

2019

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

CHIEF MINISTER

Electoral Legislation Further Amendment Bill 2019

SERIAL NO. 96

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Bill amends the *Electoral Act 2004* to establish a new scheme for political donations and electoral expenditure in the Northern Territory, as well as non-financial electoral reforms to streamline and contemporise the voting and electoral process, providing increased transparency and accountability in relation to electoral activity in the Northern Territory through:

- a) identifying the purpose of the donations and expenditure reforms in the Bill through a clear objects clause for Part 10 of the Act (Donations and expenditure);
- b) including definitions of 'third party campaigners' and defining 'gifts' to a third party campaigner, as well as updating the definition of 'electoral expenditure' to include contemporary examples such as social media advertising;
- c) requiring third party campaigners and associated entities to publicly register with the Northern Territory Electoral Commission prior to third party campaigners incurring more than \$1000 of political expenditure and in the case of associated entities, prior to receiving a gift or incurring electoral expenditure;
- d) requiring candidates and parties to process political donations and electoral expenditure through a dedicated Territory campaign account to easily determine donations received and electoral expenditure incurred;
- e) introducing an indexed electoral expenditure cap for unendorsed candidates and a pooled cap for registered parties with associated entities sharing the cap with their affiliated party;
- f) requiring candidates, parties, associated entities and third party campaigners to provide an expenditure return for the electoral expenditure period, in order to confirm campaign spending in accordance with the electoral expenditure cap, and as an accountability measure for third party campaigners;
- g) increasing reporting and publishing of donations by unendorsed candidates, parties, associated entities and third party campaigners in an election year to improve transparency for the public benefit;
- h) amending and clarifying donation reporting requirements for candidates, parties and associated entities to increase transparency of donations;
- i) increased frequency of routine reporting of donations by candidates and donors to increase public awareness of donations received in non-election years;

- j) aligning the disclosure thresholds for donors to candidates with the threshold for donors to registered political parties, in order to reduce the administrative burden on donors making small donations to candidates;
- k) reducing the period for parties and associated entities to submit an annual financial return so that the public has improved access to information;
- l) introducing new offences and penalties to drive compliance with the new scheme, including breach of the electoral expenditure cap;
- m) extending the time to commence prosecutions under Part 9A or Part 10 of the Act from three to four years;
- n) removing the outdated provisions requiring broadcasters and publishers to lodge expenditure returns;
- o) extending the election timetable from 20 to 24 days to allow additional time for candidates, parties, associated entities and third party campaigners to submit pre-election donation returns, and increase the time period for nominations and mobile voting;
- p) introducing a savings provision where a person who is not enrolled by the date of close of rolls is still able to cast a provisional vote;
- q) aligning early voting and scrutiny provisions with both mobile and election day voting provisions to create a single regime for casting and counting votes;
- r) increasing the nomination deposit amount to \$500 and allowing for the deposit to be paid electronically for administrative ease;
- s) removing the requirement for a postal vote to be witnessed to decrease the number of postal votes rejected for avoidable mistakes; and
- t) clarifying campaign material requirements so as to improve public awareness of the authorising and funding source of campaign material.

NOTES ON CLAUSES

Part 1 Preliminary matters

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill, when passed, will be cited as the *Electoral Legislation Further Amendment Act 2019*.

Clause 2. Commencement

This is a formal clause that provides that the Act will commence 1 January 2020.

Part 2 Amendment of Electoral Act 2004

Clause 3. Act amended

This is a formal clause that identifies that the legislation being amended in this part of the Bill is the *Electoral Act 2004*.

Clause 4. Part 2 heading amended

This clause amends Part 2 heading to “Interpretation and application”

Clause 5. Section 3 amended (Definitions)

This clause amends the definitions of the Act.

Removes the redundant definitions of ***authorised witness***, ***broadcast*** and ***broadcaster***.

Adds the definitions of ***candidate*** for Part 10 as set out in section 176 and ***capped expenditure period*** as set out in section 203A.

Amends the definition of ***declaration ballot paper*** to provide for an integrated definition which is used throughout the Act.

Amends the definition of ***declaration envelope*** to mean any envelope into which a ballot paper is required to be placed under Part 10.

Amends the definition of ***declaration vote*** to create a distinction between the two types of votes cast at a voting centre which must be placed in an envelope: absent votes and those votes which must be accompanied by a declaration.

Adds a definition of ***early voting centre*** to reflect contemporary terminology, replacing the definition of ***pre-election voting centre***.

Adds a definition of ***election day*** to reflect contemporary terminology, replacing the definition of ***polling day***.

Adds a definition of ***envelope*** to include a declaration envelope.

