

Victoria's new political donation and electoral process framework

August 2018

On 31 July 2018 the Victorian Labor Government's Electoral Legislation Amendment Bill 2018 was given royal assent.

The Bill provides for reforms of political donation disclosures and reporting; public funding of election campaigns; and electoral processes.

The new framework around political donations removes the ability for organisations or individuals to donate to political parties above a certain threshold.

The reforms increase the level of public funding for Victorian election campaigns. This is designed to ensure accountability in the funding of democratic processes.

The Andrews Government's new framework establishes a set of laws governing donations made for Victorian election campaigns. The framework will be administered by the Victorian Electoral Commission (VEC).

Currently Victoria's political donations framework is governed by the Australian Electoral Commission's (AEC) federal regulations. Donations made for Commonwealth election campaigns will continue to be regulated by the AEC.

Political donations

Cap on political donations and new disclosure and reporting scheme

From 25 November 2018 there will be a cap on donations of \$4,000 from the same source (individual or organisation) to any political party, while single donations above \$1,000 will need to be disclosed within 21 days by both recipients and donors. Donations made to a candidate will count towards the cap for their political party.

The following forms of payments are not included in the cap:

- Donations made by candidates to their own campaigns.
- Small donations of \$50 or less, ensuring donors are not subject to the cap by making donations at party meetings or events.
- Volunteer labour, which will continue to be excluded from the definition of a 'gift'.

Political parties, third-party campaigners and associated entities will also now need to provide an annual return every 12 months.

Banned donations

Beginning on 1 August 2018 foreign donations and anonymous donations above \$1,000 will be banned. Banned donations will be forfeited to the State. Penalties for contravention of these laws include fines of up to \$48,357, two years imprisonment, or both.

Ensuring integrity of the framework

All fundraising will be subject to a new anti-avoidance offence, intended to stop a person/s entering into a scheme to circumvent the new laws. A scheme of this nature may include the deliberate abuse of donations under \$50 or a series of anonymous donations of slightly less than \$1,000.



Public funding of election campaigns and administrative funding

Public funding of elections

The State's formula for public funding of campaigns will be amended to provide additional funding for political parties' operating expenditure. The funding will make up for the shortfall in funding for political expenditure resulting from the cap on donations.

Under the new scheme, worth \$45 million each term, parties will be awarded \$6 for each Legislative Assembly vote and \$3 for every Legislative Council vote.

Administrative funding

From 1 August 2018 the Victorian Electoral Commission (VEC) will be required to pay administrative funding to registered political parties with Parliamentary representation and independent elected members. The funding is designed to assist MPs with the administrative costs of adhering to the new framework.

Payments will begin at \$200,000 for the first member with \$70,000 for the second member and \$35,000 for every subsequent member, capped at forty-five members.

The funding cannot be used for political expenditure in election campaigns.

Electoral process changes

Postal voting

From 1 August 2018 registered political parties, candidates and persons other than the VEC will no longer be able to distribute postal vote applications as part of their campaign materials to constituents. The change is designed to protect voters from mistaking political materials for communications from the VEC.

The VEC will provide political parties with details of those who have successfully applied for postal ballots. This change will allow these voters to be supplied with campaign materials they otherwise would have received upon entering voting centres. The Act contains several protections to ensure details of voters are not misused by political parties.

The new Act will allow for processing (but not counting) of postal votes in restricted areas to begin ten hours before close of voting on election day. This change will allow more votes to be counted on election night.

Political signage

From 1 August 2018 notices or signs relating to an election (including campaign posters, bunting or corflutes) will not be permitted within 100 metres of voting centres. This change aligns Victoria's legislation with Tasmania, the Northern Territory and the Australian Capital Territory.

The prohibition does not apply to items such as clothing being worn, pens or stickers. How-to-vote cards and VEC materials will still be permitted.

The Act provides for flexibility in determining which items are deemed to be political signage, so as not to capture items not ordinarily considered political signage.

The Act permits a candidate or political party to display two signs or notices (not exceeding 600mm x 900mm) at designated voting centres.



Canvassing votes

The prohibition on canvassing votes will be extended to within six metres of voting centres, aligning Victoria's legislation with the Commonwealth, Queensland, Western Australia and South Australia.

Third party campaigners

Third party campaigners will be covered by the same cap on donations and disclosure requirements as political parties.

A third party campaigner is defined under the Act as a person or entity that receives political donations or incurs political expenditure of more than \$4,000 during a financial year. Political expenditure is expenditure incurred between 1 October of an election year until election day for the dominant purpose of directing voters to vote a certain way by promoting or opposing a candidate/party. An example of political advertising is a television commercial encouraging people to put a certain party last on a ballot.

Once a person or entity meets the definition of a third party campaigner, it will be required to provide an annual disclosure return within 16 weeks of the end of the financial year.

Membership fees to third party campaigners will be treated as donations. If these fees exceed \$1,000, members should be informed by the organisation in order to comply with the disclosure regime.

Charities will not be exempt from classification as third party campaigners.

Associated entities

Associated entities – those organisations operated wholly, or to a significant extent, for the benefit of one or more registered political parties – will be covered by the same cap on donations and disclosure requirements as political parties.

Further information

Further information from the VEC on the new framework is available [here](#).

The Electoral Legislation Amendment Bill 2018 is available in full [here](#).

The Victorian Government's media release on the passage of the Bill is available [here](#). The Government's factsheet on the reforms is available [here](#).

For further information please contact your Victorian Hawker Britton consultants [Phil Reed](#) on +61 419 319 362, or [Claire March](#) on +61 403 937 849.