

**ELECTION FUNDING ACT, 1981, No. 78**

**New South Wales**



ANNO TRICESIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 78, 1981.**

An Act to constitute the Election Funding Authority of New South Wales, to make provision for the public funding of Parliamentary election campaigns and to require the disclosure of certain political contributions and electoral expenditure; and for other purposes. [Assented to, 2nd June, 1981.]

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**PART I.****PRELIMINARY.****Short title.**

1. This Act may be cited as the "Election Funding Act, 1981".

**Commencement.**

2. (1) This Part shall commence on the date of assent to this Act.

(2) Parts II and VIII, sections 24 and 25 and Schedule 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Except as provided in subsections (1) and (2), this Act shall commence on such day (being not earlier than the day appointed and notified under subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) For the purpose only of enabling the Election Funding Authority of New South Wales to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments may be made under Part II, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act.

**Arrangement.**

3. This Act is arranged as follows:—

**PART I.—PRELIMINARY—ss. 1–4.**

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PART II.—THE ELECTION FUNDING AUTHORITY—ss. 5–21.

PART III.—RESPONSIBILITIES OF THE AUTHORITY—ss. 22–25.

PART IV.—REGISTRATION—ss. 26–54.

DIVISION 1.—*Register of Parties*—ss. 26–30.

DIVISION 2.—*Register of Candidates*—ss. 31–38.

DIVISION 3.—*Register of Party Agents*—ss. 39–43.

DIVISION 4.—*Register of Official Agents*—ss. 44–49.

DIVISION 5.—*Registers for by-elections*—ss. 50, 51.

DIVISION 6.—*General*—ss. 52–54.

PART V.—PUBLIC FUNDING OF ELECTION CAMPAIGNS—ss. 55–82.

DIVISION 1.—*Preliminary*—s. 55.

DIVISION 2.—*Constitution of the funds*—ss. 56, 57.

DIVISION 3.—*The Central Fund*—ss. 58–63.

DIVISION 4.—*The Constituency Fund*—ss. 64–68.

DIVISION 5.—*Advance payments*—ss. 69–71.

DIVISION 6.—*Funds for by-elections*—ss. 72, 73.

DIVISION 7.—*General*—ss. 74–82.

PART VI.—POLITICAL CONTRIBUTIONS AND ELECTORAL EXPENDITURE—ss. 83–97.

PART VII.—FINANCIAL PROVISIONS—ss. 98–103.

PART VIII.—MISCELLANEOUS—ss. 104–116.

SCHEDULE 1.—INDEXATION OF THE MONETARY UNIT.

SCHEDULE 2.—TRANSITIONAL PROVISIONS.

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**Interpretation.**

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“agent” means a party agent or official agent;

“alternate” means a person appointed as an alternate under Part II;

“appointed member” means a member of the Authority appointed by the Governor;

“Assembly” means the Legislative Assembly of New South Wales;

“Assembly general election” means an election held for the return of members of the Assembly pursuant to writs issued by the Governor upon the dissolution or expiry of the Assembly;

“auditor” means a person registered under the Public Accountants Registration Act, 1945;

“Authority” means the Election Funding Authority of New South Wales constituted by this Act;

“by-election” means an election held for the return of a member of the Assembly pursuant to a writ other than a writ issued in respect of an Assembly general election;

“candidate”, in relation to an election, means a person nominated as a candidate at the election in accordance with the Parliamentary Electorates and Elections Act, 1912, and includes a person applying for registration as, or registered as, a candidate in the Register of Candidates for the election;

“Chairman” means the Chairman of the Authority;

“Commissioner” means the Electoral Commissioner for New South Wales appointed under the Parliamentary Electorates and Elections Act, 1912, and includes a person duly acting as the Electoral Commissioner;

“Council” means the Legislative Council of New South Wales;

“day of nomination”, in relation to a general election, means the day named in the writ for the periodic Council election on which all nominations of candidates must be made;

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“disposition of property” means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company;
- (b) the creation of a trust in property;
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property;
- (e) the exercise by a person of a general power of appointment of property in favour of any other person; and
- (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of his own property and to increase the value of the property of any other person;

“donor” means a person who makes a gift;

“election” means an Assembly general election, a periodic Council election or a by-election;

“electoral district” means a district for the election of a member to serve in the Assembly;

“endorsed”, in relation to a party, means endorsed, selected or otherwise accredited to stand as a representative of the party;

“expenditure” includes any disposition of property;

“functions” includes powers, authorities and duties;

“fund” means a fund established under Part V;

“general election” means an Assembly general election and a periodic Council election held or to be held concurrently;

“gift” means any disposition of property made otherwise than by will (whether with or without an instrument in writing), without consideration in money or money’s worth passing from the disponent to the donee, or with such consideration so passing if the consideration is not fully adequate;

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“group” means a group of candidates, or part of a group of candidates, for election to the Council;

“interest in property” means any estate, interest, right or power whatever, whether at law or in equity, in, under or over any property;

“member” means a member of the Authority;

“officer”, in relation to a party, means a person who is occupying or acting in an office or position concerned with the management of the party;

“official agent” means, subject to section 49, an official agent appointed under section 46;

“Parliament” means the Parliament of New South Wales;

“party” means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to Parliament of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part;

“party agent” means a party agent appointed under section 41;

“payment” includes a loan, advance or deposit;

“periodic Council election” has the same meaning as it has in section 3 of the Constitution Act, 1902;

“polling day”, in relation to a general election, means the day appointed for the taking of the polls at the election;

“primary votes” means—

(a) in relation to a candidate at an election—the total number of first preference votes recorded for the candidate on all ballot-papers not rejected as informal at the election; or

(b) in relation to a group of candidates, or a party with endorsed candidates, at an election—the total number of first preference votes recorded for the candidates on all ballot-papers not rejected as informal at the election, other than votes recorded for candidates for election to the Assembly;

“property” includes money;

“registered” means registered in accordance with this Act;

“regulations” means regulations under this Act;

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“returning officer” means a returning officer appointed as such under the Parliamentary Electorates and Elections Act, 1912, and includes the Principal Returning Officer under that Act.

(2) A reference in this Act to the exercise of a function includes, where the function is a duty, a reference to the performance of that duty.

(3) For the purposes of this Act, an Assembly general election and a periodic Council election are held or are to be held concurrently if the day for the taking of the polls for each of the elections named in the writs for the elections is the same day, whether or not the taking of any such poll is adjourned.

(4) For the purposes of this Act, where the writs for a general election are issued on different days, the day of the issue of the writs for the general election shall be deemed to be the day on which the writ for the periodic Council election is issued.

(5) For the purposes of this Act, where the days for the return of the writs for a general election are different, the day for the return of the writs shall be deemed to be the day for the return of the writ for the periodic Council election.

(6) A reference in this Act to the day for the return of a writ is a reference to the day specified in the writ as the day for the return of the writ.

(7) A reference in this Act, in relation to a general election, to the periodic Council election is, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the periodic Council election which forms part of the general election.

(8) For the purposes of this Act, where anything is done by, on behalf of or for the benefit of, or any property is held by, or in trust for or for the members of, a body or organisation, incorporated or unincorporated, being a body or organisation that—

(a) forms part of a party;

(b) is established by or under the constitution of a party; or

(c) has functions conferred by or under the constitution of a party, the thing shall be deemed to be done, or on behalf of or for the benefit of that party or the property shall be deemed to be held by that party, as the case may be.

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(9) For the purposes of this Act, the amount of contribution or expenditure consisting of a disposition of property other than money shall be deemed to be an amount equal to the value of the property disposed of.

(10) The value of property disposed of shall, if the regulations so provide, be determined in accordance with principles set out or referred to in the regulations.

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PART II.

THE ELECTION FUNDING AUTHORITY.

**Constitution of the Authority.**

5. There is hereby constituted a corporation under the corporate name of the "Election Funding Authority of New South Wales".

**Members of the Authority.**

6. The Authority shall consist of 3 members, of whom—

- (a) one shall be the Commissioner;
- (b) one shall be appointed by the Governor on the nomination of the Premier; and
- (c) one shall be appointed by the Governor on the nomination of the Leader of the Opposition in the Assembly.

**Chairman.**

7. The Commissioner shall be the Chairman of the Authority.

**Alternates.**

8. (1) There shall be an alternate for each appointed member.

(2) The alternates shall be appointed by the Governor on the same nominations, respectively, as those required for the appointed members.



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(3) A member's alternate may act as the member if the member is absent or if there is a vacancy in the office of the member.

(4) An alternate, while acting as a member, shall be deemed to be a member and shall have and may exercise the functions of the member for whom he is the alternate.

(5) No person shall be concerned to inquire whether or not any occasion has arisen in which a member's alternate is authorised to act as the member, and all acts or things done or omitted by the alternate while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the member.

(6) An alternate may be appointed notwithstanding any vacancy in the office of any member and, without affecting section 13, a vacancy in the office of any member does not affect the tenure of office of any alternate.

**Eligibility for appointment.**

9. (1) A person who—

- (a) is of or above the age of 70 years;
- (b) is a member of the Council or Assembly or a candidate or an agent for a candidate;
- (c) is a member of a legislature other than the Parliament or a candidate for election as such a member;
- (d) is a member of a council or county council under the Local Government Act, 1919, or a candidate for election as such a member;
- (e) is a member of a public authority constituted by an Act;
- (f) is an officer of a party;
- (g) is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (h) is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with the person's creditors, or whose fees and allowances would, upon the person's appointment, be subject to an assignment for their benefit,

is not eligible for appointment as an appointed member or alternate.

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(2) A person is not eligible for appointment as an appointed member or alternate unless—

- (a) he consents to his nomination by instrument in writing furnished to the Minister; and
- (b) he furnishes to the Minister a written statement, verified by statutory declaration, in or to the effect of the prescribed form, that he is not ineligible for appointment by reason of any of the matters set out in subsection (1).

(3) For the purposes of making an appointment referred to in subsection (1), and the recommendation to the Governor therefor, the Governor and the Minister are entitled to rely on the information contained in the written statement referred to in subsection (2) and furnished by the appointee.

**Duty of Minister with respect to appointments.**

10. (1) The Minister shall, as far as practicable, request the appropriate nominations and make the appropriate recommendations to the Governor in sufficient time so as to ensure that—

- (a) the appointment of appointed members and alternates is, as far as practicable, made within the period of 6 months after the day for the return of the writs for each general election; and
- (b) the appointment of a person to fill a vacancy under section 14 is made as soon as practicable after the vacancy occurs.

(2) Where a person has been duly nominated for appointment pursuant to this Part, the Minister shall recommend his appointment to the Governor, unless the person nominated is not eligible for appointment.

**Provisions relating to nominations.**

11. Where a nomination of a person for appointment pursuant to this Part is not submitted within 14 days of a request therefor made by the Minister, or in the manner specified by the Minister, by order in writing to the person entitled to make the nomination, the Governor may make the appointment in the absence of the nomination, and the person so appointed shall hold office as if he had been duly nominated.

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**Term of office of appointed members and alternates.**

**12. (1)** An appointed member or alternate shall, subject to this Act, hold office—

- (a) from the end of the period of 6 months commencing on and including the day for the return of the writs for the previous general election; and
- (b) until the end of the period of 6 months commencing on and including the day for the return of the writs for the next general election.

**(2)** Nothing in subsection (1) prevents an appointment being made under this Act after the period referred to in subsection (1) (a) has commenced, and an appointment, if so made, takes effect from the date it is made and not from the commencement of that period.

**(3)** This section does not affect the appointment of persons to fill vacancies, as referred to in section 14.

**(4)** An appointed member or alternate is, if otherwise qualified, eligible for re-appointment.

**Vacation of office.**

**13. (1)** An appointed member or alternate shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he is absent from 2 consecutive meetings of the Authority of which reasonable notice has been given to him personally or in the ordinary course of post, unless—
  - (i) in the case of an appointed member—his alternate was present at either or both of those meetings; or
  - (ii) in the case of an alternate—the member for whom he is the alternate was present at either or both of those meetings;
- (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his estate, remuneration, fees or allowances for their benefit;

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- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for a period of 12 months or more, or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;
- (f) if he resigns his office by writing under his hand addressed to the Minister;
- (g) if he becomes a member of the Council or Assembly or a candidate or an agent for a candidate;
- (h) if he becomes a member of a legislature other than the Parliament or a candidate for election as such a member;
- (i) if he becomes a member of a council or county council under the Local Government Act, 1919, or a candidate for election as such a member;
- (j) if he becomes a member of a public authority constituted by an Act;
- (k) if he becomes an officer of a party;
- (l) if there is a vacancy in any other office (other than Chairman) under this Part (whether of appointed member or alternate) and the vacancy exists at any time during the period commencing on and including the date for the return of the writs for the next general election held after the commencement of the term of office of the members determined in accordance with section 12 (1) and ending on the expiration of that term of office so determined;
- (m) if—
  - (i) in the case of an appointed member—he is appointed as an alternate; or
  - (ii) in the case of an alternate—he is appointed as an appointed member; or
- (n) on the day on which he attains the age of 70 years.

(2) Section 21A (6) of the Parliamentary Electorates and Elections Act, 1912, applies to and in respect of each appointed member and alternate in the same way as it applies to and in respect of the Commissioner.

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(3) Section 30 (b) of the Interpretation Act, 1897, does not apply to, or to the office of, an appointed member or alternate.

**Filling of casual vacancies.**

14. (1) On the occurrence of a vacancy in the office of an appointed member or alternate, otherwise than by the expiration of his term of office, a person shall be appointed by the Governor, on the same nomination as that required for the former appointee, to hold office for the balance of the former appointee's term of office.

(2) A person may not be appointed to fill a vacancy under this section if he was a candidate at any election held during the former appointee's term of office.

**Meetings of the Authority.**

15. (1) The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Authority.