Adds a definition of ***mobile voting period*** to clarify the meaning of a contemporary term, and replaces the obsolete definition of mobile polling period. This period has also increased from 9 days to 11 days to support the extension of the election timetable.

Adds a definition of ***political expenditure*** to capture a narrower class of expenditure applying to third party campaigners than the definition of 'electoral expenditure' which applies to parties, candidates and associated entities.

Moves the definition of ***reporting agent*** from Part 10 into section 3 for broader application.

Adds a definition of ***third party campaigner***, which replaces the concept of persons incurring political expenditure and creates consistency with other jurisdictions.

Adds a definition of ***voting hours*** to reflect contemporary terminology, replacing the definition of ***polling hours***.

Adds a definition of ***voting papers*** to include a ballot paper, an envelope into which a ballot paper, and any declaration a person makes or completes in casting a vote.

Amends definition of ***election day voting centre*** reflect contemporary terminology, replacing the definition of ***pre-election voting centre***.

Updates the definition of ***electoral advertisement*** to ensure consistency with the updated definition of ***electoral expenditure*** in new section 176A.

Amends the cross-referencing in the definitions of ***electoral expenditure*** and ***gift***.

Amends the definition of ***infringement offence*** to reflect that infringement notices can now be issued for certain offences in Part 9A and Part 10 of the Act.

Amends the definition of ***ordinary vote*** to mean a vote cast before or on election day.

This clause amends the definition of ***voting centre*** to contemporise the legislation, with consequential amendments to terminology.

Clause 6. Section 3A inserted

This clause integrates a number of different definitions of gift used throughout the Act. The definition also clarifies that unpaid volunteer labour provided by a person that is conducted outside of the person's normal working hours or while on leave is not captured within the definition of gift.

A narrower definition of gift is provided in relation to third party campaigners to reflect the different operations of third party campaigners such as industry bodies or not for profit organisations.

Clause 7. Section 8 amended (closed roll)

This clause amends the day and time at which the electoral roll will close. The roll will now be closed at 5 pm on the day after the date of the issue of a writ, instead of at 8 pm, two days after the writ is issued.

This amendment supports the extension of the election timetable, and will allow additional time to effect risk management procedures, ensure quality control of the proofing and printing ballot papers, and ensure the safe and secure batching and despatch of live ballot materials to regional interstate and local voting centres for early and postal voting programs.

Clause 8. Section 8A inserted

This clause provides that Part IIAA of the Criminal Code applies to certain specified offences in Part 9A and 10 of the Act.

Clause 9. Section 11 amended (Contents of roll)

This clause amends section 11 to incorporate contemporary gender inclusive language, and enable consistency with the *Commonwealth Electoral Act 1918*.

Clause 10. Section 13 amended (Supply of roll extract to MLA and registered party)

This clause amends section 13 to incorporate contemporary gender inclusive language, and enable consistency with the *Commonwealth Electoral Act 1918*.

Clause 11. Section 28 amended (Limitation of dates)

This clause extends the limitation of dates for an election to facilitate the extension of the election timetable. The nomination day must be 7 days after the date of the issue of the writ, and the election day must be 23 after the writ is issued.

Clause 12. Section 32 amended (Nomination form)

This clause provides that the amount, and payment method for the accompanied deposit to a nomination form will be prescribed by the regulations.

Clause 13. Section 38 amended

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 14. Section 42 amended

This clause amends section 42 allow election day voting centres to be declared for more than one division.

Clause 15. Section 42A amended (Designated land part of voting centre)

This clause amends section 42A to contemporise the legislation, and ensure terminology is consistent with the amendments to the *Electoral Act 2004*, which was passed in March 2019.

Clause 16. Section 43 amended

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 17. Section 46 amended (Scrutineers – appointment)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 18. Section 47 amended (Scrutineers – presence at voting centre and scrutiny centre)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 19. Section 49 amended (Procedure for voting)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 20. Section 51A amended (How-to-vote cards)

This clause provides for administrative amendments to incorporate contemporary and gender inclusive language and terminology into the *Electoral Act 2004*, and enable consistency with the *Commonwealth Electoral Act 1918*.

Clause 21. Part 6, Division 2 heading amended

This clause amends Part 6, Division 2 heading to more accurately reflect the operation of the Division.

Clause 22. Section 52 amended (Issue of ballot paper)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 23. Section 53 amended (Voting in private)

This clause provides for administrative amendments to incorporate gender inclusive language and terminology into the *Electoral Act 2004*.

Clause 24. Part 6, Division 3 heading replaced

This clause replaces Part 6, Division 3 heading to more accurately reflect the operation of the Division.

