidiary ledgers),
- (b) the chart of accounts,
- (c) the trial balance,
- (d) statements and reconciliation statements for all accounts held by the party at a bank, credit union or building society,
- (e) any other information that is reasonably required to clarify the information provided under paragraphs (a)–(d).

[8] Clause 10 Vouching for electoral expenditure relating to advertising

Omit clause 10 (1). Insert instead:

- (1) For the purposes of section 91 (6) of the Act, the prescribed manner of vouching for electoral communication expenditure on advertising is by attaching to the relevant Part 6 declaration:
 - (a) copies of either the accounts or receipts (or a mixture of both) issued in respect of the expenditure, and
 - (b) copies of the advertising material to which the expenditure relates.

[9] Clause 10 (3)

Insert after clause 10 (2):

- (3) In this clause:
 - advertising material* means, in the case of an advertisement by radio, television or in a cinema, the text (if any) of the advertisement.
 - electoral communication expenditure on advertising* means expenditure on advertisements in radio, television, the Internet, cinemas, newspapers, billboards, posters, brochures, how-to-vote cards and other election material (as referred to in section 87 (2) (a) of the Act).

[10] Clause 10A

Insert after clause 10:

10A Vouching for repayments to party by candidate

For the purposes of section 91 (6) of the Act, the prescribed manner of vouching for expenditure that is included (because of section 84 (7) of the Act) as expenditure of a candidate who is the endorsed candidate of a registered party is by the candidate attaching to the relevant Part 6 declaration:

- (a) copies of the relevant invoices issued by the party to the candidate for payment by the candidate, and
- (b) copies of the accounts or receipts issued to the party in respect of the expenditure incurred by the party for the benefit of the candidate, and
- (c) in the case of expenditure incurred by the party for the benefit of 2 or more candidates, evidence of the proportion of the expenditure allocated by the party to the candidate.

[11] Clauses 43–47

Insert after clause 42:

43 Registration of third-party campaigners

An application for registration as a third-party campaigner may be made and dealt with, and a person can be registered as a third-party campaigner, under Division 2A of Part 4 of the Act (as inserted by the *Election Funding and Disclosures Amendment Act 2010*) before 1 January 2011.

44 Advance payments

The amount of any advance payment made to a party under Division 5 of Part 5 of the Act before 1 January 2011 in respect of the first general election to be held in 2011 is to be deducted from the amount that is paid or payable to the party under Part 5 of the Act (as substituted by the *Election Funding and Disclosures Amendment Act 2010*) in respect of that election.

45 Applicable cap on electoral communication expenditure

If the electoral communication expenditure for the first general election to be held in 2011 incurred by a party or a candidate during the capped expenditure period for that election does not exceed the applicable cap, the electoral communication expenditure for that election for the party or candidate is taken to

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Schedule 1 Amendment of Election Funding and Disclosures Regulation 2009

include any expenditure incurred between 1 July 2010 and 31 December 2010, but only to the extent that:

- (a) that expenditure would be actual expenditure (within the meaning of section 58 of the Act), and
- (b) the sum of expenditure incurred between 1 July 2010 and 31 December 2010 and expenditure incurred during the capped expenditure period does not exceed the applicable cap.

46 Declarations about payments received from Political Education Fund

Section 97H of the Act, as in force immediately before 1 January 2011, continues to apply to an agent of a registered party who, before 1 January 2011, made a claim for payment under Part 6A of the Act, in respect of payments spent by the party in the 2010 calendar year.

47 Payments from Administration and Policy Development Funds

- (1) Annual payments from the Administration or Policy Development Funds under Part 6A of the Act, as inserted by the *Election Funding and Disclosures Amendment Act 2010*, may be made in respect of expenditure incurred during the 2010 calendar year.
- (2) The amount of such an annual payment to a party is to be reduced by any amount paid to the party from the Political Education Fund under the Act, as in force immediately before 1 January 2011, in respect of the 2010 calendar year.