



New South Wales

Election Funding, Expenditure and Disclosures Amendment (Administrative Funding) Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Election Funding, Expenditure and Disclosures Act 1981*:

- (a) to increase the amounts for which registered parties with elected members of State Parliament, and elected members of State Parliament who are not members of registered parties, are eligible to be paid by the Election Funding Authority (*the Authority*) for administrative expenditure incurred, and
- (b) to enable quarterly payments of such amounts, and
- (c) to require payments from the Administration Fund or the Policy Development Fund for expenditure incurred to be made by the Authority within 6 weeks after a claim is made.

The Bill also makes a consequential amendment to the *Election Funding, Expenditure and Disclosures (Adjustable Amounts) Notice*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

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

Schedule 1 [1] increases the amount of annual payment for which a registered party who has members who are elected members of State Parliament is eligible for administrative expenses incurred. The amount is determined on a sliding scale according to the number of elected members who are members of the party. For expenditure incurred in the year 2012, the scale is \$200,000 for parties with one elected member, \$350,000 for parties with 2 elected members, \$450,000 for parties with 3 elected members and \$450,000 for parties with more than 3 elected members plus an additional \$83,000 for each member in excess of 3 (but capped at 22 members in excess of 3). These amounts are to be adjusted for inflation for each year after 2012.

Schedule 1 [2] increases the amount of annual payment for which an elected member of State Parliament who is not a member of a registered party is eligible for administrative expenses incurred. The amount for the year 2012 is \$200,000 and is adjusted each subsequent year for inflation.

Schedule 1 [3] provides that parties and elected members eligible for annual payments for administrative expenses incurred in a calendar year may receive quarterly payments in respect of the first three quarters of the year. The quarterly payments must be in respect of actual administrative expenses already incurred and are capped at a percentage of the applicable annual amount. Any such payment to a party or elected member is to be deducted from the annual amount to which the party or elected member is entitled. Quarterly payments in excess of that annual amount are to be repaid to the Authority. The Authority may demand repayment of quarterly payments from a party or elected member if the party or elected member has become ineligible for an annual payment.

Schedule 1 [4]–[6] make consequential amendments to the provisions relating to the making of claims.

Schedule 1 [7] requires the Authority to make a payment from the Administration Fund for administrative expenditure incurred, or from the Policy Development Fund for policy development expenditure incurred, within 6 weeks after receiving a properly made claim with supporting documentation and information. The Authority is also empowered to deduct from any payment to be made to a party or elected member under Part 6A of the Act any amount that the Authority may recover under that Part from the party or elected member as a debt.

Schedule 1 [8] makes a consequential amendment to the provisions relating to the adjustment of amounts for inflation.

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Schedule 1 [9]–[11] contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 2 Amendment of Election Funding,
Expenditure and Disclosures
(Adjustable Amounts) Notice**

Schedule 2 makes consequential amendments to the *Election Funding, Expenditure and Disclosures (Adjustable Amounts) Notice*.



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Election Funding, Expenditure and Disclosures Amendment (Administrative Funding) Bill 2013

No. , 2013

A Bill for

An Act to amend the *Election Funding, Expenditure and Disclosures Act 1981* with respect to claims on the Administration Fund; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Election Funding, Expenditure and Disclosures Amendment (Administrative Funding) Act 2013</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Election Funding, Expenditure and Disclosures Act 1981 No 78	1 2 3
[1] Section 97E Public funding of eligible parties for administrative expenditure		4 5
Omit section 97E (3). Insert instead:		6
(3) The annual amount to be distributed from the Administration Fund to any such eligible party is the amount of actual administrative expenditure incurred by or on behalf of the party during the calendar year to which the payment relates, but not exceeding:		7 8 9 10 11
(a) \$200,000 if there is only one elected member endorsed by the party, or		12 13
(b) \$350,000 if there are only 2 elected members endorsed by the party, or		14 15
(c) \$450,000 if there are only 3 elected members endorsed by the party, or		16 17
(d) \$450,000 if there are more than 3 elected members endorsed by the party plus \$83,000 for each such member in excess of 3 up to a maximum of 22 members in excess of 3.		18 19 20 21
[2] Section 97F Public funding of Independent members for administrative expenditure		22 23
Omit “\$80,000” from section 97F (3). Insert instead “\$200,000”.		24
[3] Section 97GA		25
Insert after section 97G:		26
97GA Quarterly payments		27
(1) A party or an elected member is, subject to and in accordance with this Act, eligible for quarterly payments from the Administration Fund for actual administrative expenditure incurred by or on behalf of the party or elected member in a calendar year (<i>the relevant calendar year</i>) determined in accordance with this section.		28 29 30 31 32 33
(2) A quarterly payment may be made in respect of each of the first three quarters of the relevant calendar year.		34 35