Clause 25. Part 6, Division 3, Subdivision 1 heading amended

This clause removes the term “declaration” from Part 6, Division 3, Subdivision 1 to more accurately reflect the operation of the Subdivision.

Clause 26. Section 54 amended

This clause provides for consequential amendments to reflect that election day voting centres may now be declared for more than one division.

Clause 27. Section 55 amended

This clause removes the term “declaration” to clarify the distinction between absent votes and declaration votes.

Clause 28. Part 6, Division 3, Subdivision 2 heading amended

This clause amends Part 6, Division 3, Subdivision 2 heading to more accurately reflect the operation of the Division.

Clause 29. Section 56 amended (Issue of declaration ballot paper)

This clause provides the Northern Territory Electoral Commission with the discretion to request proof of identity to ensure compliance with the legislation.

This clause supports the introduction of provisional voting by allowing the Northern Territory Electoral Commission to issue a declaration ballot paper to a person who has complied with Part VII of the Commonwealth Act before the close of roll or a person who is eligible to enrol under Part VII of the Commonwealth Act.

Clause 30. Section 57 amended (Casting declaration vote)

This clause provides the Northern Territory Electoral Commission with the discretion to record an image of the outside of a declaration envelope. This supports the introduction of provisional voting, as the image can be provided to the Australian Electoral Commission to determine whether the person making the declaration is eligible to enrol under Part VII of the Commonwealth Act and, subsequently, whether their vote can be admitted to the count.

Clause 31. Section 62 amended (Issue of postal voting papers)

This clause amends the time at which an authorised officer must receive a properly completed application in order to issue postal voting papers. The authorised officer must now receive a properly completed application by 5 pm instead of 6 pm.

This clause also provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 32. Section 64 amended (Application to be available for public inspection)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 33. Section 66 amended (When postal vote may be cast)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 34. Section 67 amended (Casting postal vote)

This clause amends section 67 to support the removal of the postal vote witness requirement.

Clause 35. Part 6, Division 5 heading replaced

This clause amends section Part 6, Division 5 so early votes are not declaration votes to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 36. Section 68 amended (Application of Division)

This clause amends section 68 to remove the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 37. Section 69 amended (Arrangements for voting)

This clause amends section 69 to provide the Northern Territory Electoral Commission with greater flexibility when declaring regions for early voting centres, including the discretion not to apply a region in which case all votes at that centre will be treated as absent votes.

Clause 38. Section 70 amended (Public notice of arrangements)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 39. Part 6, Division 5, Subdivisions 2 heading amended

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 40. Section 71 amended

This clause provides for minor amendments to terminology to reflect modern language and support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 41. Section 72 amended

This clause provides for minor amendments to terminology to reflect modern language and support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 42. Part 6, Division 5, Subdivision 3 heading amended

This clause amends the Part 6, Division 5, Subdivision 3 heading to remove reference to “unenrolled persons” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes. The amendment reflects that declaration votes under this Subdivision can be made by either unenrolled persons or persons already marked as voted.

Clause 43. Section 73 amended (Issue of declaration ballot paper)

This clause has been amended to allow declaration votes by either unenrolled persons or persons already marked as voted.

Clause 44. Section 75 amended

This clause provides for minor amendments to terminology to reflect modern language and support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 45. Section 76 amended

This clause provides for minor amendments to terminology to reflect modern language and support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 46. Section 77 amended (Application of Division)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 47. Section 78 amended (Mobile voting centres)

This clause amends section 78 to clarify the process for declaring a mobile voting centre and improve consistency across the *Electoral Act 2004* in relation to declaration of voting centres.

Clause 48. Section 86 amended (Arrangements at voting centres)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 49. Section 87 amended (Assistance to certain voters)

This clause makes consequential amendments to section 87 to clarify the assistance provided to postal voters following removal of the postal vote witness requirement.

Clause 50. Section 89 amended (Spoilt or discarded ballot paper)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 51. Section 90 amended (Dealing with ballot boxes and electoral papers)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 52. Section 91 amended

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 53. Section 92 amended (Employee wishing to vote)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 54. Section 93 amended (How scrutiny carried out)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 55. Section 95 amended

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 56. Section 96 amended (Certain postal ballot papers not counted)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 57. Section 97 amended

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 58. Section 98 amended (Initial dealing with ballot papers)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 59. Part 7, Division 4 heading replaced

This clause replaces the heading for Part 7, Division 4 to more accurately reflect the operation of the Division.

Clause 60. Section 100 amended (Application of Part 7, Division 4)

This clause removes the term “declaration” to facilitate the distinction between absent votes and declaration votes.