(2) The Chairman shall preside at all meetings of the Authority, and a meeting of the Authority shall not be held or continued unless the Chairman is present at the meeting.

(3) The Chairman and one other member shall form a quorum at any meeting of the Authority, and any duly convened meeting of the Authority at which such a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise all the functions of the Authority.

(4) Meetings of the Authority shall be convened by the Chairman, who shall give each appointed member and alternate at least 48 hours' notice of each meeting.

(5) Notwithstanding subsection (4), a meeting of the Authority may be held with less than 48 hours' notice if the Chairman and each appointed member or his alternate agree to its being held.

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(6) For the purposes of this section, an appointed member or alternate shall be deemed to have been given notice of a meeting if the notice is sent to his usual place of abode or business.

(7) The Authority shall hold at least 2 meetings in each year ending 31st December.

**Acting Chairman.**

16. (1) The Governor may appoint an officer of the Public Service to act in the office of Chairman while the Chairman is absent from duty through illness or for any other cause or while there is a vacancy in the office of the Chairman.

(2) A person appointed under subsection (1) may not act as Chairman if there is a person who is appointed to act as Commissioner and who is available to exercise his functions as Chairman.

(3) A person appointed under this section, while acting as Chairman, shall be deemed to be the Chairman and shall have and may exercise the functions of the Chairman.

(4) No person shall be concerned to inquire whether or not any occasion has arisen in which a person appointed under this section is authorised to act as Chairman, and all acts or things done or omitted by the person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

**Voting.**

17. (1) A decision supported by a majority of the votes of the members present and voting at a meeting of the Authority shall be the decision of the Authority.

(2) In the event of an equality of votes in relation to a matter at a meeting of the Authority, the matter shall be adjourned to another meeting of the Authority.

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(3) If at the meeting to which a matter was adjourned under subsection (2) there is still an equality of votes in relation to the adjourned matter, the Chairman shall have in addition to a deliberative vote a second or casting vote in relation to that matter.

**Minutes.**

18. The Authority shall cause full and accurate minutes to be kept of its proceedings at meetings.

**Fees and allowances.**

19. (1) An appointed member or alternate is entitled to be paid such fees and allowances as the Minister may from time to time determine.

(2) The fees and allowances determined under this section shall be payable at the same rate for both appointed members and for both alternates.

**Public Service Act, 1979, not to apply.**

20. The Public Service Act, 1979, does not apply to or in respect of the appointment of any person as a member or alternate, and a person is not, in his capacity as a member or alternate, subject to that Act.

**Members not personally liable.**

21. No matter or thing done by the Authority, and no matter or thing done by any member or by another person acting under the direction of or as delegate of the Authority, shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act conferring or imposing functions on the Authority, subject the member or person personally to any action, liability, claim or demand.

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**PART III.****RESPONSIBILITIES OF THE AUTHORITY.****General functions.**

**22. (1)** The Authority shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

**(2)** It is the duty of the Authority to exercise its functions under this Act in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations.

**Applications, etc., generally.**

**23.** Without affecting the generality of section 22, the Authority has the responsibility of dealing with—

- (a) applications for registration under Part IV;
- (b) claims for payments under Part V; and
- (c) declarations of political contributions and electoral expenditure under Part VI.

**Guidelines.**

**24. (1)** The Authority may, from time to time, determine and issue guidelines, not inconsistent with this Act or the regulations, for or with respect to any matters dealt with in this Act (except this Part and Part II).

**(2)** In the operation and application of this Act (except this Part and Part II), regard shall be had not only to the provisions of this Act and the regulations but also to the guidelines determined under subsection (1), and, in particular, the Authority shall have regard to those guidelines when dealing with applications, claims and declarations referred to in section 23.



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**Research.**

25. The Authority may carry out, or arrange for the carrying out of, such research into election funding, political contributions, electoral expenditure and other matters to which this Act relates as the Authority thinks appropriate and may publish the results of any such research.

**PART IV.****REGISTRATION.****DIVISION 1.—Register of Parties.****Register of Parties to be kept.**

26. (1) The Authority shall keep a register, to be called the Register of Parties, for each general election.

(2) The Register of Parties for a general election shall be kept as from the polling day for the previous general election.

(3) Subject to this Act, the Register of Parties shall be kept in such form and manner as the Authority thinks fit.

**Registration.**

27. (1) Registration of a party shall be effected by the insertion in the Register of Parties of the name of the party.

(2) There shall be included in the Register of Parties such particulars with respect to a party registered in the Register as are required to be included in the application for the registration of the party, and such other particulars as the Authority thinks fit.

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**Application for registration.**

**28. (1)** Subject to this Act, the Authority shall register a party in the Register of Parties for a general election if—

- (a) application for registration is made by the party agent on behalf of the party in the form and manner approved by the Authority; and
- (b) the application is received by the Authority before the day of the issue of the writs for the general election and after the polling day for the previous general election.

**(2)** An application for the registration of a party shall set out the following particulars:—

- (a) the full name of the party;
- (b) the name, and any initials or abbreviations of the name, used or to be used by the party in election documents;
- (c) the address of the party headquarters in New South Wales;
- (d) the rules, and platform or objectives, of the party;
- (e) the name and address of the leader (if any) of the party in Parliament;
- (f) in the case of a party not represented in Parliament—the names, addresses, occupations and signatures of 100 electors who are members of the party; and
- (g) such other particulars as may be prescribed.

**Refusal to register.**

**29. (1)** The Authority shall not register a party in the Register of Parties for a general election, or shall cancel the registration of a party, if the application for registration of the party was received by the Authority within the period of 60 days ending on and including the day on which the writs for the general election are issued.

**(2)** The Authority may refuse to register a party if the Authority believes on reasonable grounds that any particulars in the application for registration of the party are incomplete or not correct, but may, if it thinks fit, register the party notwithstanding any such defect.

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(3) Where, pursuant to subsection (2), the Authority refuses to register a party—

- (a) the Authority shall forthwith notify the party agent of the refusal and of the reasons for the refusal;
- (b) the party agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by inserting or substituting the relevant particulars; and
- (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

(4) The Authority may refuse to register a party if, in the opinion of the Authority, the name of the party or the name to be used by the party in any election documents, as set out in the application for the registration of the party—

- (a) so nearly resembles the name of a registered party or a party currently represented in Parliament as to be confused with that party; or
- (b) is obscene or offensive.

(5) Where, pursuant to subsection (4), the Authority refuses to register a party—

- (a) the Authority shall forthwith notify the party agent of the refusal and of the reasons for the refusal;
- (b) the party agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the name of the party; and
- (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

**Amendment of Register.**

30. (1) Where an alteration is made in any of the particulars as stated in the Register of Parties in relation to a party, being particulars of the kind required to be stated in the application for registration of the party, the

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party agent shall, within 30 days after the date of the alteration, furnish the Authority with a statement in writing setting out details of the alteration.

Penalty: \$200.

(2) Where the Authority believes on reasonable grounds that a party agent has not furnished the Authority with a statement setting out details of any alteration, as referred to in subsection (1), the Authority may, by notice in writing served on the party agent, require the party agent to furnish such a statement before the date specified in the notice, or before the date of expiry of the period of 30 days after the service of the notice, whichever is later.

(3) If a party agent fails to furnish a statement in accordance with subsection (2), the Authority may cancel the registration of the party.

(4) The Authority shall vary the particulars set out in the Register of Parties in relation to a party in accordance with a statement furnished in accordance with this section or in accordance with the written request of the party agent, unless the Authority believes on reasonable grounds that the varied particulars are not correct.

(5) The Authority may cancel the registration of a party at the written request of the party agent.

(6) The Authority may, of its own accord or on request, omit any particulars from the Register of Parties if it is satisfied that the particulars are not correct.

(7) The Authority may, of its own accord or on request, insert any particulars in the Register of Parties if it is satisfied that the particulars are correct.

(8) The Authority shall notify the relevant party agent of any alterations made to the Register of Parties pursuant to this section.

(9) The provisions of subsections (1)–(4) do not, if the regulations so provide, apply to particulars or alterations of a class or description specified in the regulations for the purposes of this subsection.

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DIVISION 2.—*Register of Candidates.***Register of Candidates to be kept.**

31. (1) The Authority shall keep a register, to be called the Register of Candidates, for each general election.

(2) The Register of Candidates for a general election shall be kept as from the polling day for the previous general election.

(3) Subject to this Act, the Register of Candidates shall be kept in such form and manner as the Authority thinks fit.

**Registration.**

32. (1) Registration of a candidate shall be effected by the insertion in the Register of Candidates of the name of the candidate.

(2) Registration of a group of candidates shall be effected by the insertion in the Register of Candidates, in relation to candidates registered therein, of an indication that the candidates form a group.

(3) There shall be included in the Register of Candidates—

(a) such particulars with respect to a candidate or group registered in the Register as are required to be included in the application for registration of the candidate or group;

(b) particulars of the platform or objectives of the candidate or group, if the candidate or group requests the Authority to include those particulars; and

(c) such other particulars as the Authority thinks fit.

**Applications for registration of candidates.**

33. (1) Subject to this Act, the Authority shall register a person as a candidate in the Register of Candidates for a general election if—

(a) application for registration is made by the person or his official agent in the form and manner approved by the Authority; and

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- (b) the application is received by the Authority on or before the day of nomination for the general election and after the polling day for the previous general election.

(2) An application for registration of a candidate shall set out the following particulars:—

- (a) the full name and address of the candidate;
- (b) his party or group affiliation (if any);
- (c) the House of Parliament for which he is a candidate;
- (d) the address of the candidate's campaign headquarters in New South Wales; and
- (e) such other particulars as may be prescribed.

**Application for registration of groups.**

34. (1) Subject to this Act, the Authority shall register a group of candidates in the Register of Candidates for a general election if—

- (a) application for registration is made by the candidates or their official agents, or by the official agent for the group, in the form and manner approved by the Authority; and
- (b) the application is received by the Authority on or before the day of nomination for the general election and after the polling day for the previous general election.

(2) An application for the registration of a group of candidates shall set out the following particulars:—

- (a) the full name (if any) of or used or to be used by the group;
- (b) the full names of the candidates; and
- (c) such other particulars as may be prescribed.

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**Lodging of applications.**

**35. (1)** An application for registration in the Register of Candidates may be lodged with the returning officer for any electoral district.

**(2)** An application lodged with a returning officer shall be deemed to have been received by the Authority.

**(3)** A returning officer with whom an application for registration in the Register of Candidates is lodged shall forthwith forward the application to the Chairman.

**Refusal to register candidates.**

**36. (1)** The Authority shall not register a candidate in the Register of Candidates for a general election if the application for registration of the candidate was received by the Authority after the day of nomination for the general election.

**(2)** The Authority may refuse to register a candidate if the Authority believes on reasonable grounds that any particulars in the application for registration of the candidate are incomplete or not correct, but may, if it thinks fit, register the candidate notwithstanding any such defect.

**(3)** Where, pursuant to subsection (2), the Authority refuses to register a candidate—

- (a) the Authority shall forthwith notify the candidate's official agent of the refusal and of the reasons for the refusal;
- (b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the relevant particulars; and
- (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

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**Refusal to register groups.**

**37. (1)** The Authority shall not register a group in the Register of Candidates for a general election if the application for registration of the group was received by the Authority after the day of nomination for the general election.

**(2)** The Authority may refuse to register a group if the Authority believes on reasonable grounds that any particulars in the application for registration of the group are incomplete or not correct, but may, if it thinks fit, register the group notwithstanding any such defect.

**(3)** Where, pursuant to subsection (2), the Authority refuses to register a group—

(a) the Authority shall forthwith notify the group's official agent of the refusal and of the reasons for the refusal;

(b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by inserting or substituting the relevant particulars; and

(c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

**(4)** The Authority may refuse to register a group if, in the opinion of the Authority, the name of the group is obscene or offensive.

**(5)** Where, pursuant to subsection (4), the Authority refuses to register a group—

(a) the Authority shall forthwith notify the group's official agent of the refusal and of the reasons for the refusal;

(b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the name of the group; and



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- (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

**Amendment of Register.**

**38. (1)** Where an alteration is made in any of the particulars as stated in the Register of Candidates in relation to a candidate or group, being particulars of the kind required to be stated in the application for registration of the candidate or group, the candidate's or group's official agent shall, within 30 days after the date of the alteration, furnish the Authority with a statement in writing setting out details of the alteration.

Penalty: \$200.

**(2)** Where the Authority believes on reasonable grounds that a candidate's or group's official agent has not furnished the Authority with a statement setting out details of any alteration, as referred to in subsection (1), the Authority may, by notice in writing served on the official agent, require the official agent to furnish such a statement before the date specified in the notice, or before the date of expiry of the period of 30 days after service of the notice, whichever is later.

**(3)** If a candidate's or group's official agent fails to furnish a statement in accordance with subsection (2), the Authority may cancel the registration of the candidate or group.

**(4)** The Authority shall vary the particulars set out in the Register of Candidates in relation to a candidate or group in accordance with a statement furnished in accordance with this section or in accordance with the written request of the candidate's or group's official agent, unless the Authority believes on reasonable grounds that the varied particulars are not correct.

**(5)** The Authority may cancel the registration of a candidate or group at the written request of the candidate's or group's official agent.

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(6) The Authority may, of its own accord or on request, omit any particulars from the Register of Candidates if it is satisfied that the particulars are not correct.

(7) The Authority may, of its own accord or on request, insert any particulars in the Register of Candidates if it is satisfied that the particulars are correct.

(8) The Authority shall notify the relevant official agent of any alterations made to the Register of Candidates pursuant to this section.

(9) The provisions of subsections (1)–(4) do not, if the regulations so provide, apply to particulars or alterations of a class or description specified in the regulations for the purposes of this subsection.

