

# **Electoral and Other Legislation Amendment Bill 2015**

## **Explanatory Notes**

### **FOR**

## **Amendments to be moved during consideration in detail by the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills**

### **Short title**

Electoral and Other Legislation Amendment Bill 2015

### **Policy objectives of the amendments for consideration in detail**

The main objectives of the amendments are to clarify the obligations of: (a) candidates to give notice to third parties of the third parties' return obligations in relation to gifts to candidates for the Stafford by-election and the 2015 state general election; and (b) registered political parties to give notice to entities of the entities' return obligations in relation to gifts to registered political parties in the 2013-2014 and 2014-2015 financial years.

### **Achievement of objectives**

The amendments clarify the obligations of: (a) candidates to give notice to third parties of the third parties' return obligations in relation to gifts that are equal to or more than the gift threshold amount (relevant gifts) to candidates for the Stafford by-election and the 2015 state general election; and (b) registered political parties to give notice to entities of the entities' return obligations in relation to relevant gifts to registered political parties in the 2013-2014 and 2014-2015 financial years.

Consistent with the amendments for this purpose, the amendments also clarify where other return requirements apply to matters before the commencement.

## **Alternative ways of achieving policy objectives**

There is no alternative way to achieve these objectives other than by amending the Bill.

## **Estimated cost for government implementation**

There are no costs associated with these amendments.

## **Consistency with fundamental legislative principles**

Issues relating to the backdating of disclosure requirements are addressed in the Explanatory Notes for the Bill.

## **Consultation**

The amendments have not been subject to public consultation.

## **Consistency with legislation of other jurisdictions**

The amendments are not being made for consistency with the legislation of other jurisdictions.

## Notes on provisions

*Amendment 1* amends new subsection 264(9) (as inserted by the Bill) so that a candidate is required to give notice to, rather than inform, a third party of the third party's return obligation under section 264, to allow the general rules under the *Acts Interpretation Act 1954* (AIA) about service to apply.

*Amendment 2* amends section 265 (as amended by the Bill) to provide that the section applies to an entity that makes a gift, or made a gift before the commencement, to a registered political party in a reporting period.

*Amendment 3* is consequential upon amendment 2.

*Amendment 4* amends section 265 (as amended by the Bill). For gifts received after the commencement, a registered political party that receives a relevant gift from an entity must as soon as practicable after receiving the gift give the entity notice of the entity's obligation to give a return. For gifts received before the commencement, the party that received a relevant gift from an entity must within 4 weeks after the commencement give: the entity notice of the entity's obligation to give a return; and a copy of the notice to the Electoral Commission Queensland (ECQ). The maximum penalty for non-compliance with a notice requirement is 20 penalty units. A registered political party does not commit an offence if: the party can not give the entity notice because the party has not kept records about the gift or the entity that made the gift; and the party's failure to keep the records is not an offence against section 307(2)(b).

*Amendment 5* amends new section 266B(8) (as inserted by the Bill) so that a registered political party is required to give notice to, rather than inform, the entity of the entity's return obligations under section 266B, to allow the general rules under the AIA about service to apply.

*Amendment 6* amends section 290 (as replaced by the Bill) in relation to returns by registered political parties. The amendment provides that the return obligation applies in relation to relevant gifts during a reporting period that the party receives, or received before the commencement.

*Amendment 7* amends section 290 (as replaced by the Bill) in relation to returns by registered political parties. The amendment provides that the return obligation applies to a loan with a value equal to or more than the gift threshold amount during a reporting period that the party receives, or received before the commencement.

*Amendment 8* is a technical amendment.

*Amendments 9-11* amend section 290 (as replaced by the Bill) to provide that the obligation to make a return of total amounts received, total amounts paid and the total outstanding amount of all debts incurred includes amounts received, paid and debts incurred before the commencement.

*Amendment 12* amends section 294 (as replaced by the Bill) in relation to returns by associated entities. The amendment provides that the return obligation applies in

relation to gifts that the associated entity receives, or received before the commencement, during a reporting period.

*Amendment 13* is consequential on amendment 12.

*Amendment 14* is a technical amendment.

*Amendment 15* provides that the return requirement under section 294(4) (as replaced by the Bill) applies if an entity was an associated entity at any time during a reporting period, including before the commencement.

*Amendments 16-18* amend section 294 (as replaced by the Bill) to provide that the obligation to make a return of total amounts received, total amounts paid and the total outstanding amount of all debts incurred includes amounts received, paid and debts incurred before the commencement.

*Amendment 19* inserts new section 298A (Failure to notify third party of requirement under s 298(5)). This new section requires a candidate in a relevant election to give notice to a third party who gave the candidate a relevant gift, before commencement, for which a return is required under section 298, of the third party's obligation to give a return. A *relevant election* is defined in the Bill to refer to the Stafford by-election of 19 July 2014 and the general election held on 31 January 2015. Within 4 weeks after the commencement, the notice must be given to the third party and a copy of the notice provided to the ECQ. The maximum penalty for non-compliance by a candidate is 20 penalty units. A candidate does not commit an offence if: the candidate can not give the entity notice because the candidate has not kept records about the gift or the entity that made the gift; and the candidate's failure to keep the records is not an offence against section 307(2)(b).

*Amendment 20* inserts new section 299A (Failure to notify entity of requirement under s 299(2)). This new section requires a registered political party to give notice to an entity that gave the party a relevant gift before the commencement, for which a return is required under section 299, of the entity's obligation to give a return. Within 4 weeks of commencement, the notice must be given to the entity and a copy of the notice must be given to the ECQ. The maximum penalty for non-compliance by a registered political party is 20 penalty units. A registered political party does not commit an offence if: the party can not give the entity notice because the party has not kept records about the gift or the entity that made the gift; and the party's failure to keep the records is not an offence against section 307(2)(b).