Clause 61. Section 101 amended

This clause removes the term “declaration” to facilitate the distinction between absent votes and declaration votes.

This clause also provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 62. Part 7, Division 4, Subdivision 2 heading amended

This clause removes the term “declaration” to facilitate the distinction between absent votes and declaration votes.

Clause 63. Section 102 amended

This clause removes the term “declaration” to facilitate the distinction between absent votes and declaration votes.

This clause also corrects cross-referencing of subdivisions.

Clause 64. Section 103 amended

This clause removes the term “declaration” to facilitate the distinction between absent votes and declaration votes.

Clause 65. Section 104 amended (Application of Part 7, Division 3, Subdivision 3)

This clause corrects cross-referencing of subdivisions.

Clause 66. Section 105 amended (Examination of declaration ballot papers)

This clause amends section 105 to support the introduction of provisional voting by allowing the Northern Territory Electoral Commission to accept a declaration ballot paper from a person who is entitled to be enrolled under Part VII of the Commonwealth Act but is not yet on the electoral roll. The person’s vote can be admitted to the count subject to confirmation of their eligibility.

Clause 67. Section 106 amended (Application of Part 7, Division 3, Subdivision 4)

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

This clause also corrects cross-referencing of subdivisions.

Clause 68. Part 7, Division 4, Subdivision 5 heading amended

This clause amends Part 7, Division 4, Subdivision 5 to more accurately reflect the operation of the Division and expand the provision to apply to absent votes.

Clause 69. Section 108 amended

This clause removes the term “declaration” to facilitate the distinction between absent votes and declaration votes.

Clause 70. Section 109 amended

This clause removes the term “declaration” to facilitate the distinction between absent votes and declaration votes.

Clause 71. Part 7, Division 5, Subdivision 1 heading amended

This clause amends the Part 7, Division 5, Subdivision 1 heading to incorporate modern language and terminology.

Clause 72. Section 111 amended (Checking postal voting papers)

This clause amends section 111 to remove the postal vote witness requirement.

Clause 73. Section 112 amended

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 74. Part 7, Division 6 heading replaced

This clause provides for minor amendments to terminology to reflect modern language and support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 75. Section 115 amended (Application of Part 7, Division 6)

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 76. Section 116 amended (Initial dealing with ballot boxes)

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 77. Part 7, Division 6, Subdivision 2 heading replaced

This clause provides for minor amendments to terminology to reflect modern language and support the alignment of early voting and scrutiny provisions with mobile and election day voting provisions to create a single regime for casting and counting votes.

Clause 78. Section 117 amended (Application of Part 7, Division 6, Subdivision 2)

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 79. Section 118 heading amended

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 80. Part 7, Division 6, Subdivision 3 heading replaced

This clause provides for minor amendments to terminology to reflect modern language and support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 81. Section 119 amended (Application of Part 7, Division 6, Subdivision 3)

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 82. Section 120 amended

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 83. Section 121 amended

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 84. Part 7, Division 6, Subdivision 4 heading amended

This clause provides for minor amendments to terminology to reflect modern language and support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 85. Section 122 amended

This clause removes the term “declaration” to support the alignment of early voting and scrutiny provisions with mobile and election day polling provisions to create a single regime for casting and counting votes.

Clause 86. Section 123 amended (Interim distribution of preference votes)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 87. Section 124 amended (Part counting of votes)

This clause removes the term “declaration” to facilitate the distinction between absent votes and declaration votes.

Clause 88. Section 131 amended (Declaration of result of election)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 89. Section 134 amended (Extension of time)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 90. Section 135 amended (Failure of election)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 91. Section 138 amended (When redistribution to be conducted)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 92. Part 9A inserted

To enhance transparency over entities affiliated with candidates and parties, the amendment Bill requires associated entities and third party campaigners to register with the Northern Territory Electoral Commission (the Commission). Registration must occur prior to third party campaigners incurring more than \$1000 of political expenditure and in the case of associated entities, prior to receiving a gift or incurring electoral expenditure. Third party campaigners are required to register on an election by election basis as they are not ongoing participants in the electoral system in the same way that candidates, parties and associated entities are. The Commission must keep a copy of the register of associated entities and register of third party campaigners on its website.

The application for registration must be in a form approved by the Commission and state relevant details of the entity or campaigner. In the case of associated entities, the application must also be signed by the reporting agent of the associated party. This party endorsement of its associated entities is critical because the cap on registered parties' electoral expenditure introduced in clause 117 is shared with all its associated entities. The endorsement provides a measure of control for registered parties on those entities that may impact on its campaign expenditure.