- (3) A quarterly payment must not exceed: 1
- (a) 25% of the annual amount if the payment is in respect of 2
the first quarter, and 3
 - (b) 50% of the annual amount if the payment is in respect of 4
the second quarter, less any amounts paid in respect of the 5
first quarter, and 6
 - (c) 75% of the annual amount if the payment is in respect of 7
the third quarter, less any amounts paid in respect of the 8
first and second quarters. 9
- (4) The **annual amount** is the maximum amount of annual payment 10
for which the party concerned would be eligible under 11
section 97E (3), or the elected member concerned would be 12
eligible under section 97F (3), in respect of the relevant calendar 13
year. 14
- (5) The annual amount is to be determined on the assumption that: 15
- (a) in the case of a party, the number of elected members 16
endorsed by the party at the end of the relevant calendar 17
year will be the same as the number of elected members 18
endorsed by the party at the date on which the claim for the 19
quarterly payment is determined, and 20
 - (b) in the case of a person who is an elected member, the 21
person will continue to be an elected member at the end of 22
the relevant calendar year. 23
- (6) All amounts paid to a party or an elected member by way of 24
quarterly payments under this section in respect of a calendar 25
year are to be deducted from the annual payment to which the 26
party or elected member is entitled under section 97E or 97F in 27
respect of that year. 28
- (7) If a party or elected member receives amounts by way of 29
quarterly payment under this section in respect of a calendar year 30
in excess of the amount (if any) to which the party or elected 31
member becomes eligible under section 97E or 97F in respect of 32
that year, the amount of the excess must be repaid to the 33
Authority within 60 days after the party or elected member (or 34
agent of the party or elected member) receives notice in writing 35
from the Authority of the amount of the excess payment. 36

(8)	All amounts received by a party or elected member by way of quarterly payments under this section in respect of a calendar year must be repaid, on demand by the Authority, to the Authority if the party or elected member is not eligible under section 97E or 97F for an annual payment from the Administration Fund in relation to that year.	1 2 3 4 5 6
[4]	Section 97J Claims for payment	7
	Omit “a payment under this Part for a calendar year” from section 97J (1).	8
	Insert instead “an annual payment for a calendar year, or a quarterly payment, under this Part”.	9 10
[5]	Section 97J (2)	11
	Omit the subsection. Insert instead:	12
(2)	A claim must:	13
(a)	be lodged with the Authority and be in writing, and	14
(b)	be accompanied by a declaration and such information or evidence as the Authority may require under this Division, including (but not limited to) information or evidence that the Authority requires to establish the eligibility of the party or elected member to make the claim, and	15 16 17 18 19
(c)	be made within 6 months after the end of the calendar year for which payment is to be made, unless the claim is for a quarterly payment.	20 21 22
[6]	Section 97J (3)	23
	Omit the subsection. Insert instead:	24
(3)	Entitlement to an annual payment under this Part is to be determined as at the end of the calendar year for which the payment is to be made.	25 26 27
[7]	Section 97J (5)–(7)	28
	Insert after section 97J (4):	29
(5)	A payment under this Part for which a party or elected member is eligible is required to be made within the period of 6 weeks after the Authority receives all of the following:	30 31 32
(a)	a claim for the payment that complies with this Division,	33
(b)	all other documentation that is required to be provided under this Division in connection with the claim,	34 35