*DIVISION 3.—Register of Party Agents.*

**Register of Party Agents to be kept.**

39. (1) The Authority shall keep a register, to be called the Register of Party Agents.

(2) The Register of Party Agents shall be kept on a continuous basis.

(3) Subject to this Act, the Register of Party Agents shall be kept in such form and manner as the Authority thinks fit.

**Registration.**

40. (1) Registration of a party agent shall be effected by the insertion in the Register of Party Agents of the name of the party agent and the name of the party by which he was appointed.

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(2) There shall be included in the Register of Party Agents the address and occupation of each party agent, and such other particulars as the Authority thinks fit.

**Appointment, etc., of party agents.**

41. (1) A party shall appoint one party agent.
- (2) A corporation shall not be appointed as a party agent.
- (3) The appointment of a party agent may be revoked.
- (4) If a party agent dies or resigns, the party by which he was appointed shall forthwith give notice of that fact in writing to the Authority.
- (5) If a party agent dies or resigns or his appointment is revoked, the party by which he was appointed shall appoint another party agent in his place.
- (6) The appointment, or the revocation of the appointment, of a party agent shall be made by notice in writing furnished to the Authority, but does not take effect until the appropriate action has been taken under section 42.
- (7) A notice under this section shall be in the form approved by the Authority.
- (8) A notice of the appointment of a party agent shall be deemed not to have been properly given unless it is accompanied by the signed acceptance of appointment of the person appointed.
- (9) A person appointed to any office or position under the Parliamentary Electorates and Elections Act, 1912, is not eligible to be a party agent.

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**(10)** If a party commits an offence against this section—

- (a) each person who, at the time the offence is committed, is an officer of the party is guilty of an offence and liable to a penalty not exceeding \$10,000; and
- (b) the party is liable to a penalty not exceeding \$20,000.

**Entries in the Register.**

**42. (1)** On receipt of a notice of the appointment of a party agent furnished under section 41, the Authority shall register the party agent in the Register of Party Agents.

**(2)** On receipt of a notice furnished under section 41 of the death or resignation, or the revocation of the appointment, of a party agent, the Authority shall remove the name of the party agent from the Register of Party Agents.

**(3)** The Authority may reject a notice referred to in subsection (1) or (2) if, in its opinion, the notice is not in accordance with this Act.

**Amendment of Register.**

**43.** The Authority may amend the Register of Party Agents by—

- (a) correcting a mistake or omission; or
- (b) recording a change in the name, address or occupation of a party agent or a change in the name of the party by which a party agent was appointed.

*DIVISION 4.—Register of Official Agents.*

**Register of Official Agents to be kept.**

**44. (1)** The Authority shall keep a register, to be called the Register of Official Agents, for each general election.

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(2) The Register of Official Agents for a general election shall be kept as from the polling day for the previous general election.

(3) Subject to this Act, the Register of Official Agents shall be kept in such form and manner as the Authority thinks fit.

**Registration.**

45. (1) Registration of an official agent shall be effected by the insertion in the Register of Official Agents of the name of the official agent and the name of the candidate or group by whom he was appointed.

(2) There shall be included in the Register of Official Agents the address and occupation of each official agent, and such other particulars as the Authority thinks fit.

**Appointment, etc., of official agents.**

46. (1) A candidate or group may appoint one official agent.

(2) A corporation shall not be appointed as an official agent.

(3) The appointment of an official agent may be revoked.

(4) If an official agent dies or resigns, the candidate or group by whom he was appointed shall forthwith give notice of that fact in writing to the Authority.

(5) If an official agent dies or resigns or his appointment is revoked, the candidate or group by whom he was appointed may appoint another official agent in his place.

(6) The appointment, or the revocation of the appointment, of an official agent shall be made by notice in writing to the Authority.

(7) A notice under this section shall be in the form approved by the Authority.

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(8) A notice of the appointment of an official agent shall be deemed not to have been properly given unless it is accompanied by the signed acceptance of appointment of the person appointed.

(9) A person appointed to any office or position under the Parliamentary Electorates and Elections Act, 1912, is not eligible to be an official agent.

**Entries in the Register.**

47. (1) On receipt of a notice of the appointment of an official agent furnished under section 46, the Authority shall register the official agent in the Register of Official Agents.

(2) On receipt of a notice furnished under section 46 of the death or resignation, or the revocation of the appointment, of an official agent, the Authority shall remove the name of the official agent from the Register of Official Agents.

(3) The Authority may reject a notice referred to in subsection (1) or (2) if, in its opinion, the notice is not in accordance with this Act.

**Amendment of Register.**

48. The Authority may amend the Register of Official Agents by—

- (a) correcting a mistake or omission; or
- (b) recording a change in the name, address or occupation of an official agent or, in the case of an official agent appointed by a group, a change in the composition or name of the group.

**Where there is no official agent for a candidate or group.**

49. (1) At any time—

- (a) before a candidate appoints an official agent under section 46 (1);  
or

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- (b) after the official agent of a candidate has died or resigned or his appointment has been revoked and before the candidate appoints another official agent,

the candidate shall be deemed to be his own official agent, and references in this Act to an official agent shall be construed accordingly.

(2) At any time—

- (a) before a group appoints an official agent under section 46 (1); or  
(b) after the official agent of a group has died or resigned or his appointment has been revoked and before the group appoints another official agent,

the candidate whose name first appears on the list of members of the group shall be deemed to be the official agent of the group, and references in this Act to an official agent shall be construed accordingly.

**DIVISION 5.—Registers for by-elections.**

**Application of this Division.**

**50.** This Division applies to and in respect of each by-election (referred to in this Division as “the by-election”) at which there are 2 or more candidates for election.

**Registers.**

**51. (1)** The Authority shall keep 2 registers, to be called the Register of Candidates and the Register of Official Agents respectively, for the by-election.

**(2)** The registers shall be kept as from the day of the issue of the writ for the by-election.

**(3)** Subject to this Act, the registers shall be kept in such form and manner as the Authority thinks fit.

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**(4)** The provisions of—

- (a) sections 32, 33, 35, 36 and 38 apply to and in respect of the Register of Candidates for the by-election in the same way as they apply to and in respect of the Register of Candidates to be kept for a general election; and
- (b) sections 45, 46, 47, 48 and 49 apply to and in respect of the Register of Official Agents for the by-election in the same way as they apply to and in respect of the Register of Official Agents to be kept for a general election,

and so apply as if—

- (c) references to groups were omitted;
- (d) references to a general election were references to the by-election; and
- (e) any other necessary adaptations were made.

**DIVISION 6.—General.****Public access to registers.**

**52. (1)** Copies of each register kept under this Part shall be retained by the Authority and be available for public inspection during ordinary office hours.

**(2)** A copy of, or a summary of or extracts from, each current register kept under this Part shall be published in the Gazette within the period of 2 weeks before the polling day for each election.

**Statutory declarations.**

**53.** The Authority may require any particulars in an application or notice under this Part to be verified by statutory declaration.



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**False statements.**

54. A person who, in any application or statement made or furnished under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence and liable to a penalty not exceeding \$10,000.

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**PART V.****PUBLIC FUNDING OF ELECTION CAMPAIGNS.****DIVISION 1.—Preliminary.****Election campaign expenditure.**

55. (1) For the purposes of this Part, a reference to expenditure for election campaign purposes—

(a) includes a reference to—

- (i) expenditure for goods and services for those purposes;
- (ii) expenditure for election campaign preparation purposes; and
- (iii) expenditure incurred in respect of the audit of the relevant claim for payment under this Part and of the declaration lodged under Part VI in respect of the period ending on the polling day for the election (in each case not exceeding \$200 or such other amount as may be prescribed); and

(b) does not include a reference to—

- (i) expenditure incurred substantially in respect of an election for a legislature other than the Parliament;
- (ii) expenditure incurred substantially in respect of an election held before that in respect of which the relevant application for payment under this Part is made; or
- (iii) expenditure of a prescribed class or description.

(2) The decision of the Authority as to whether any expenditure is or is not expenditure for election campaign purposes in accordance with this Act, the regulations and the guidelines determined under section 24 is final.

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(3) The Auditor-General or an auditor is, for the purposes of this Act, entitled to rely on any decision of the Authority referred to in subsection (2).

DIVISION 2.—*Constitution of the funds.*

**Creation of the funds.**

56. (1) For each general election, there shall be a Central Fund and a Constituency Fund, to be kept by the Authority.

(2) The funds shall be credited and distributed in accordance with this Act.

**Determination of credits to funds.**

57. (1) The amounts to be credited to the funds for a general election shall be determined by the Authority as soon as possible after 6 p.m. on the day of the issue of the writs for the general election.

(2) The amounts to be credited, in the aggregate, to the funds for a general election shall be determined in accordance with the following formula:—

$$A = \frac{E \times Y \times M}{100}$$

where—

A represents the aggregate amount (in dollars) to be credited to the funds;

E represents the total number of electors enrolled for all electoral districts as at 6 p.m. on the day of the issue of the writs for the general election;

Y represents the number of years between the day for the return of the writs for the general election and the day for the return of the writs for the previous general election (both days inclusive), any fraction of a year being treated as one year; and

M represents the amount (in cents) of the monetary unit.

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- (3) For the purposes of subsection (2), the monetary unit for—
- (a) the first general election to which this Act applies shall be 22 cents; and
  - (b) any subsequent general election shall be that amount as adjusted in accordance with Schedule 1, determined by the Authority as at the day of the issue of the writs for the general election or 22 cents, whichever is greater.

DIVISION 3.—*The Central Fund.*

**Credits to the Central Fund.**

**58.** Of the total amount determined in accordance with section 57, two-thirds shall be credited to the Central Fund, any fraction of a dollar being disregarded.

**General entitlements of parties.**

**59. (1)** Parties are, subject to and in accordance with this Act, eligible for payments from the Central Fund.

**(2)** A party is eligible to participate in the distribution of the Central Fund for a general election if—

- (a) it is registered as a party in the Register of Parties for the general election as at the polling day for the election;
- (b) it endorses a group for the periodic Council election;
- (c) the group is entered on the ballot-papers for the election under section 83B of the Parliamentary Electorates and Elections Act, 1912;
- (d) the Authority is satisfied that the members of the group claim to be endorsed by the party and by no other party; and

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- (e) the total number of votes polled in favour of the members of the group at the periodic Council election is sufficient to secure the return of their deposits under section 81F of the Parliamentary Electorates and Elections Act, 1912.

**General entitlements of independent groups in Council elections.**

**60. (1)** Groups of candidates who have been nominated for election to the Council are, subject to and in accordance with this Act, eligible for payments from the Central Fund.

**(2)** A group is eligible to participate in the distribution of the Central Fund for a general election if—

- (a) it is registered as a group in the Register of Candidates for the general election as at the polling day for the election;
- (b) the group is entered on the ballot-papers for the periodic Council election under section 83B of the Parliamentary Electorates and Elections Act, 1912;
- (c) the Authority is satisfied that the candidates in the group are not endorsed by any party; and
- (d) the total number of votes polled in favour of the members of the group at the periodic Council election is sufficient to secure the return of their deposits under section 81F of the Parliamentary Electorates and Elections Act, 1912.

**General entitlements of independent candidates in Council elections.**

**61. (1)** Candidates who have been nominated for election to the Council are, subject to and in accordance with this Act, eligible for payments from the Central Fund.

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(2) A candidate nominated for election to the Council is eligible to participate in the distribution of the Central Fund for a general election if—

- (a) he is registered as such a candidate in the Register of Candidates for the general election as at the polling day for the election;
- (b) the Authority is satisfied that he does not claim to be endorsed by any party and that he is not a member of a registered group claiming payment under this Part; and
- (c) he is elected to the Council or the total number of votes polled in his favour at the periodic Council election is sufficient to secure the return of his deposit under section 81F of the Parliamentary Electorates and Elections Act, 1912.

**Formula for the distribution of the Central Fund.**

62. The Central Fund for a general election shall be distributed in accordance with the following formula:—

$$P = \frac{F \times PV}{TEV}$$

where—

- P represents the amount (in dollars) payable to a party, group or candidate eligible to participate in the distribution of the Central Fund;
- F represents the amount (in dollars) standing to the credit of the Central Fund;
- PV represents the primary votes of the party, group or candidate; and
- TEV represents the total primary votes of all parties, groups and candidates eligible to participate in the distribution of the Central Fund.

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**Maximum amounts payable.**

**63. (1)** Notwithstanding anything in this Act—

- (a) no one registered party, group or candidate may receive from the Central Fund more than one-half of the amount credited to the Central Fund; and
- (b) a registered party, group or candidate may not receive from the Central Fund an amount that exceeds the amount that bears to the amount credited to the Central Fund the same proportion as the primary votes of the party, group or candidate bear to the total primary votes of—
  - (i) all parties, groups and candidates eligible to participate in the distribution of the Central Fund; and
  - (ii) all parties, groups and candidates who would be so eligible but for the operation of section 59 (2) (a), 60 (2) (a) or 61 (2) (a).

(2) Any surplus amounts arising from the operation of subsection (1) shall not be available for distribution.

DIVISION 4.—*The Constituency Fund.*

**Credits to the Constituency Fund.**

**64.** Of the total amount determined in accordance with section 57, one-third shall be credited to the Constituency Fund, any fraction of a dollar being disregarded.

**General entitlements.**

**65. (1)** Candidates who have been nominated for election to the Assembly are, subject to and in accordance with this Act, eligible for payments from the Constituency Fund.

(2) A candidate is eligible to participate in the distribution of the Constituency Fund for a general election if—

- (a) he is registered as a candidate for election to the Assembly in the Register of Candidates for the general election as at the polling day for the election; and

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- (b) he is elected to the Assembly or the total number of votes polled in his favour at the election is sufficient to secure the return of his deposit under section 79 of the Parliamentary Electorates and Elections Act, 1912.