Part 9A contains a range of offences, including where an associated entity or third party campaigner intentionally fails to register and incurs electoral or political expenditure or, in the case of an associated entity, receives a gift. The clause also provides for an offence where an entity or campaigner fails to notify the Commission of a change in their registered details.

Clause 93. Part 10 heading and Part 10, Division 1 heading replaced and section 175S inserted

This clause amends the Part 10 heading to reflect introduction of new obligations relating to donations and expenditure.

Part 10 has also been amended to include an objects clause to clearly identify the purposes of the provisions in Part 10 of the Act.

Clause 94. Section 176 amended (Definitions)

Removes obsolete definitions of ***broadcaster*** and ***disclosure period***.

Removes the definition of ***gift*** and ***reporting agent*** which have been moved into Part 2 of the Act.

Adds a definition of ***candidate*** to clarify when a person is a candidate for the purpose of Part 10. In Part 10, the definition is critical in determining when a person becomes subject to reporting obligations as a candidate.

Amends the definition of ***financial controller*** to also apply to third party campaigners.

Clause 95. Section 176A inserted

This clause amends the key definition of ***electoral expenditure*** and moves it into new section 176A. Electoral expenditure is amended to apply to the capped expenditure period (and not just the election period).

The definition of ***electoral expenditure*** has also been broadened to capture electoral expenditure in any form and on any platform to reflect the increasing and evolving use of online, social media and other digital platforms to distribute electoral advertisements.

The definition clarifies that ***electoral expenditure*** also includes receiving a specified item or service in the form of a gift. The definition expressly does not include travel and accommodation expenses.

Clause 96. Section 182 repealed (Disclosure period)

This clause repeals section 182. This is consequential to the repeal of section 192 and new reporting obligations outlined in clauses 102, 103 and 104. The repeal of this section is also supported by the introduction of the new definition of **candidate** inserted by clause 94.

Clause 97. Part 10, Division 2 heading amended

The heading of Part 10, Division 2 is amended to reflect extension of the Division to associated entities and third party campaigners.

Clause 98. Section 184 amended (Appointment of reporting agent)

Section 184 is amended to extend the reporting agent regime to associated entities and third party campaigners. Associated entities and third party campaigners will now have the option to appoint a reporting agent.

This clause also mandates that the reporting agent for endorsed candidates is the reporting agent for the registered party. This provides consistency in reporting obligations applying to parties and its endorsed candidates, in particular the expenditure cap for parties which is pooled across all divisions in which it has endorsed a candidate contesting in an election.

Clause 99. Section 185 amended (Non-appointed agents)

This clause amends section 185 to reflect the extension of the reporting agent regime to associated entities and third party campaigners. If an associated entity or third party campaigner does not appoint a reporting agent under section 184, the entity or campaigner's financial controller is taken to be the reporting agent.

Clause 100. Section 187 amended (Effect of registration etc.)

This clause amends section 187 to reflect the extension of the reporting agent regime to associated entities and third party campaigners, confirming who is authorised to give notice that a person has ceased to be a reporting agent.

Clause 101. Section 190 amended (Loans to registered party or candidate)

This clause provides for administrative amendments to incorporate contemporary language and terminology and to update cross-referencing.

Clause 102. Sections 191 and 192 replaced

This clause replaces sections 191 and 192 to provide for enhanced pre-election and post-election reporting by candidates, registered parties, associated entities and third party campaigners. The proposed amendments focus on increasing the transparency of donations in the lead up to, and immediately after, elections to maximise the availability of up to date donation information that can be accessed by the public during the voting period.

New section 191 provides for reporting in connection with a general election (that is not an extraordinary general election). In the year prior to a general election (that is not an extraordinary general election), the reporting agent of candidates, registered parties, associated entities and third party campaigners must submit a return for the period 1 July to 31 December.

In the year of a general election (that is not an extraordinary general election), the reporting agent of candidates, registered parties, associated entities and third party campaigners must submit the following returns:

- 1 January to 31 March;
- 1 April to 30 June;
- 1 July to the day the writ is issued;
- From the day after the writ is issued to 17 days after the writ is issued; and
- 18 days after the writ is issued to 30 days after election day.

New section 192 provides for increased reporting for extraordinary general elections and by-elections.

This clause also inserts new sections 192A to 192E. Sections 192A, 192B and 192C outline additional disclosure requirements for first returns by a candidate, associated entity or third party campaigner; candidates who have not contested the previous election; and associated entities and third party campaigners upon registration, respectively. Section 192D replaces section 191 and prescribes the content of returns required under new sections 191, 192B or 192C.

