

Committee: EPSC
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Tabled By: Dep. Chief Minister
Signed: J.B.

Offences and Penalties

New offences and penalties to drive compliance with new expenditure and disclosure scheme

The Electoral Legislation Further Amendment Bill 2019 (the Bill) includes new offences and penalties for breaching the obligations in the scheme, as well as amendments to existing related penalties to ensure the proposed penalty framework is consistent and proportionate.

An infringement notice scheme is proposed for minor offences relating to a failure to provide returns on time and incomplete returns. This will provide a more accessible enforcement tool for NTEC to apply and sits alongside existing criminal offences and penalties contained in those sections. More serious offences are more appropriately enforced through the courts and are not subject to an infringement notice scheme.

In line with the Mansfield report, it is also proposed that the time to commence prosecutions for alleged offences against a provision of Part 9A (Registration of Associated Entities and Third Party Campaigners) or Part 10 (Donations and Disclosure) of the *Electoral Act 2004* is extended from three to four years.

REF	OFFENCE	APPLIES TO	CURRENT PENALTY	PROPOSED PENALTY*
s175P	Failure to change details in register	Associated entity Third party campaigner	New offence	Associated entity: 10 penalty units (\$1550) Third party campaigner: 10 penalty units (\$1550) PLUS option for NTEC to issue an infringement notice up to: Individual: 0.5 penalty unit (\$77.50) Body Corporate: 0.5 penalty unit (\$77.50)
s175R	Failure to register	Associated entity Third party campaigner	New offence	Individual: 200 penalty units (\$31,000) or 12 months imprisonment or both Body Corporate: 1,000 penalty units (\$155,000)
s196	Party does not advise donors about obligations to make returns	Registered party	Individual: 200 penalty units (\$31,000) or 12 months imprisonment Body Corporate: 1,000 penalty units (\$155,000)	500 penalty units (\$77,500)
s196A	Candidate does not advise donors about obligations to make returns	Candidate	New offence	100 penalty units (\$1550)

*Penalty calculated using 2018-2019 Penalty Unit amount.

REF	OFFENCE	APPLIES TO	CURRENT PENALTY	PROPOSED PENALTY*
s203C	Breach of expenditure cap	Candidate Registered party Associated entity	New offence	Candidate: 300 penalty units (\$46,500) or 18 months imprisonment or both Registered party: 1500 penalty units (\$232,500) Associated entity: 1500 penalty units (\$232,500)
s203D	Circumvent expenditure cap	All persons and organisations	New offence	Up to 10 years imprisonment
s213E	Failure to use campaign account in accordance with Act	Registered party Associated entity	New offence	Individual: 200 penalty units (\$31,000) or 12 months imprisonment or both Body Corporate: 1000 penalty units (\$155,000)
s215(1)	Fail to submit return in specified time	Candidates Registered party Associated entity Third party campaigner Donors	Individual: 200 penalty units (\$31,000) or imprisonment for 12 months. Body corporate: 1,000 penalty units (\$155,000)	Existing penalty PLUS option for NTEC to issue infringement notice up to: Individual: 10 penalty units (\$1550) Body Corporate: 50 penalty units (\$7500)
s215(2)	Incomplete return	Candidates Registered party Associated entity Third party campaigner Donors	Individual: 200 penalty units (\$31,000) or 12 months imprisonment Body corporate: 1,000 penalty units (\$155,000)	Existing penalty PLUS option for NTEC to issue infringement notice up to: Individual: 10 penalty units (\$1550) Body Corporate: 50 penalty units (\$7500)
s215(2A)	Fail to keep records	Candidates Registered party Associated entity Third party campaigner Donors	New offence	Individual: 200 penalty units (\$31,000) or 12 months imprisonment Body Corporate: 1000 penalty units (\$155,000) PLUS option for NTEC to issue infringement notice up to: Individual: 10 penalty units (\$1550) Body Corporate: 50 penalty units (\$7500)
s215(3)	Return is false or misleading	Candidates Registered party Associated entity Third party campaigner Donors	Existing penalty: Individual: 200 penalty units (\$31,000) or 12 months imprisonment Body corporate: 1,000 penalty units (\$155,000)	Existing penalty remains
s215(4)	Provide another person, who is required to give a return, with false or misleading information	Candidates Registered party Associated entity Third party campaigners Donors	Existing penalty: Individual: 200 penalty units (\$31,000) or 12 months imprisonment Body corporate: 1,000 penalty units (\$155,000)	Existing penalty remains

*Penalty calculated using 2018-2019 Penalty Unit amount.