**Constituency Fund to be divided among electoral districts.**

66. (1) The amount standing to the credit of the Constituency Fund for a general election shall be divided by the number of electoral districts for which there are 2 or more candidates for election (as referred to in section 81 of the Parliamentary Electorates and Elections Act, 1912), any fraction of a dollar being disregarded.

(2) The amount ascertained in accordance with subsection (1) shall, subject to and in accordance with this Act, be available for distribution in respect of each electoral district referred to in that subsection.

**Formula for the distribution of the Constituency Fund.**

67. The Constituency Fund for a general election shall be distributed in accordance with the following formula:—

$$C = \frac{F \times CV}{TEV}$$

where—

C represents the amount (in dollars) payable to a candidate who has been nominated for election for an electoral district at the general election;

F represents the amount (in dollars) available for distribution in respect of the electoral district;

CV represents the primary votes of the candidate; and

TEV represents the total primary votes of all candidates for election for the electoral district eligible to participate in the distribution of that amount.

*Election Funding.***Maximum amounts payable.**

- 68. (1)** Notwithstanding anything in this Act—
- (a) no one candidate for election for an electoral district may receive from the Constituency Fund more than one-half of the amount available for distribution in respect of the electoral district; and
  - (b) a candidate for election for an electoral district may not receive from the Constituency Fund an amount that exceeds the amount that bears to the amount available for distribution in respect of the electoral district the same proportion as the primary votes of the candidate bear to the total primary votes of—
    - (i) all candidates for election for the electoral district eligible to participate in the distribution of the amount available for distribution in respect of the electoral district; and
    - (ii) all candidates for election for the electoral district who would be so eligible but for the operation of section 65 (2) (a).
- (2)** Any surplus amounts arising from the operation of subsection (1) shall not be available for distribution.

**DIVISION 5.—Advance payments.****Entitlement to advance payments.**

- 69. (1)** A party is, subject to and in accordance with this Act, eligible for the payment, as an advance payment for expenditure incurred for election campaign purposes for a general election, of an amount, ascertained in accordance with subsections (2) and (3), for each of the first 2 complete years after the day for the return of the writs for the previous general election.
- (2)** The amount payable, by way of advance payment, for the first complete year after the day for the return of the writs for the previous general election referred to in subsection (1) is an amount equal to 10 per cent of the total amount to which the party was entitled under this Part for that previous general election.



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(3) The amount payable, by way of advance payment, for the second complete year after the day for the return of the writs for the previous general election referred to in subsection (1) is twice the amount payable for the first complete year.

(4) The amount payable for a year under this section may be paid, as a lump sum or by way of instalments, at any time after the expiration of that year, but before the polling day for the general election to which the payment relates.

(5) A party is not eligible for any advance payments under this section for a general election if it is not registered as a party in the Register of Parties for the election.

**Advance payments to be deducted from other entitlements.**

70. Any amount paid to a party by way of advance payment for a general election shall be deducted from the amount payable to the party from the Central Fund for that election.

**Overpayments.**

71. (1) Where a party receives amounts by way of advance payments under this Division in respect of a general election in excess of the amount (if any) to which it becomes entitled from the Central Fund for the general election, the amount of the excess shall be repaid to the Authority within 60 days after the day for the return of the writs for the periodic Council election that forms part of the general election.

(2) The amount of any excess referred to in subsection (1) may be recovered by the Authority as a debt in any court of competent jurisdiction.

**DIVISION 6.—Funds for by-elections.****Application of this Division.**

72. This Division applies to and in respect of each by-election (referred to in this Division as "the by-election") at which there are 2 or more candidates for election.

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**By-election Constituency Fund.**

**73. (1)** There shall be a By-election Constituency Fund for the by-election.

**(2)** The amount to be credited to the fund shall be determined by the Authority as soon as possible after 6 p.m. on the day of the issue of the writ for the by-election.

**(3)** The amount to be credited to the fund shall be determined in accordance with the following formula:—

$$A = \frac{E \times M \times 3}{100}$$

where—

A represents the total amount (in dollars) to be credited to the fund;

E represents the total number of electors enrolled for the electoral district concerned as at 6 p.m. on the day of the issue of the writ for the by-election; and

M represents the amount (in cents) of the monetary unit.

**(4)** For the purposes of subsection (3), the monetary unit shall be the amount that would, had the by-election been a general election, have been the monetary unit for that general election.

**(5)** The amount to be credited to the fund in accordance with this section shall, subject to and in accordance with this Act, be available for distribution among the candidates at the by-election.

**(6)** The provisions of sections 67 and 68 apply to and in respect of the fund in the same way as they apply to and in respect of the Constituency Fund to be kept for a general election, and so apply as if—

(a) references to a general election were references to the by-election; and

(b) any other necessary adaptations were made.

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DIVISION 7.—*General.***Claims for, and approvals of, payments.**

**74. (1)** Subject to this Act, the Authority shall approve the making of a payment under this Part to a party, group or candidate if—

- (a) a claim for the payment is made by the registered agent for the party, group or candidate in the form and manner approved by the Authority;
- (b) the claim is audited by an auditor; and
- (c) the Authority is satisfied that the party, group or candidate is eligible for the payment.

**(2)** The Authority shall refuse to approve the making of a payment under this Part—

- (a) to the extent that the payment would exceed the amount of expenditure incurred for election campaign purposes; or
- (b) if the claim is received by the Authority after the expiry of the period of 90 days after the day for the return of the writs for the periodic Council election or, in the case of a by-election, within 90 days after the day for the return of the writ for the by-election.

**(3)** In assessing a claim for payment under this Part, the Authority may require the applicant to provide the Authority with further or other information relative to the assessment.

**(4)** Where the Authority is satisfied that it is proper to do so, it may disallow, wholly or in part, any items of expenditure covered by a claim under this Part.

**(5)** Where an amount payable under this Part would include a fraction of a dollar, the Authority may round off the amount in such manner as it thinks fit, and the amount as so rounded off shall be the amount payable.

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**Audit of claim.**

75. A claim under this Part shall be deemed not to be validly lodged with the Authority unless it is accompanied by a certificate of an auditor stating—

- (a) that he was given full and free access at all reasonable times to all accounts, records, documents and papers of the agent by whom the claim is to be lodged, and of the party, group or candidate, as the case may require, relating directly or indirectly to the expenditure referred to in the claim;
- (b) that he duly examined such of those accounts, records, documents and papers as he considers material for the purpose of giving the certificate;
- (c) that he received all information and explanations that he asked for with respect to the expenditure referred to in the claim, subject to the qualifications (if any) specified in the certificate;
- (d) that he is satisfied that, from the information available to him, the expenditure specified in the claim was incurred and is, having regard to this Act, the regulations and the guidelines determined under section 24, expenditure which may properly be the subject of such a claim; and
- (e) that he has no reason to think that any statement in the claim is not correct.

**Expenditure to be vouched for.**

76. A claim under this Part shall be deemed not to be validly lodged with the Authority unless all expenditure specified in the claim is vouched for in the prescribed manner.

**Making of payments.**

77. (1) Subject to this Act, a payment to be made to a party, group or candidate under this Part shall be made to the registered agent of the party, group or candidate.

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(2) The Authority may, if it thinks it proper to do so in the circumstances, direct that the whole or any part of a payment under this Part be made to a specified bank account established by or on behalf of or in trust for or for the members of a party or group or to a specified bank account established by or on behalf of or in trust for a candidate instead of to the registered agent of the party, group or candidate, and payment shall be made accordingly.

(3) Subject to and in accordance with the regulations, the Authority may, if it thinks it proper to do so in the circumstances, direct that the whole or any part of a payment under this Part be made to a person, body or organisation other than the registered agent referred to in subsection (1), and payment shall be made accordingly.

(4) Except as prescribed by the regulations, details of any direction under subsection (3) shall be included in the report of the Authority under section 107 (2) for the reporting period in which the direction was given.

(5) Payments may be made under this Part to an agent subject to such reasonable conditions with respect to the disbursement of the amount paid as the Authority determines.

(6) An agent shall comply with any condition determined in accordance with subsection (5) and applicable to him or any of his predecessors.

Penalty: \$10,000.

(7) It is a defence to a prosecution for an offence arising under subsection (6) if the agent establishes that he did not know, and could not have been reasonably expected to know, that the condition was applicable as referred to in that subsection.

(8) Where a payment is made under this Part and the recipient is not entitled to receive the whole or any part of the amount paid, whether because of a false statement in a claim or otherwise, the amount or that part may be recovered by the Authority as a debt in any court of competent jurisdiction.

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**Payments conditional on disclosure.**

**78.** A party, group or candidate is not eligible for any payment (other than advance payments) under this Part in respect of a general election unless and until the disclosure required by Part VI to be made in respect of the party, group or candidate for the period ending on the polling day for the election has been made and the provisions of this Act have been complied with in relation to that disclosure.

**Death of a candidate.**

**79.** Where a candidate dies and would, but for his death, have been entitled to a payment under this Part, the Authority may make the payment to the candidate's legal personal representatives or otherwise in accordance with section 77.

**Alteration in composition of group.**

**80.** Where there is an alteration in the composition of a group and the Authority is satisfied that the identity of the group is substantially unaltered, payments may be made under this Part as if its composition had not altered.

**Public access to claims, etc.**

**81. (1)** A claim lodged with the Authority for a payment under this Part, together with any papers and correspondence relating to the assessment of the claim by the Authority, or a copy thereof, shall be retained by the Authority for at least 6 years after the polling day for the election to which it or they relate, and any such claim, papers and correspondence, or a copy thereof, shall be available for public inspection during ordinary office hours.

**(2)** The Authority may, on application made to it and on payment of a reasonable fee to be determined from time to time by the Authority, provide copies of or extracts from any claim, papers or correspondence referred to in subsection (1).

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**False statements.**

82. A person who, in any claim lodged with the Authority for a payment under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence and liable to a penalty not exceeding \$10,000.

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**PART VI.****POLITICAL CONTRIBUTIONS AND ELECTORAL EXPENDITURE.****Obligation of parties to make disclosure.**

83. Within 90 days after the day for the return of the writs for a general election (referred to in this section as "the current election"), the registered party agent of each party shall lodge with the Authority a declaration of political contributions received and electoral expenditure incurred during the period—

- (a) commencing on the day following the polling day for the previous general election; and
- (b) ending on the polling day for the current election.

**Obligation of groups to make disclosure.**

84. Within 90 days after the day for the return of the writs for a general election (referred to in this section as "the current election"), the registered official agent of each group nominated for election at the election shall lodge with the Authority a declaration of political contributions received and electoral expenditure incurred during the period—

- (a) commencing on the day of nomination for the current election; and
- (b) ending on the polling day for the current election.

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**Obligation of candidates to make disclosure.**

**85.** Within 90 days after the day for the return of the writs for a general election or by-election (referred to in this section as "the current election"), the registered official agent of each candidate nominated for election at the election shall lodge with the Authority a declaration of political contributions received and electoral expenditure incurred during the period—

(a) commencing on—

- (i) where the candidate was registered at any time in the Register of Candidates for the previous general election—the day following the polling day for that previous general election;
- (ii) where the candidate was registered at any time in the Register of Candidates for a by-election (not being the current election) following the previous general election—the day following the polling day for that by-election; or
- (iii) the day that is 12 months before the day on which the candidate was nominated for election at the current election,

whichever first occurs; and

(b) ending on the polling day for the current election.

**Form and manner of disclosure.**

**86. (1)** Subject to this Act, a declaration of political contributions and electoral expenditure under this Part shall be made in the form and manner approved by the Authority.

**(2)** The date on which each political contribution is made, and the name and address of the person making the contribution, shall be included in a declaration under this Part, except in relation to contributions excluded from the declaration by virtue of section 87 (3) or (4).



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(3) A declaration shall, for the purposes of section 96, be deemed not to have been lodged under this Part unless it contains a statement to the effect that—

- (a) no political contributions other than the contributions (if any) specified in the declaration were received during the relevant period; and
- (b) no electoral expenditure other than the expenditure (if any) specified in the declaration was incurred during that period.

**Political contributions that are to be disclosed.**

87. (1) The political contributions to be disclosed under this Part by the agent of a party, group or candidate are gifts made to the party, group or candidate during the relevant period referred to in section 83, 84 or 85.

(2) A contribution to a group or candidate need not be disclosed in a declaration if the contribution was not given for the purposes of the current election referred to in section 84 or 85.

(3) A contribution to a party or group need not be disclosed in a declaration if the amount of the contribution is not more than \$1,000.

(4) A contribution to a candidate need not be disclosed in a declaration by the candidate if the amount of the contribution is not more than \$200.

(5) Subsection (3) or (4) does not apply to 2 or more contributions made by one person, body or organisation during any period of 12 months during the period in respect of which the declaration relates, if the contributions, in the aggregate, exceed \$1,000 or \$200, as the case may require.

(6) Corporations that are deemed to be related to each other for the purposes of the Companies Act, 1961, shall be regarded as a single corporation for the purposes of this section.

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(7) For the purposes of this Act—

- (a) a payment under this Act;
- (b) an annual subscription of not more than \$200 paid to a party by a member of the party; and
- (c) a payment made under the condition that the money paid is to be used for the sole purpose of promoting or opposing the election of a person or persons to a legislature other than the Parliament,

are not political contributions.

**Electoral expenditure that is to be disclosed.**

**88. (1)** The electoral expenditure to be disclosed under this Part by the agent of a party, group or candidate is expenditure for or in connection with promoting or opposing, directly or indirectly, a party or the election of a candidate or candidates or for the purpose of influencing, directly or indirectly, the voting at an election.