New section 192E prescribes *gift aggregation periods*. The gift aggregation period is the period in which gifts from donors are aggregated to determine if the relevant thresholds have been met. The clause allows the Northern Territory Electoral Commission to determine the gift aggregation period for an extraordinary general election or by-election in order to take into account the timing of these elections, which are not fixed in the same way as general elections.

This clause also repeals section 192 as the term *persons incurring political* expenditure has been replaced by *third party campaigner*, with the donation disclosure requirements for these entities provided in clause 102. The expenditure disclosure requirements for these entities are provided in clause 113.

Clause 103. Section 193 amended (Donations to candidates)

This clause provides for amendments to align the reporting obligations of persons making a gift to candidates with persons making gifts to a registered party.

Under section 193 as amended, donors will need to report on a financial year basis with the return due 60 days after the end of the financial year.

Clause 104. Section 194 amended (Donations to registered parties)

To increase the currency of reporting, the time for donors to registered parties to submit their return has been reduced from 20 weeks to 60 days.

Clause 105. Section 195 repealed (Returns by persons under Commonwealth Act)

Amendments tightening key reporting obligations in Part 10 to improve timeliness and transparency of political donations and electoral expenditure combined with amendments to the Commonwealth Act have meant that reporting obligations have diverged such that it is no longer possible to use the same report to meet both Commonwealth and Territory obligations.

This clause repeals section 195 to ensure that a report that meets the Territory's specific requirements is submitted.

Clause 106. Section 196 amended

This clause amends the penalty applying in section 196 to be proportionate with amendments to the offence and penalty framework across Part 9A and Part 10.

Clause 107. Section 196A inserted

This clause inserts section 196A to require candidates to notify donors to that candidate of their reporting obligations under section 193. Section 196A is an equivalent obligation to section 196 that applies to registered parties.

Clause 108. Section 197 amended (Anonymous gifts)

This clause extends the obligations relating to anonymous gifts to associated entities and third party campaigners. Similar to registered parties, associated entities and third party campaigners must not accept a gift of \$1,000 or more unless the entity or campaigner knows the name of the donor and other certain specified details of the gift.

Following the repeal of section 182, this clause also defines the *disclosure period* for an election.

Clause 109. Part 10, Division 4 heading replaced and Subdivision 1 heading inserted

The heading for Part 10, Division 4 is replaced and a heading for Subdivision 1 has been inserted to reflect the extension of the Division to include a cap on expenditure.

Clause 110. Section 199 amended

This clause provides for amendments to the heading of section 199 and the omission of the definition of *electoral expenditure* which has been moved to new section 176A.

Clause 111. Part 10, Division 4, Subdivision 2 heading inserted

This clause provides for the insertion of a new heading for Part 10, Division 4, Subdivision 2 (Disclosure).

Clause 112. Section 200 amended (Returns of electoral expenditure)

Supporting the introduction of caps on electoral expenditure in the capped expenditure period, this clause amends section 200 to provide for stronger reporting on electoral expenditure. The reporting agent of candidates, parties and associated entities must submit a return to the Commission detailing all electoral expenditure incurred during the capped expenditure period. This clause specifies the capped expenditure period for a general election (other than an extraordinary general election) or other election.

Similarly, the reporting agent of a third party campaigner must submit a return to the Commission detailing all political expenditure incurred during the capped expenditure period.

All expenditure reports are due to the Commission 60 days after election day for the election.

This clause applies to all elections: scheduled and extraordinary general elections as well as by-elections.

Clause 113. Section 201 amended (Nil returns)

This clause extends the requirement of Nil returns to also apply to registered parties, associated entity or third party campaigner.

Clause 114. Section 202 repealed (Returns by publishers and broadcasters)

This clause repeals section 202, as the requirement for publishers and broadcasters to provide returns is now obsolete.

Clause 115. Part 10, Division 4, Subdivision 3 inserted

This clause creates a framework for capping electoral expenditure of candidates, registered parties and associated entities.

New Subdivision 3 introduces an indexed expenditure cap of \$40 000 on electoral expenditure per individual candidate, with a pooled cap for parties. A cap on electoral expenditure is intended to reduce the ability for donors to influence campaigning in the lead-up to elections by reducing reliance on private donations, and provide a limit to parties spending excessive amounts on campaigning due to greater access to donations.

Associated entities are not subject to a separate expenditure cap. Instead, section 203B(2) provides that associated entities share the cap with their affiliated party as they are, by definition, controlled by or operating to a significant extent to the benefit of a party.

