

## ELECTORAL FUNDING AMENDMENT BILL 2025

### STATEMENT OF PUBLIC INTEREST

#### Need: Why is the policy needed based on factual evidence and stakeholder input?

Under the *Electoral Funding Act 2018* (the **Act**) eligible independent members of Parliament and political parties can be reimbursed from the Administration Fund (**Fund**) for “administrative expenditure” incurred in a quarterly period. The Fund is administered by the NSW Electoral Commission (**Commission**).

A category of expenditure which cannot be claimed from the Fund is expenditure for which a member may claim a parliamentary allowance, other than expenditure for which an electoral allowance is payable (section 84(1)(b)(ii)).

The Commission has recently reviewed how “parliamentary allowances”, other than the electoral allowance, must be treated during their assessment of claims under the Fund. The Commission has recommended that the Government consider amending the Act to clarify the relationship between payments from the Fund and members’ additional entitlements under the *Parliamentary Remuneration Act 1989*.

The Government agrees that an amendment is desirable because the current operation of section 84(1)(b)(ii) means that eligible independent members of Parliament and political parties cannot be reimbursed from the Administration Fund by the Commission for items that are claimable under a parliamentary allowance, even if a member has not actually made a claim under such an allowance.

The Government understands that this results in independent members and minor parties potentially receiving reduced administrative funding. The types of administrative expenditure claimed by independent members and minor parties is often also claimable under a parliamentary allowance.

The Commission has also advised the Government that section 84(1)(b)(ii) in its current form creates undesirable administrative complexity in the claims assessment process as well as uncertainty for members about the management of their electoral funding obligations and entitlements.

The Bill proposes to omit section 84(1)(b)(ii) and instead provide that independent members and political parties are not eligible to claim expenditure from the Fund if the member (or a member of the party) has also made a claim for the same item of administrative expenditure under an additional entitlement. The Bill defines “additional entitlement” by reference to section 10(3) of the *Parliamentary Remuneration Act 1989*. This provides greater clarity than the use of the term “parliamentary allowance”, which is not a defined term in either the Act or the *Parliamentary Remuneration Act 1989*.

This change will mean that independent members can claim administrative expenditure from the Fund, even if it is claimable under an additional entitlement, but not if they have, in fact, made a claim for the same item under an additional entitlement. Similarly, the Bill provides that a party is not eligible to make a claim from the Fund if a member of the party has also made a claim for the same item of administrative expenditure under an additional entitlement.

The Bill also provides for consultation on draft guidelines about administrative expenditure prior to the issue of a statutory guideline by the Electoral Commission,



where practicable. This provision responds to feedback from Members of Parliament who would like an opportunity to provide feedback to the Commission on the impact of proposed guidelines that relate to administrative expenditure.

**Objectives: What is the policy's objective couched in terms of the public interest?**

The Bill addresses concerns raised by the Commission about the scope of administrative expenditure that can be claimed from the Fund, which is causing operational complexities for both the Commission and claimants.

It is in the public interest that stakeholders have a clear understanding of expenditure that can and cannot be claimed as administrative expenditure from the Fund.

**Options: What alternative policies and mechanisms were considered in advance of the bill?**

An alternative option would be to simply omit section 84(1)(b)(ii). However, while this option would reduce uncertainty about expenditure which can be claimed from the Fund it would also allow members and parties to claim for the same items of expenditure from both sources of public funding. Accordingly, the Bill instead provides that elected members and parties are not eligible for payments from the Fund for items of administrative expenditure for which the member, or an elected member of the party, has also made a claim for an additional entitlement.

Independent members will be required to provide the Commission with a declaration that they have not made, and will not make, a claim for the same item under an additional entitlement. The Bill empowers the Commission to also require a member of a party to make an analogous declaration.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

The Government considers that the proposals are best implemented by legislative amendment. The current proposal ensures transparency and certainty for stakeholders who submit and assess claims.

The Bill includes savings and transitional provisions to deal with supplementary claims for payment for expenditure incurred since 1 April 2023 and to enable the Commission to determine pending claims for expenditure incurred since that date.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The proposed legislative amendments to the Act will generally have retrospective effect from 1 April 2023. Transitional provisions will allow the Commission to determine supplementary claims for administrative expenditure incurred on and from 1 April 2023 to the date of commencement of the amending Act.

The transitional provisions have been drafted following close consultation with the Commission and independent members of Parliament to reflect the intended operational approach to managing affected claims.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

Independent members of Parliament and the Commission were consulted on the policy proposal and on the draft Bill. The Department of Parliamentary Services was also consulted on the draft Bill.