(2) For the purposes of this Act—

- (a) expenditure on advertisements in radio, television, cinemas, newspapers, periodicals, billboards, posters, brochures, how-to-vote cards and any other printed election material;
- (b) expenditure on the holding of election rallies;
- (c) expenditure on the distribution of election material;
- (d) expenditure on travel and accommodation expenditure of a candidate for election;
- (e) expenditure on research associated with election campaigns;
- (f) expenditure incurred in raising funds for an election;
- (g) expenditure on stationery, telephones, messages, postage and telegrams;
- (h) expenditure on committee rooms;
- (i) expenditure classified as electoral expenditure by the Authority; and

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(j) such other expenditure as may be prescribed,  
is electoral expenditure.

(3) For the purposes of this Act, expenditure on factual advertising  
of—

- (a) meetings to be held for the purpose of selecting persons for nomination as candidates for election;
- (b) meetings of parties, branches of parties or conferences, committees or other bodies of parties or branches of parties for organisational purposes; and
- (c) any other matter involving solely the administration of parties, branches of parties or conferences, committees or other bodies of parties or branches of parties,

is not electoral expenditure.

**Additional matters to be included in declaration.**

89. Subject to section 87 (2), there shall be included in a declaration made under this Part in respect of a party, group or candidate—

- (a) the amount of each contribution excluded from the declaration by virtue of section 87 (3) or (4) and the number of donors making contributions of each size;
- (b) the total amount of annual subscriptions excluded from the declaration by virtue of section 87 (7) (b); and
- (c) the net proceeds of fund-raising ventures or functions and details of each such venture or function, including a brief description of its nature and the date on which or period in which it was held.

**Certain matters to be included in Authority's report to Parliament.**

90. Except as prescribed by the regulations, details of gifts included in a declaration under this Part shall be included in the report of the Authority under section 107 (2) for the reporting period in which the declaration is lodged with the Authority.

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**Nil returns.**

**91.** Where no details are to be included in a declaration under this Part, the declaration shall nevertheless be lodged, in which shall be included a statement to the effect that no contributions were received and no expenditure was incurred of the kind required to be disclosed.

**Special provisions relating to group declarations.**

**92.** An item disclosed in a group's declaration need not be also disclosed in the declaration of a member of the group, and an item disclosed in the declaration of a member of a group need not also be disclosed in the group's declaration.

**Audit of declaration.**

**93.** A declaration under this Part shall be deemed not to be validly lodged with the Authority unless it is accompanied by a certificate of an auditor stating—

- (a) that he was given full and free access at all reasonable times to all accounts, records, documents and papers of the agent by whom the declaration is to be lodged, and of the party, group or candidate, as the case may require, relating directly or indirectly to any matter required to be set out in the declaration;
- (b) that he duly examined such of those accounts, records, documents and papers as he considers material for the purpose of giving the certificate;
- (c) that he received all information and explanations that he asked for with respect to any matter required to be set out in the declaration, subject to the qualifications (if any) specified in the certificate; and
- (d) that he has no reason to think that any statement in the declaration is not correct.

**Contributions and expenditure to be vouched for.**

**94.** A declaration under this Part shall be deemed not to be validly lodged with the Authority unless all political contributions and electoral expenditure specified in the declaration are vouched for in the prescribed manner.

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**Public access to declarations, etc.**

95. (1) A declaration lodged with the Authority under this Part, together with any papers and correspondence relating to the declaration, or a copy thereof, shall be retained by the Authority for at least 6 years after the period to which it or they relate, and any such declaration, papers and correspondence, or a copy thereof, shall be available for public inspection during ordinary office hours.

(2) The Authority may, on application made to it and on payment of a reasonable fee to be determined from time to time by the Authority, provide copies of or extracts from any declaration, papers or correspondence referred to in subsection (1).

**Failure to lodge declaration.**

96. (1) Where the registered party agent of a party fails to lodge a declaration as required by section 83—

- (a) the agent is guilty of an offence and liable to a penalty not exceeding \$10,000; and
- (b) the party is guilty of an offence and liable to a penalty not exceeding \$20,000.

(2) Where the registered official agent of a group or candidate fails to lodge a declaration as required by section 84 or 85, the agent is guilty of an offence and liable to a penalty not exceeding \$10,000.

**False statements.**

97. A person who, in any declaration lodged under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence and liable to a penalty not exceeding \$10,000.

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**PART VII.****FINANCIAL PROVISIONS.****Appropriation of Consolidated Revenue Fund for Electoral fundiing.**

**98.** There shall be paid from the Consolidated Revenue Fund, from time to time, such amounts as are necessary to meet the amount of any payments to be made in accordance with Part V, and the Consolidated Revenue Fund is to the necessary extent hereby appropriated accordingly.

**Funding of other expenses.**

**99. (1)** Expenditure incurred in the administration or execution of this Act (other than payments referred to in section 98 and subsection (2)) shall be deemed to be expenses lawfully incurred under and in the execution of the Parliamentary Electorates and Elections Act, 1912.

**(2)** Expenditure incurred in connection with research referred to in section 25, and the engaging of consultants referred to in section 108, shall be met from money provided by Parliament.

**Money received by Authority.**

**100.** Any money received or recovered by the Authority shall be paid to the Consolidated Revenue Fund.

**Statement of accounts.**

**101. (1)** A reference in this section to a reporting period is a reference to each year ending on 30th June or to such other periods (each not exceeding 2 years) as the Governor may from time to time determine.

**(2)** The Authority shall cause to be kept proper accounts and records in relation to all of its operations.

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(3) The Authority shall, as soon as practicable, but within 6 months, after the end of each reporting period, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(4) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Authority.

(5) The Authority shall, as soon as practicable, but within 4 months, after the end of the reporting period to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(6) The Auditor-General's certificate shall state that he has audited the accounts of the Authority relating to the relevant reporting period, and shall indicate whether the statement of accounts complies with subsection (4), and shall set forth any qualifications subject to which the certificate is given.

(7) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(8) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

**Audit.**

102. (1) The accounts and records of financial transactions of the Authority shall be inspected and audited by the Auditor-General.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Authority and may make copies thereof or take extracts therefrom.

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(3) The Auditor-General or a person authorised by him may require a person, being a member or person engaged in the administration of this Act, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty: \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Authority and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

**Application of Audit Act, 1902.**

103. So much of the provisions of the Audit Act, 1902, as applies to accounting officers of public departments shall apply to the members and staff of the authority who would be accounting officers if the Authority were such a department.

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**PART VIII.****MISCELLANEOUS.****Shortened references to Authority.**

104. In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the "Election Funding Authority" shall be read and construed as a reference to the Election Funding Authority of New South Wales.



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**Proof of certain matters not required.**

**105.** In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of or holding of office by any member; or
- (d) the presence or nature of a quorum at any meeting of the Authority.

**Extensions of time.**

**106. (1)** The Authority may, in any particular case, extend the time for doing anything under this Act, if it is satisfied that proper reasons exist justifying the extension.

**(2)** Subsection (1) has effect notwithstanding any other provision of this Act, and whether or not the time for doing the thing under any such provision has expired.

**Reports to Parliament.**

**107. (1)** A reference in this section to a reporting period is a reference to each year ending on 30th June or to such other periods (each not exceeding 2 years) as the Governor may from time to time determine.

**(2)** As soon as practicable after, but within 3 months after, each reporting period, the Authority shall prepare and forward to the President of the Council and the Speaker of the Assembly a report of its work and activities for that reporting period.

**(3)** The Authority may prepare and forward to the President of the Council and the Speaker of the Assembly reports of its work and activities for such periods and at such times as the Authority thinks fit, in addition to the reports required by subsection (2).

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(4) The President of the Council shall cause each such report to be laid before the Council as soon as practicable after the receipt by him of the report.

(5) The Speaker of the Assembly shall cause each such report to be laid before the Assembly as soon as practicable after the receipt by him of the report.

**Staff.**

108. (1) Such staff as may be necessary to enable the Authority to exercise its functions or to assist the Authority in the exercise of its functions shall be employed under the Public Service Act, 1979.

(2) The Authority may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

(3) The Authority may engage persons having suitable qualifications and experience as consultants to the Authority.

**Certain persons not to be auditors.**

109. A candidate or registered agent, or a person appointed to any office or position under the Parliamentary Electorates and Elections Act, 1912, is not qualified to perform any action as an auditor for the purposes of Part V or VI.

**Inspection.**

110. (1) In this section—

“bankers’ books” means books of a banker or cheques, orders for the payment of money, bills of exchange or promissory notes in the possession or under the control of a banker;

“inspector” means a person who is employed or whose services are being used, as referred to in section 108 (1) or (2), and who is for the time being appointed by the Authority as an inspector for the purposes of this section.

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(2) For the purpose of ascertaining whether this Act is being or has been contravened, an inspector may—

- (a) inspect or make copies of, or take extracts from, any records kept by or on behalf of, or any bankers' books so far as they relate to, a party, group or candidate or agent for a party, group or candidate or a former party, group, candidate or agent; and
- (b) enter at any reasonable time any place at which the inspector has reasonable grounds for believing that any such records or bankers' books are kept.

(3) For the purpose of and in connection with an inspection under subsection (2), an inspector may—

- (a) request any person employed or engaged at any place entered pursuant to that subsection to produce to the inspector such records or, as the case may be, such bankers' books, relating to a party, group, candidate or agent or former party, group, candidate or agent as are in the custody or under the control of the person so employed or engaged;
- (b) examine with respect to matters under this Act any person employed or engaged at any place so entered; and
- (c) make such examination and inquiries as he thinks fit for the purpose of ascertaining whether this Act is being or has been contravened.

(4) A person shall not—

- (a) refuse or intentionally delay the admission to any place of an inspector in the exercise by him of his powers under this section;
- (b) intentionally obstruct an inspector in the exercise by him of any such power; or
- (c) fail to comply with a request of an inspector made under any such power.

Penalty: \$10,000.

(5) Every inspector shall be provided with a certificate of his appointment, and on applying for admission to any place where he is empowered by this section to enter, shall, if requested to do so, produce the certificate to the occupier of the place.

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(6) The power of an inspector shall only be exercised under the provisions of this Act when the Authority is satisfied upon reasonable grounds that the provisions of section 93 have not been complied with.

**Proceedings for offences.**

111. (1) Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

(2) If proceedings in respect of an offence against this Act or the regulations are brought in a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, \$4,000 or the maximum penalty provided by this Act in respect of the offence, whichever is the lesser.

(3) If proceedings in respect of an offence against this Act or the regulations are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.

(4) Proceedings in respect of an offence against this Act or the regulations may be commenced within 3 years after the offence was committed and no longer.

(5) Proceedings in respect of an offence against this Act (section 102 excepted) or the regulations may only be commenced with the consent of the Authority.

**Prosecution of unincorporated parties.**

112. A proceeding in respect of an offence against this Act alleged to be committed by a party that is unincorporated, or in respect of any amount recoverable from such a party under section 71 or 77, may be instituted against an officer or officers of the party as a representative or representatives of the members of the party, and a proceeding so instituted shall be deemed to be a proceeding against all the persons who were members of the party at any relevant time.

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**Recovery of penalties, etc., from parties.**

113. For the purposes of enforcing any judgment or order given or made in a proceeding under this Act against a party that is unincorporated, process may be issued and executed against any property of the party, or any property in which the party has, or any members of the party have in their capacity as such members, a beneficial interest, whether vested in trustees or however otherwise held, as if the party were a corporation and the absolute owner of the property or interest, but no process shall be issued or executed against any other property of members, or against any property of officers, of the party.

**Evidence.**

114. A certificate signed by the Commissioner or a person authorised generally or specifically by the Commissioner to do so certifying—

- (a) that a specified party, group or candidate was or was not registered in a specified register kept under this Act at a specified time or during a specified period;
- (b) that a specified person was or was not registered as an agent in a specified register kept under this Act at a specified time or during a specified period; or
- (c) that there was no person registered at a specified time or during a specified period as the agent of a specified party, group or candidate,

is admissible in any proceedings and shall be prima facie evidence of the matters so certified.

**Delegation.**

115. (1) The Authority may, by instrument in writing under seal, delegate to the Chairman the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Authority by or under this or any other Act as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

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(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation under this section, the Authority may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Authority and shall be deemed to have been done or suffered by the Authority.

(6) An instrument purporting to be signed by a delegate of the Authority in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Authority under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Authority under this section.

**Transitional provisions.**

116. Schedule 2 has effect.

**Regulations.**

117. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) requiring the making, keeping and auditing of records of political contributions given or received, and electoral expenditure incurred, by parties, groups, candidates and other persons, and requiring and otherwise providing for the production, examination and copying of those records; and
- (b) the exemption of any class or description of persons, organisations or bodies, or of acts, matters or things, from all or any of the provisions of this Act.

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(2) A regulation may impose a penalty not exceeding \$2,000 for any contravention thereof.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
  - (b) apply differently according to different factors of a specified kind; or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

(4) The Minister shall, before a regulation is at any time made under this Act, certify to the Governor that the regulation is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations, but nothing in this subsection affects the validity of that or any other regulation.

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SCHEDULE 1.

(Secs. 57, 73.)

INDEXATION OF THE MONETARY UNIT.

**Interpretation.**

1. (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“adjustment percentage”, in relation to a current quarter, means the percentage for that quarter, calculated in accordance with clause 2;

“base quarter” means the quarter preceding that in which the day on which the writs for the first general election to which this Act applies are issued occurs;

“current quarter” means the last quarter for which an Index number was last published before the day of the issue of the writs for the election for the purposes of which the monetary unit is to be calculated in accordance with this Schedule;

“Index number”, in relation to a quarter, means the number for that quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician;

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“quarter” means—

- (a) the period commencing on and including 1st July and ending on and including the next 30th September;
- (b) the period commencing on and including 1st October and ending on and including the next 31st December;
- (c) the period commencing on and including 1st January and ending on and including the next 31st March; or
- (d) the period commencing on and including 1st April and ending on and including the next 30th June.