The capped expenditure period is prescribed in section 203A. For a general election (other than an extraordinary general election) the capped expenditure period is the period from 1 January in the year in which an election to 30 days after election day for that election. In the case of an extraordinary general election or by-election, it is the period from the day the writ is issued to 30 days after election day for that election.

To drive compliance with the expenditure cap, a new criminal offence of exceeding the expenditure cap is introduced in section 203C, with a maximum penalty of 300 penalty units or 18 months imprisonment or both for candidates and a maximum penalty of 1500 penalty units for registered parties or associated entities.

To deter attempts to avoid the cap, a new criminal offence of circumventing the expenditure cap is also introduced in section 203D. A substantial maximum penalty of 10 years of imprisonment reflects the seriousness of this offence.

Clause 116. Part 10, Division 5 heading amended

This clause amends the heading of Part 10, Division 5 to remove the reference to registered parties and associated entities within the heading as candidates will also be required to provide annual returns under clause 121.

Clause 117. Section 204A inserted

To ensure that unendorsed candidates do not duplicate additional pre-election and post-election reporting introduced under clause 102, new section 204A provides that unendorsed candidates must not disclose any gift that has already been reported to the Commission.

Clause 118. Section 205 amended (Annual returns by registered parties)

To increase the timeliness of reporting and align key reporting due dates, the time for registered parties to submit annual returns has been reduced from 16 weeks to 60 days.

Clause 119. Section 205A inserted

This clause inserts a requirement for registered parties to provide more specific information about donations including information about individual donors if amounts received from that donor exceed the prescribed threshold. This requirement is in line with the existing requirement for candidates to provide this information under existing section 191 in the *Electoral Act 2004*.

Clause 120. Section 206 amended (Periods of less than financial year)

This clause updates references to annual returns required under section 205 to also include new section 205A.

Clause 121. Section 207 replaced

Amendments tightening key reporting obligations in Part 10 to improve timeliness and transparency of political donations and electoral expenditure combined with amendments to the Commonwealth Act have meant that reporting obligations have diverged such that it is no longer possible to use the same report to meet both Commonwealth and Territory obligations.

This clause provides for section 207 to be replaced with a requirement for financial year reporting of donations by the reporting agent of candidates. This obligation supplements the pre-election and post-election reporting obligations in sections 191 and 192. Financial year donation returns are due to the Commission 30 days after the end of the financial year.

Clause 122. Section 208 amended (Annual returns by associated entities)

To increase the timeliness of reporting and align key reporting due dates, the time for associated entities to submit annual returns has been reduced from 16 weeks to 60 days.

Clause 123. Section 209 replaced

Amendments tightening key reporting obligations in Part 10 to improve timeliness and transparency of political donations and electoral expenditure combined with amendments to the Commonwealth Act have meant that reporting obligations have diverged such that it is no longer possible to use the same report to meet both Commonwealth and Territory obligations.

This clause provides for section 209 to be replaced with requirements for associated entities to provide a further annual return specifically relating to donations in addition to existing general financial returns. These returns from associated entities are due to the Commission 30 days after the end of the financial year.

Clause 124. Section 210 amended (Amounts received)

This clause is a consequential amendment to section 210 to reflect amendments to financial year reporting in sections 207 and 208.

Clause 125. Part 10, Division 5A inserted

This clause establishes a requirement for all candidates and registered parties to keep a separate account with an authorised deposit taking institution for Territory electoral purposes. This account is called a ***Territory campaign account***.

New Division 5A requires registered parties and candidates to process all gifts and electoral expenditure through a dedicated campaign account. The purpose of a dedicated campaign account is to more easily determine when and how gifts are received and expenditure is incurred.

To ensure that funds kept for Commonwealth electoral purposes are quarantined from funds used for Territory electoral purposes, new section 213C provides that if a registered party keeps an account with an ADI for Commonwealth electoral purposes, no amount may be paid or transferred from that account into the Territory campaign account.

New section 213E provides for penalties where a person engages in conduct that contravenes the requirements of Division 5A.

Clause 126. Section 215 amended (Offences)

This clause amends section 215(2) to separate the offences of giving an incomplete return and failing to keep records.

Clause 127. Section 220 amended (Records)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 128. Section 224 replaced

This clause replaces section 224 to provide for increased and more timely publication of returns by the Commission. In particular, pre-election reports under section 191(d) and 192(a) must be published on the Commission's website no later than 3 business days after the Commission receives

the return, and the pre-election reports under section 191(e) and 192(b) must be published no later than 2 business days after the Commission receives the return. This publication timeframe ensures that all voters will have access to information on gifts received by candidates, registered parties and associated entities during the voting period. In other circumstances, the Commission must publish returns on its website as soon as practicable.