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

(c)	information or evidence required by the Authority under this Division in connection with the claim.	1 2
(6)	Any amount required to be repaid to the Authority under this Part or to which the recipient is not entitled may be recovered by the Authority as a debt in any court of competent jurisdiction.	3 4 5
(7)	The Authority may deduct from any payment due under this Part in respect of a party or elected member any amount that the Authority is authorised by this Part to recover as a debt from the party or elected member or agent of the party or elected member.	6 7 8 9
[8]	Schedule 1 Adjustment for inflation of monetary caps	10
	Omit clause 4 (1). Insert instead:	11
(1)	Each of the adjustable amounts specified in a provision of Division 2 of Part 6A applies for the year 2012 and is to be adjusted for inflation for subsequent calendar years as provided by this clause.	12 13 14 15
(1A)	Each of the adjustable amounts specified in a provision of Division 3 of Part 6A applies for the first calendar year to which the provision applies and is to be adjusted for inflation for subsequent calendar years as provided by this clause.	16 17 18 19
[9]	Schedule 2, heading	20
	Omit the heading. Insert instead:	21
	Schedule 2 Savings, transitional and other provisions	22 23
[10]	Schedule 2, clause 1A (1)	24
	Omit the subclause. Insert instead:	25
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of any Act that amends this Act.	26 27 28

[11] Schedule 2, Part 8	1
Insert after Part 7:	2
Part 8 Provisions consequent on enactment of Election Funding, Expenditure and Disclosures Amendment (Administrative Funding) Act 2013	3
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	6
23 Definition	7
In this Part, <i>amending Act</i> means the <i>Election Funding, Expenditure and Disclosures Amendment (Administrative Funding) Act 2013</i> .	8
	9
	10
24 Payments from Administration Fund in respect of 2012 calendar year	11
	12
(1) The amendments made to sections 97E and 97F by the amending Act are taken to have effect in respect of the 2012 calendar year.	13
	14
(2) The Authority may, on application by a party or elected member, redetermine any payment that has been made to the party or elected member under Division 2 of Part 6A, or any claim for payment under that Division, in respect of the 2012 calendar year that was determined under section 97E or 97F as in force before its amendment by the amending Act.	15
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(3) If the amount of any payment for which the party or elected member was eligible would have been more if the amendments made to sections 97E and 97F by the amending Act had been in force at the time the payment or claim was made, the Authority is to redetermine the amount to which the party or elected member is eligible under those sections as so amended.	21
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(4) Sections 97K–97M apply to an application for redetermination of a payment or claim under this clause and the payment of an additional amount under this clause in the same way as they apply to a claim for payment under Part 6A and a payment from the Administration Fund under that Part.	27
	28
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(5) Any amount that is required to be paid to a party or elected member on a redetermination of a payment or claim under this clause is to be paid within 6 weeks after the Authority receives the application for redetermination.	32
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- (6) Section 97J (5) (as inserted by the amending Act): 1
 - (a) applies to a payment for which a claim is made after the 2
commencement of that subsection, and 3
 - (b) applies to a payment in respect of the 2012 calendar year 4
that has not been made but for which a claim (including the 5
required supporting documentation and information) was 6
made before that commencement as if the claim had been 7
received by the Authority on that commencement. 8

25 Notice of adjustable amounts 9

The adjustable amounts for 2013 inserted in the *Election* 10
Funding, Expenditure and Disclosures (Adjustable Amounts) 11
Notice by the amendment made by Schedule 2 to the amending 12
Act are taken to have been determined and published by the 13
Authority in accordance with Schedule 1 to this Act. 14

Schedule 2 Amendment of Election Funding, Expenditure and Disclosures (Adjustable Amounts) Notice

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Schedule 1 Notice of adjustable amounts

4

Omit clauses 3 and 4. Insert instead:

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3 Public funding of eligible parties for administrative expenditure (section 97E of the Act)

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Table

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Column 1	Column 2
First day of calendar year	Adjustable amount
1 January 2013	(a) \$204,700 if there is only one elected member endorsed by the party, or (b) \$358,100 if there are only 2 elected members endorsed by the party, or (c) \$460,400 if there are only 3 elected members endorsed by the party, or (d) \$460,400 if there are more than 3 elected members endorsed by the party plus \$85,000 for each such member in excess of 3 up to a maximum of 22 members in excess of 3.

4 Public funding of Independent members for administrative expenditure (section 97F of the Act)

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Table

11

Column 1	Column 2
First day of calendar year	Adjustable amount
1 January 2013	\$204,700