(2) Where the monetary unit is to be adjusted under this Schedule by reference to the adjustment percentage for a quarter, a reference (however expressed) in this Schedule to adjusting the monetary unit is a reference to—

- (a) where the adjustment percentage is calculated in accordance with the formula set out in clause 2 (1) (a)—increasing the monetary unit; or
- (b) where the adjustment percentage is calculated in accordance with the formula set out in clause 2 (1) (b)—reducing the monetary unit.

**Calculation of adjustment percentage.**

2. (1) For the purposes of the definition of “adjustment percentage” in clause 1 (1), the percentage for a current quarter shall be calculated—

- (a) if the Index number for that current quarter is greater than the Index number for the base quarter—in accordance with the following formula:—

$$P = \frac{100 (A - B)}{B}$$

- (b) if the Index number for that current quarter is less than the Index number for the base quarter—in accordance with the following formula:—

$$P = \frac{100 (B - A)}{B}$$

where—

P represents the percentage to be obtained;

A represents the Index number for that current quarter; and

B represents the Index number for the base quarter.



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SCHEDULE 1—*continued.*INDEXATION OF THE MONETARY UNIT—*continued.*

(2) If at any time, whether before or after the commencement of this Schedule, the Australian Statistician has published in respect of a particular quarter an Index number in substitution for an Index number previously published by him in respect of that quarter—

- (a) except as provided in paragraph (b)—the publication of the later Index number shall be disregarded; or
- (b) if the Authority so directs—regard shall, after the direction is given, be had to the later and not to the earlier Index number,

for the purposes of this Schedule.

(3) Notwithstanding subclause (2), if at any time after the commencement of this Schedule the Australian Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this Schedule after the change takes place, regard shall be had only to Index numbers published in terms of the new reference base.

**Adjustment of monetary unit.**

3. The monetary unit for an election shall be determined as at the day of the issue of the writs for the election, by adjusting the amount of 22 cents by the adjustment percentage for the current quarter.

**Calculation of percentages and amounts.**

4. Where a percentage that is to be calculated under this Schedule is or includes a fraction of one-tenth of 1 per cent—

- (a) if that fraction is less than one-half of one-tenth—that fraction shall be disregarded; and
- (b) if that fraction is not less than one-half of one-tenth—that fraction shall be treated as one-tenth.

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SCHEDULE 1—*continued.*INDEXATION OF THE MONETARY UNIT—*continued.***Rounding off of monetary unit.**

5. For the purposes of the application of the monetary unit in connection with an election, the Authority may round off any fraction of a cent in such manner as it thinks appropriate.

## SCHEDULE 2.

(Sec. 116.)

## TRANSITIONAL PROVISIONS.

**Term of office of appointed members and alternates.**

1. Each appointed member or alternate first appointed under this Act shall, subject to this Act, hold office—

- (a) from the day appointed and notified under section 2 (2) or from the date the appointment is made, whichever is the later; and
- (b) until the end of the period of 6 months commencing on and including the day for the return of the writs for the next general election.

**First general election to which Act applies.**

2. (1) If the day appointed and notified under section 2 (3) is later than the day of the issue of the writs for the next general election after that day, this Act does not apply to that election, but applies to the following general election.

(2) If the day appointed and notified under section 2 (3) occurs during the period of 70 days before the day of the issue of the writs for the first general election to which this Act applies, section 29 (1) shall have no force or effect in relation to that election.

(3) In relation to the first general election to which this Act applies, references in Part IV to the polling day for the previous general election shall, except in so far as the Authority otherwise directs, be construed as references to the day appointed and notified under section 2 (3).

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*Election Funding.*

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SCHEDULE 2—*continued.*

TRANSITIONAL PROVISIONS—*continued.*

(4) In relation to the first general election to which this Act applies, where the period in respect of which a declaration under Part VI would, but for this subclause, commence before the day appointed and notified under section 2 (3), the period shall commence on the day so appointed and notified and not at the earlier time.

**Advance payments.**

3. Advance payments may not be made in respect of the first general election to which this Act applies.

**By-elections.**

4. This Act does not apply to any by-elections held or to be held before the first general election to which this Act applies.

*In the name and on behalf of Her Majesty I assent to this Act.*

L. W. STREET,  
*By Deputation from  
His Excellency the Governor.*

*Government House,  
Sydney, 2nd June, 1981.*

Electoral Law

SECTION 2 - ELECTIONS

2.1. In relation to the first general election to which this Act applies, where the period in respect of which a declaration under Part VI would, but for this subsection, commence before the day appointed and notified under section 2 (3), the period shall commence on the day so appointed and notified and not at the earlier time, unless otherwise provided.

2.2. In relation to the first general election to which this Act applies, where the period in respect of which a declaration under Part VI would, but for this subsection, commence before the day appointed and notified under section 2 (3), the period shall commence on the day so appointed and notified and not at the earlier time, unless otherwise provided.

Advance payments.

3. Advance payments may not be made in respect of the first general election to which this Act applies.

2. ELECTIONS

By-elections.

(1) This Act does not apply to any by-elections held or to be held before the first general election to which this Act applies.

4. This Act does not apply to any by-elections held or to be held before the first general election to which this Act applies.

1. In the name and on behalf of Her Majesty I assent to this Act, and I declare that I have read the provisions of this Act and that I understand the contents thereof and that I am satisfied that it is in the public interest that it should be enacted.

Government House

Sydney, 2nd June, 1981.

Witness my hand and seal as Governor-General.

2. This Act shall be printed and bound in the form of a book to be known as the Electoral Law, and shall be printed and bound in the form of a book to be known as the Electoral Law, and shall be printed and bound in the form of a book to be known as the Electoral Law.

BY AUTHORITY

Printed and published by the Government Printer, Sydney, New South Wales, 1981.

(1) This Act shall be printed and bound in the form of a book to be known as the Electoral Law, and shall be printed and bound in the form of a book to be known as the Electoral Law, and shall be printed and bound in the form of a book to be known as the Electoral Law.

## ELECTION FUNDING BILL

Schedule of the amendments referred to in Legislative Council's  
Message of 12 May, 1981.

No. 1.—Page 38, clause 63, lines 2 to 4 inclusive. *Omit* all words on these lines,  
*insert*—

**63. (1) Notwithstanding anything in this Act—**

- (a) no one registered party, group or candidate may receive from the Central Fund more than one-half of the amount credited to the Central Fund; and
- (b) a registered party, group or candidate may not receive from the Central Fund an amount that exceeds the amount that bears to the amount credited to the Central Fund the same proportion as the primary votes of the party, group or candidate bear to the total primary votes of—
  - (i) all parties, groups and candidates eligible to participate in the distribution of the Central Fund; and
  - (ii) all parties, groups and candidates who would be so eligible but for the operation of section 59 (2) (a), 60 (2) (a) or 61 (2) (a).

No. 2.—Page 39, clause 68, lines 27 to 30 inclusive. *Omit* all words on these lines,  
*insert*—

**68. (1) Notwithstanding anything in this Act—**

- (a) no one candidate for election for an electoral district may receive from the Constituency Fund more than one-half of the amount available for distribution in respect of the electoral district; and
- (b) a candidate for election for an electoral district may not receive from the Constituency Fund an amount that exceeds the amount that bears to the amount available for distribution in respect of the electoral district the same proportion as the primary votes of the candidate bear to the total primary votes of—
  - (i) all candidates for election for the electoral district eligible to participate in the distribution of the amount available for distribution in respect of the electoral district; and
  - (ii) all candidates for election for the electoral district who would be so eligible but for the operation of section 65 (2) (a).

No. 3.—Page 46, clause 83, line 21. *Omit* "polling day for that", *insert* "day following the polling day for the".

No. 4.—Page 47, clause 85, line 23. *After* "by-election;", *insert* "or".

No. 5.—Pages 47 and 48, clause 85, from line 24 on page 47 down to and including line 2 on page 48. *Omit* all words on these lines, *insert*—

**(iii) the day that is 12 months before the day on which the candidate was nominated for election at the current election.**

No. 6.—Page 59, Clause 110. *After* line 9 *insert*—

**(6) The power of an inspector shall only be exercised under the provisions of this Act when the Authority is satisfied upon reasonable grounds that the provisions of section 93 have not been complied with.**

No. 7.—Page 66, Schedule 2, line 19. *Omit* “Parts IV and VI”, *insert* “Part IV”.

No. 8.—Page 66, Schedule 2. *After* line 21 *insert*—

**(4) In relation to the first general election to which this Act applies, where the period in respect of which a declaration under Part VI would, but for this subclause, commence before the day appointed and notified under section 2 (3), the period shall commence on the day so appointed and notified and not at the earlier time.**

# ELECTION FUNDING BILL, 1981

## EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to constitute the Election Funding Authority of New South Wales ("the Authority");
- (b) to make provision for the public funding of Parliamentary election campaigns;
- (c) to require the disclosure of certain political contributions and electoral expenditure; and
- (d) to make other provisions of a minor, consequential or ancillary nature.

The Bill contains the following provisions:—

### PART I.—PRELIMINARY.

Part I contains the usual provisions relating to the short title, commencement, arrangement and interpretation of the proposed Act.

### PART II.—THE ELECTION FUNDING AUTHORITY.

Part II constitutes the Authority, which is to consist of 3 members. One member is to be the Electoral Commissioner (the Chairman), and the other 2 members are to be appointed by the Governor on the nominations respectively of the Premier and the Leader of the Opposition in the Legislative Assembly.

### PART III.—RESPONSIBILITIES OF THE AUTHORITY.

Part III deals in general terms with the functions of the Authority. Clause 22 (2) requires the Authority to deal with parties, candidates, etc., in an even-handed manner.

Clause 24 permits the Authority to issue guidelines, and clause 25 authorises the Authority to carry out research.

### PART IV.—REGISTRATION.

Part IV requires a Register of Parties and a Register of Candidates to be kept for each general election. Registration is an essential prerequisite for election campaign funding. Clause 29 provides that a party must be registered for a minimum period before being eligible for funding.

The Part also requires a Register of Parties and a Register of Official Agents to be kept. The Register of Parties is to be kept on a continuous basis, and each party (as defined in clause 4) must appoint a party agent who is to be registered in the register. Candidates and groups of candidates may appoint official agents, who may be registered in the Register of Official Agents. Clause 49 treats a candidate or group without an agent as his or its own agent.

Division 5 of Part IV deals with the registers required to be kept for by-elections.

Clause 52 provides for the publication of the registers and public access to them.

#### PART V.—PUBLIC FUNDING OF ELECTION CAMPAIGNS.

Part V establishes 2 funds for each general election, namely a Central Fund and a Constituency Fund. Clause 57 provides that the aggregate amount to be paid into the funds is to be determined in accordance with the formula set out in the clause. Clause 58 provides that two-thirds of that amount is to be paid to the Central Fund, and clause 64 provides that one-third is to be paid into the Constituency Fund.

Parties, independent groups standing for election to the Legislative Council and independent candidates standing for election to the Council are eligible for payments from the Central Fund. The amount payable depends on the primary votes obtained in the periodic Council election, and sufficient votes must be first obtained so as to secure the return of deposits under the Parliamentary Electorates and Elections Act, 1912. Clause 63 provides that no one party, group or candidate may receive more than one-half of the Central Fund in payments.

Candidates who have been nominated for election to the Legislative Assembly are eligible for payments from the Constituency Fund. The amount payable depends on the primary votes obtained, and sufficient votes must be first obtained so as to secure the return of deposits under the Parliamentary Electorates and Elections Act, 1912. Clause 68 provides that no one candidate may receive more than one-half of the amount available for distribution from the Constituency Fund in respect of the electoral district for which he is a candidate.

Division 5 of Part V permits advance payments to be made to parties, by reference to the party's entitlements to funding at the previous general election.

Division 6 of Part V deals with claims for payments, audit of claims and other machinery matters. Clause 78 makes payment of amounts under the Part conditional on disclosure under Part VI of the proposed Act. Clause 81 gives the public access to claims.

#### PART VI.—POLITICAL CONTRIBUTIONS AND ELECTORAL EXPENDITURE.

Part VI requires parties, groups of candidates and candidates to disclose political contributions received by them and electoral expenditure incurred by them. Clause 95 gives the public access to declarations made under the Part.



## PART VII.—FINANCIAL PROVISIONS. 1981

Part VII provides that money required for election campaign funding is to be paid from the Consolidated Revenue Fund, which is appropriated to the necessary extent. The Authority is required to keep accounts, which are to be audited by the Auditor-General.

## PART VIII.—MISCELLANEOUS.

Part VIII contains miscellaneous provisions.

Clause 106 empowers the Authority to extend the time for doing anything under the Act. Clause 107 requires the Authority to report to Parliament. Clause 110 gives the Authority powers of inspection. Clause 117 empowers the making of regulations by the Governor-in-Council, including regulations requiring the keeping of records by parties, candidates and others, and regulations providing for exemptions from the proposed Act. Clause 117 requires the Minister to certify that any regulation deals with parties, candidates, etc., in an even-handed manner.

## SCHEDULE 1.—INDEXATION OF THE MONETARY UNIT.

The monetary unit is used in the calculation of the amounts to be available for distribution from the Central Fund and the Constituency Fund. The unit is initially 22 cents, and the Schedule provides for its increase in line with Consumer Price Index movements.

## SCHEDULE 2.—TRANSITIONAL PROVISIONS.

Schedule 2 provides for the commencement of the term of the members of the Authority first appointed.

Clause 2 makes special provisions in connection with the first general election to which the proposed Act applies.

Clause 3 provides that advance payments are not available in respect of the first general election, and clause 4 provides that the proposed Act does not apply to by-elections held before the first general election.

PART VII - FINANCIAL PROVISIONS

Section 106 provides that money required for election expenses shall be paid to the Electoral Commission which is appointed to the necessary fund. The Commission is required to keep accounts which shall be audited by the Auditor-General.