Clause 129. Section 243 amended (inquiries by Court)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 130. Section 246 amended (Decision on application)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 131. Section 270 amended (Offences relating to campaign material)

This clause expands the requirements to publish or distribute campaign material to include that the material must be of a sufficient font size to be read by the intended audience for the material; and that the material clearly identifies the source of the funding for that material.

Clause 132. Section 271 amended (Offence relating to push-polling)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 133. Section 275 amended (Campaigning activities near voting centres)

This clause provides for administrative amendments to incorporate contemporary language and terminology into the *Electoral Act 2004*.

Clause 134. Section 284 amended (Forgery)

This clause amends section 284 insert a new offence for forging the signature of a person on an electoral paper.

Clause 135. Section 285 amended (Offences relating to postal ballot papers)

This clause provides for a consequential amendment to remove obsolete references following the removal of the postal vote witness requirement.

Clause 136. Section 297 replaced

This clause provides for the extension of the time to commence prosecutions for an offence against a provision of Part 9A or 10 to be 4 years from commission of the offence. For other offences under the Act, prosecutions may commenced at any time within 12 months after commission of the offence.

Clause 137. Part 13, Division 3 heading replaced

This clause provides for Part 13, Division 3 to be separated into new Part 13A (Infringement notices for infringement offences).

Clause 138. Section 306 amended

This is a consequential amendment to reflect that Infringement notices have been moved from Part 13, Division 3 to new Part 13A.

Clause 139. Section 318 amended (Approved forms)

This clause amends section 318 to allow the Northern Territory Electoral Commission to approve the use of an unattested declaration, in addition to a statutory declaration.

Clause 140. Part 22 inserted

This clause inserts Part 22 to provide for transitional matters for the Electoral Legislation Further Amendment Act 2019.

Section 363 provides that for any person subject to the existing obligations relating to the disclosure of gifts under section 191, 192 and 193, the reporting period for the obligations under those sections will end on 31 December 2019 with each return due to the Commissioner no later than 60 days after that date.

The obligations under the amended sections 191, 192 and 193 will commence from 1 January 2020.

Section 363 clarifies for the new gift disclosure requirements for third party campaigners under section 192, the start of the disclosure period for the 2020 general election will be 1 January 2020.

Section 364 provides that the applicable cap on expenditure for the 2020 general election capped expenditure period beginning on 1 January 2020 will be \$40 000.

Clause 141. Schedule 2 amended (Appealable decisions and affected persons)

This clause amends schedule 2 to provide that a decision by the Commission under new section 175F to refuse an application for registration of an associated entity or third party campaigner is appealable to the Supreme Court under Part 11.

Part 3 Amendment of Local Government Act 2008

Clause 142. Act amended

This is a formal clause that identifies that this part of the Bill amends the *Local Government Act 2008*.

Clause 143. Section 99 amended (Offences relating to campaign material)

This clause expands the requirements to publish or distribute campaign material to include that the material must be of a sufficient font size to be read by the intended audience for the material; and that the material clearly identifies the source of the funding for that material.

This is a consequential amendment to clause 132 amendments, to ensure amendments to the *Electoral Act 2004* are reflected within the *Local Government Act 2008*.

Part 4 Amendment of Electoral Regulations 2004

Clause 144. Regulations amended

This is a formal clause that identifies that this part of the Bill amends the *Electoral Regulations 2004*.

Clause 145. Regulation 2 replaced

This clause replaces Regulation 2 to prescribe the amounts for the following infringement offences:

Section 175P(2) or (3): failure by a registered associated entity or registered third party campaigner to change particulars in the register

Section 215(1): fail to give the Commission a report under Part 10 within the time required.

Section 215(2): give the Commission an incomplete return.

Section 215(2A): fail to keep records in accordance with section 220.

Clause 146. Regulation 3A inserted

This clause amends regulation 3A to introduce an increase in the nomination deposit from \$200 to \$500 to reflect inflation since the amount was set in 1980, and to deter frivolous attempts at candidature.

This clause also allows the Northern Territory Electoral Commission to accept payment of a nomination deposit via an electronic transfer or in cash.

Clause 147. Regulation 5 inserted

This clause inserts new regulation 5 prescribing the details required to be kept by the Commission in the register of associated entities and register of third party campaigners.

For an associated entity, the register must include the full name and address of the entity, the name of registered party with which an entity is associated and the date of registration of the entity.

For a third party campaigner, the register must include the full name, address and date of registration of the campaigner.

Part 5 Repeal of Act

Clause 148. Repeal of Act

This is a standard clause which provides that this amending Act is repealed on 2 January 2020.