PART VIII - MISCELLANEOUS PROVISIONS

Section 107 empowers the Authority to extend the time for doing anything under the Act. Clause 107 requires the Authority to report to Parliament. Clause 110 gives the Authority powers of inspection. Clause 117 empowers the keeping of records by the Governor-in-Council, including regulations requiring the keeping of records by parties, candidates and other persons providing for expenditure from the proposed Act. Clause 117 requires the Minister to certify that any regulation deals with parties, candidates etc. in an even-handed manner.

Section 118 - Interpretation of the Electoral Act. The monetary amounts in the calculation of the amount to be available for distribution from the Central Fund and the Constituency Fund shall initially be 25 cents and the schedule provides for its increase in line with Consumer Price Index movements.

SCHEDULE 2 - TRANSFERRED PROVISIONS

Section 2 provides for the commencement of the Act on the day that the Authority first appointed.

Section 3 makes special provisions in connection with the first general election to which the proposed Act applies.

Section 4 provides that advance payments are not available in respect of the first general election and clause 4 provides that the proposed Act does not apply to the first general election.

Section 5 provides that the proposed Act shall apply to the first general election.

Section 6 provides that the proposed Act shall apply to the first general election.

PART VI - CONTRIBUTIONS AND ELECTORAL EXPENDITURE

Section 95 provides that parties, voters, candidates and candidates to district political committees receive a grant and are exempt from contributions incurred by them. Clause 95 provides that the public access to the Electoral Commission is made under the Part.

# ELECTION FUNDING BILL, 1981

It is enacted by the Queen's Most Excellent Majesty in and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART IV—MISCELLANEOUS

### PART I—PRELIMINARY

#### Division 1—Short title

#### Division 2—Commencement

#### Division 3—Interpretation

#### Division 4—Provisions relating to the Act

#### Division 5—Provisions relating to the Authority

#### Division 6—Provisions relating to the funding of campaigns

#### Division 7—Provisions relating to the disclosure of contributions

#### Division 8—Provisions relating to electoral expenditure

No. , 1981.

## A BILL FOR

An Act to constitute the Election Funding Authority of New South Wales, to make provision for the public funding of Parliamentary election campaigns and to require the disclosure of certain political contributions and electoral expenditure; and for other purposes.

[MR WRAN—15 April, 1981.]

## PART VII—MISCELLANEOUS

### Arrangement

### SCHEDULE 1—MISCELLANEOUS

3. This Act is arranged as follows:—

PART I—PRELIMINARY—25

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*Election Funding.*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5

**PART I.**

**PRELIMINARY.**

**Short title.**

1. This Act may be cited as the "Election Funding Act, 1981".

**Commencement.**

10 2. (1) This Part shall commence on the date of assent to this Act.

(2) Parts II and VIII, sections 24 and 25 and Schedule 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 (3) Except as provided in subsections (1) and (2), this Act shall commence on such day (being not earlier than the day appointed and notified under subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

20 (4) For the purpose only of enabling the Election Funding Authority of New South Wales to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments may be made under Part II, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act.

**Arrangement.**

25 3. This Act is arranged as follows:—

**PART I.—PRELIMINARY—ss. 1-4.**

*Election Funding.*

PART II.—THE ELECTION FUNDING AUTHORITY—ss. 5–21.

PART III.—RESPONSIBILITIES OF THE AUTHORITY—ss. 22–25.

PART IV.—REGISTRATION—ss. 26–54.

DIVISION 1.—*Register of Parties*—ss. 26–30.

DIVISION 2.—*Register of Candidates*—ss. 31–38.

DIVISION 3.—*Register of Party Agents*—ss. 39–43.

DIVISION 4.—*Register of Official Agents*—ss. 44–49.

DIVISION 5.—*Registers for by-elections*—ss. 50, 51.

DIVISION 6.—*General*—ss. 52–54.

10 PART V.—PUBLIC FUNDING OF ELECTION CAMPAIGNS—ss. 55–82.

DIVISION 1.—*Preliminary*—s. 55.

DIVISION 2.—*Constitution of the funds*—ss. 56, 57.

DIVISION 3.—*The Central Fund*—ss. 58–63.

DIVISION 4.—*The Constituency Fund*—ss. 64–68.

15 DIVISION 5.—*Advance payments*—ss. 69–71.

DIVISION 6.—*Funds for by-elections*—ss. 72, 73.

DIVISION 7.—*General*—ss. 74–82.

PART VI.—POLITICAL CONTRIBUTIONS AND ELECTORAL EXPENDITURE—ss. 83–97.

20 PART VII.—FINANCIAL PROVISIONS—ss. 98–103.

PART VIII.—MISCELLANEOUS—ss. 104–116.

SCHEDULE 1.—INDEXATION OF THE MONETARY UNIT.

SCHEDULE 2.—TRANSITIONAL PROVISIONS.

*Election Funding.***Interpretation.**

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“agent” means a party agent or official agent;

5 “alternate” means a person appointed as an alternate under Part II;

“appointed member” means a member of the Authority appointed by the Governor;

“Assembly” means the Legislative Assembly of New South Wales;

10 “Assembly general election” means an election held for the return of members of the Assembly pursuant to writs issued by the Governor upon the dissolution or expiry of the Assembly;

“auditor” means a person registered under the Public Accountants Registration Act, 1945;

15 “Authority” means the Election Funding Authority of New South Wales constituted by this Act;

“by-election” means an election held for the return of a member of the Assembly pursuant to a writ other than a writ issued in respect of an Assembly general election;

20 “candidate”, in relation to an election, means a person nominated as a candidate at the election in accordance with the Parliamentary Electorates and Elections Act, 1912, and includes a person applying for registration as, or registered as, a candidate in the Register of Candidates for the election;

“Chairman” means the Chairman of the Authority;

25 “Commissioner” means the Electoral Commissioner for New South Wales appointed under the Parliamentary Electorates and Elections Act, 1912, and includes a person duly acting as the Electoral Commissioner;

“Council” means the Legislative Council of New South Wales;

30 “day of nomination”, in relation to a general election, means the day named in the writ for the periodic Council election on which all nominations of candidates must be made;

*Election Funding.*

“disposition of property” means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company;
- 5 (b) the creation of a trust in property;
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;
- 10 (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property;
- (e) the exercise by a person of a general power of appointment of property in favour of any other person; and
- 15 (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of his own property and to increase the value of the property of any other person;

“donor” means a person who makes a gift;

20 “election” means an Assembly general election, a periodic Council election or a by-election;

“electoral district” means a district for the election of a member to serve in the Assembly;

“endorsed”, in relation to a party, means endorsed, selected or otherwise accredited to stand as a representative of the party;

25 “expenditure” includes any disposition of property;

“functions” includes powers, authorities and duties;

“fund” means a fund established under Part V;

“general election” means an Assembly general election and a periodic Council election held or to be held concurrently;

30 “gift” means any disposition of property made otherwise than by will (whether with or without an instrument in writing), without consideration in money or money’s worth passing from the donee to the donor, or with such consideration so passing if the consideration is not fully adequate;

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*Election Funding.*

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“group” means a group of candidates, or part of a group of candidates, for election to the Council;

“interest in property” means any estate, interest, right or power whatever, whether at law or in equity, in, under or over any property;

5 “member” means a member of the Authority;

“officer”, in relation to a party, means a person who is occupying or acting in an office or position concerned with the management of the party;

10 “official agent” means, subject to section 49, an official agent appointed under section 46;

“Parliament” means the Parliament of New South Wales;

15 “party” means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to Parliament of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part;

“party agent” means a party agent appointed under section 41;

“payment” includes a loan, advance or deposit;

“periodic Council election” has the same meaning as it has in section 3 of the Constitution Act, 1902;

20 “polling day”, in relation to a general election, means the day appointed for the taking of the polls at the election;

“primary votes” means—

25 (a) in relation to a candidate at an election—the total number of first preference votes recorded for the candidate on all ballot-papers not rejected as informal at the election; or

30 (b) in relation to a group of candidates, or a party with endorsed candidates, at an election—the total number of first preference votes recorded for the candidates on all ballot-papers not rejected as informal at the election, other than votes recorded for candidates for election to the Assembly;

“property” includes money;

“registered” means registered in accordance with this Act;

“regulations” means regulations under this Act;



*Election Funding.*

"returning officer" means a returning officer appointed as such under the Parliamentary Electorates and Elections Act, 1912, and includes the Principal Returning Officer under that Act.

(2) A reference in this Act to the exercise of a function includes, where the function is a duty, a reference to the performance of that duty.

(3) For the purposes of this Act, an Assembly general election and a periodic Council election are held or are to be held concurrently if the day for the taking of the polls for each of the elections named in the writs for the elections is the same day, whether or not the taking of any such poll is adjourned.

(4) For the purposes of this Act, where the writs for a general election are issued on different days, the day of the issue of the writs for the general election shall be deemed to be the day on which the writ for the periodic Council election is issued.

(5) For the purposes of this Act, where the days for the return of the writs for a general election are different, the day for the return of the writs shall be deemed to be the day for the return of the writ for the periodic Council election.

(6) A reference in this Act to the day for the return of a writ is a reference to the day specified in the writ as the day for the return of the writ.

(7) A reference in this Act, in relation to a general election, to the periodic Council election is, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the periodic Council election which forms part of the general election.

(8) For the purposes of this Act, where anything is done by, on behalf of or for the benefit of, or any property is held by, or in trust for or for the members of, a body or organisation, incorporated or unincorporated, being a body or organisation that—

- (a) forms part of a party;
  - (b) is established by or under the constitution of a party; or
  - (c) has functions conferred by or under the constitution of a party,
- the thing shall be deemed to be done, or on behalf of or for the benefit of that party or the property shall be deemed to be held by that party, as the case may be.

*Election Funding.*

(9) For the purposes of this Act, the amount of contribution or expenditure consisting of a disposition of property other than money shall be deemed to be an amount equal to the value of the property disposed of.

(10) The value of property disposed of shall, if the regulations so provide, be determined in accordance with principles set out or referred to in the regulations.

**PART II.****THE ELECTION FUNDING AUTHORITY.****Constitution of the Authority.**

10 **5.** There is hereby constituted a corporation under the corporate name of the "Election Funding Authority of New South Wales".

**Members of the Authority.**

6. The Authority shall consist of 3 members, of whom—  
(a) one shall be the Commissioner;  
15 (b) one shall be appointed by the Governor on the nomination of the Premier; and  
(c) one shall be appointed by the Governor on the nomination of the Leader of the Opposition in the Assembly.

**Chairman.**

20 **7.** The Commissioner shall be the Chairman of the Authority.

**Alternates.**

30 **8. (1)** There shall be an alternate for each appointed member.  
(2) The alternates shall be appointed by the Governor on the same nominations, respectively, as those required for the appointed members.

*Election Funding.*

- (3) A member's alternate may act as the member if the member is absent or if there is a vacancy in the office of the member.
- (4) An alternate, while acting as a member, shall be deemed to be a member and shall have and may exercise the functions of the member for whom he is the alternate.
- (5) No person shall be concerned to inquire whether or not any occasion has arisen in which a member's alternate is authorised to act as the member, and all acts or things done or omitted by the alternate while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the member.
- (6) An alternate may be appointed notwithstanding any vacancy in the office of any member and, without affecting section 13, a vacancy in the office of any member does not affect the tenure of office of any alternate.

**Eligibility for appointment.**

- 15 9. (1) A person who—
- (a) is of or above the age of 70 years;
- (b) is a member of the Council or Assembly or a candidate or an agent for a candidate;
- 20 (c) is a member of a legislature other than the Parliament or a candidate for election as such a member;
- (d) is a member of a council or county council under the Local Government Act, 1919, or a candidate for election as such a member;
- (e) is a member of a public authority constituted by an Act;
- (f) is an officer of a party;
- 25 (g) is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- 30 (h) is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with the person's creditors, or whose fees and allowances would, upon the person's appointment, be subject to an assignment for their benefit,
- is not eligible for appointment as an appointed member or alternate.

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*Election Funding.*

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(2) A person is not eligible for appointment as an appointed member or alternate unless—

- (a) he consents to his nomination by instrument in writing furnished to the Minister; and
- 5 (b) he furnishes to the Minister a written statement, verified by statutory declaration, in or to the effect of the prescribed form, that he is not ineligible for appointment by reason of any of the matters set out in subsection (1).

(3) For the purposes of making an appointment referred to in sub-  
10 section (1), and the recommendation to the Governor therefor, the Governor and the Minister are entitled to rely on the information contained in the written statement referred to in subsection (2) and furnished by the appointee.

**Duty of Minister with respect to appointments.**

15 10. (1) The Minister shall, as far as practicable, request the appropriate nominations and make the appropriate recommendations to the Governor in sufficient time so as to ensure that—

- (a) the appointment of appointed members and alternates is, as far as  
20 practicable, made within the period of 6 months after the day for the return of the writs for each general election; and
- (b) the appointment of a person to fill a vacancy under section 14 is made as soon as practicable after the vacancy occurs.

(2) Where a person has been duly nominated for appointment pursuant to this Part, the Minister shall recommend his appointment to the  
25 Governor, unless the person nominated is not eligible for appointment.

**Provisions relating to nominations.**

11. Where a nomination of a person for appointment pursuant to this Part is not submitted within 14 days of a request therefor made by the Minister, or in the manner specified by the Minister, by order in writing to  
30 the person entitled to make the nomination, the Governor may make the appointment in the absence of the nomination, and the person so appointed shall hold office as if he had been duly nominated.

*Election Funding.***Term of office of appointed members and alternates.**

**12. (1)** An appointed member or alternate shall, subject to this Act, hold office—

5 (a) from the end of the period of 6 months commencing on and including the day for the return of the writs for the previous general election; and

(b) until the end of the period of 6 months commencing on and including the day for the return of the writs for the next general election.

10 (2) Nothing in subsection (1) prevents an appointment being made under this Act after the period referred to in subsection (1) (a) has commenced, and an appointment, if so made, takes effect from the date it is made and not from the commencement of that period.

(3) This section does not affect the appointment of persons to fill vacancies, as referred to in section 14.

15 (4) An appointed member or alternate is, if otherwise qualified, eligible for re-appointment.

**Vacation of office.**

20 (13. (1)) An appointed member or alternate shall be deemed to have vacated his office—

(a) if he dies;

(b) if he is absent from 2 consecutive meetings of the Authority of which reasonable notice has been given to him personally or in the ordinary course of post, unless—

25 (i) in the case of an appointed member—his alternate was present at either or both of those meetings; or

(ii) in the case of an alternate—the member for whom he is the alternate was present at either or both of those meetings;

30 (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his estate, remuneration, fees or allowances for their benefit;

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- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 5 (e) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for a period of 12 months or more, or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;
- 10 (f) if he resigns his office by writing under his hand addressed to the Minister;
- (g) if he becomes a member of the Council or Assembly or a candidate or an agent for a candidate;
- (h) if he becomes a member of a legislature other than the Parliament
- 15 or a candidate for election as such a member;
- (i) if he becomes a member of a council or county council under the Local Government Act, 1919, or a candidate for election as such a member;
- (j) if he becomes a member of a public authority constituted by an
- 20 Act;
- (k) if he becomes an officer of a party;
- (l) if there is a vacancy in any other office (other than Chairman) under this Part (whether of appointed member or alternate) and the vacancy exists at any time during the period commencing on
- 25 and including the date for the return of the writs for the next general election held after the commencement of the term of office of the members determined in accordance with section 12 (1) and ending on the expiration of that term of office so determined;
- (m) if—
- 30 (i) in the case of an appointed member—he is appointed as an alternate; or
- (ii) in the case of an alternate—he is appointed as an appointed member; or
- (n) on the day on which he attains the age of 70 years.
- 35 (2) Section 21A (6) of the Parliamentary Electorates and Elections Act, 1912, applies to and in respect of each appointed member and alternate in the same way as it applies to and in respect of the Commissioner.

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(3) Section 30 (b) of the Interpretation Act, 1897, does not apply to, or to the office of, an appointed member or alternate.

**Filling of casual vacancies.**

14. (1) On the occurrence of a vacancy in the office of an appointed member or alternate, otherwise than by the expiration of his term of office, a person shall be appointed by the Governor, on the same nomination as that required for the former appointee, to hold office for the balance of the former appointee's term of office.

(2) A person may not be appointed to fill a vacancy under this section if he was a candidate at any election held during the former appointee's term of office.

**Meetings of the Authority.**

15. (1) The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Authority.

(2) The Chairman shall preside at all meetings of the Authority, and a meeting of the Authority shall not be held or continued unless the Chairman is present at the meeting.

(3) The Chairman and one other member shall form a quorum at any meeting of the Authority, and any duly convened meeting of the Authority at which such a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise all the functions of the Authority.

(4) Meetings of the Authority shall be convened by the Chairman, who shall give each appointed member and alternate at least 48 hours' notice of each meeting.

(5) Notwithstanding subsection (4), a meeting of the Authority may be held with less than 48 hours' notice if the Chairman and each appointed member or his alternate agree to its being held.

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(6) For the purposes of this section, an appointed member or alternate shall be deemed to have been given notice of a meeting if the notice is sent to his usual place of abode or business.

(7) The Authority shall hold at least 2 meetings in each year ending 5 31st December.

**Acting Chairman.**

16. (1) The Governor may appoint an officer of the Public Service to act in the office of Chairman while the Chairman is absent from duty through illness or for any other cause or while there is a vacancy in the 10 office of the Chairman.

(2) A person appointed under subsection (1) may not act as Chairman if there is a person who is appointed to act as Commissioner and who is available to exercise his functions as Chairman.

(3) A person appointed under this section, while acting as Chairman, 15 shall be deemed to be the Chairman and shall have and may exercise the functions of the Chairman.

(4) No person shall be concerned to inquire whether or not any occasion has arisen in which a person appointed under this section is authorised to act as Chairman, and all acts or things done or omitted by 20 the person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

**Voting.**

17. (1) A decision supported by a majority of the votes of the members present and voting at a meeting of the Authority shall be the decision of the 25 Authority.

(2) In the event of an equality of votes in relation to a matter at a meeting of the Authority, the matter shall be adjourned to another meeting of the Authority.



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(3) If at the meeting to which a matter was adjourned under subsection (2) there is still an equality of votes in relation to the adjourned matter, the Chairman shall have in addition to a deliberative vote a second or casting vote in relation to that matter.

**5 Minutes.**

18. The Authority shall cause full and accurate minutes to be kept of its proceedings at meetings.

**Fees and allowances.**

19. (1) An appointed member or alternate is entitled to be paid such 10 fees and allowances as the Minister may from time to time determine.

(2) The fees and allowances determined under this section shall be payable at the same rate for both appointed members and for both alternates.

**Public Service Act, 1979, not to apply.**

20. The Public Service Act, 1979, does not apply to or in respect of the 15 appointment of any person as a member or alternate, and a person is not, in his capacity as a member or alternate, subject to that Act.

**Members not personally liable.**

21. No matter or thing done by the Authority, and no matter or thing 20 done by any member or by another person acting under the direction of or as delegate of the Authority, shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act conferring or imposing functions on the Authority, subject the member or person personally to any action, liability, claim or demand.

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**PART III.****RESPONSIBILITIES OF THE AUTHORITY.****General functions.**

**22. (1)** The Authority shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

**(2)** It is the duty of the Authority to exercise its functions under this Act in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations.

**10 Applications, etc., generally.**

**23.** Without affecting the generality of section 22, the Authority has the responsibility of dealing with—

- (a) applications for registration under Part IV;
- (b) claims for payments under Part V; and
- 15** (c) declarations of political contributions and electoral expenditure under Part VI.

**Guidelines.**

**24. (1)** The Authority may, from time to time, determine and issue guidelines, not inconsistent with this Act or the regulations, for or with **20** respect to any matters dealt with in this Act (except this Part and Part II).

**(2)** In the operation and application of this Act (except this Part and Part II), regard shall be had not only to the provisions of this Act and the regulations but also to the guidelines determined under subsection (1), and, in particular, the Authority shall have regard to those guidelines when **25** dealing with applications, claims and declarations referred to in section 23.

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**Research.**

25. The Authority may carry out, or arrange for the carrying out of, such research into election funding, political contributions, electoral expenditure and other matters to which this Act relates as the Authority thinks appropriate and may publish the results of any such research.

**PART IV.**

**REGISTRATION.**

**DIVISION 1.—Register of Parties.**

**Register of Parties to be kept.**

26. (1) The Authority shall keep a register, to be called the Register of Parties, for each general election.
- (2) The Register of Parties for a general election shall be kept as from the polling day for the previous general election.
- (3) Subject to this Act, the Register of Parties shall be kept in such form and manner as the Authority thinks fit.

**Registration.**

27. (1) Registration of a party shall be effected by the insertion in the Register of Parties of the name of the party.
- (2) There shall be included in the Register of Parties such particulars with respect to a party registered in the Register as are required to be included in the application for the registration of the party, and such other particulars as the Authority thinks fit.

*Election Funding.***Application for registration.**

28. (1) Subject to this Act, the Authority shall register a party in the Register of Parties for a general election if—

- 5 (a) application for registration is made by the party agent on behalf of the party in the form and manner approved by the Authority; and
- (b) the application is received by the Authority before the day of the issue of the writs for the general election and after the polling day for the previous general election.

10 (2) An application for the registration of a party shall set out the following particulars:—

- (a) the full name of the party;
- (b) the name, and any initials or abbreviations of the name, used or to be used by the party in election documents;
- 15 (c) the address of the party headquarters in New South Wales;
- (d) the rules, and platform or objectives, of the party;
- (e) the name and address of the leader (if any) of the party in Parliament;
- 20 (f) in the case of a party not represented in Parliament—the names, addresses, occupations and signatures of 100 electors who are members of the party; and
- (g) such other particulars as may be prescribed.

**Refusal to register.**

25 29. (1) The Authority shall not register a party in the Register of Parties for a general election, or shall cancel the registration of a party, if the application for registration of the party was received by the Authority within the period of 60 days ending on and including the day on which the writs for the general election are issued.

30 (2) The Authority may refuse to register a party if the Authority believes on reasonable grounds that any particulars in the application for registration of the party are incomplete or not correct, but may, if it thinks fit, register the party notwithstanding any such defect.

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(3) Where, pursuant to subsection (2), the Authority refuses to register a party—

(a) the Authority shall forthwith notify the party agent of the refusal and of the reasons for the refusal;

5 (b) the party agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by inserting or substituting the relevant particulars; and

(c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

10 (4) The Authority may refuse to register a party if, in the opinion of the Authority, the name of the party or the name to be used by the party in any election documents, as set out in the application for the registration of the party—

15 (a) so nearly resembles the name of a registered party or a party currently represented in Parliament as to be confused with that party; or

(b) is obscene or offensive.

(5) Where, pursuant to subsection (4), the Authority refuses to register a party—

20 (a) the Authority shall forthwith notify the party agent of the refusal and of the reasons for the refusal;

(b) the party agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the name of the party; and

25 (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

**Amendment of Register.**

30 (1) Where an alteration is made in any of the particulars as stated in the Register of Parties in relation to a party, being particulars of the kind required to be stated in the application for registration of the party, the

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of party agent shall, within 30 days after the date of the alteration, furnish the Authority with a statement in writing setting out details of the alteration.

Penalty: \$200.

5 (2) Where the Authority believes on reasonable grounds that a party agent has not furnished the Authority with a statement setting out details of any alteration, as referred to in subsection (1), the Authority may, by notice in writing served on the party agent, require the party agent to furnish such a statement before the date specified in the notice, or before the date of expiry of the period of 30 days after the service of the notice, 10 whichever is later.

(3) If a party agent fails to furnish a statement in accordance with subsection (2), the Authority may cancel the registration of the party.

(4) The Authority shall vary the particulars set out in the Register of Parties in relation to a party in accordance with a statement furnished 15 in accordance with this section or in accordance with the written request of the party agent, unless the Authority believes on reasonable grounds that the varied particulars are not correct.

(5) The Authority may cancel the registration of a party at the written request of the party agent.

20 (6) The Authority may, of its own accord or on request, omit any particulars from the Register of Parties if it is satisfied that the particulars are not correct.

(7) The Authority may, of its own accord or on request, insert any particulars in the Register of Parties if it is satisfied that the particulars are 25 correct.

(8) The Authority shall notify the relevant party agent of any alterations made to the Register of Parties pursuant to this section.

(9) The provisions of subsections (1)–(4) do not, if the regulations 30 so provide, apply to particulars or alterations of a class or description specified in the regulations for the purposes of this subsection.

*Election Funding.*DIVISION 2.—*Register of Candidates.***Register of Candidates to be kept.**

31. (1) The Authority shall keep a register, to be called the Register of Candidates, for each general election.

5 (2) The Register of Candidates for a general election shall be kept as from the polling day for the previous general election.

(3) Subject to this Act, the Register of Candidates shall be kept in such form and manner as the Authority thinks fit.

**Registration.**

10 32. (1) Registration of a candidate shall be effected by the insertion in the Register of Candidates of the name of the candidate.

(2) Registration of a group of candidates shall be effected by the insertion in the Register of Candidates, in relation to candidates registered therein, of an indication that the candidates form a group.

15 (3) There shall be included in the Register of Candidates—

(a) such particulars with respect to a candidate or group registered in the Register as are required to be included in the application for registration of the candidate or group;

20 (b) particulars of the platform or objectives of the candidate or group, if the candidate or group requests the Authority to include those particulars; and

(c) such other particulars as the Authority thinks fit.

**Applications for registration of candidates.**

25 33. (1) Subject to this Act, the Authority shall register a person as a candidate in the Register of Candidates for a general election if—

(a) application for registration is made by the person or his official agent in the form and manner approved by the Authority; and

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(b) the application is received by the Authority on or before the day of nomination for the general election and after the polling day for the previous general election.

(2) An application for registration of a candidate shall set out 5 the following particulars:—

(a) the full name and address of the candidate;

(b) his party or group affiliation (if any);

(c) the House of Parliament for which he is a candidate;

10 (d) the address of the candidate's campaign headquarters in New South Wales; and

(e) such other particulars as may be prescribed.

**Application for registration of groups.**

34. (1) Subject to this Act, the Authority shall register a group of candidates in the Register of Candidates for a general election if—

15 (a) application for registration is made by the candidates or their official agents, or by the official agent for the group, in the form and manner approved by the Authority; and

20 (b) the application is received by the Authority on or before the day of nomination for the general election and after the polling day for the previous general election.

(2) An application for the registration of a group of candidates shall set out the following particulars:—

(a) the full name (if any) of or used or to be used by the group;

(b) the full names of the candidates; and

25 (c) such other particulars as may be prescribed.



*Election Funding.***Lodging of applications.**

35. (1) An application for registration in the Register of Candidates may be lodged with the returning officer for any electoral district.

(2) An application lodged with a returning officer shall be deemed 5 to have been received by the Authority.

(3) A returning officer with whom an application for registration in the Register of Candidates is lodged shall forthwith forward the application to the Chairman.

**Refusal to register candidates.**

10 36. (1) The Authority shall not register a candidate in the Register of Candidates for a general election if the application for registration of the candidate was received by the Authority after the day of nomination for the general election.

15 (2) The Authority may refuse to register a candidate if the Authority believes on reasonable grounds that any particulars in the application for registration of the candidate are incomplete or not correct, but may, if it thinks fit, register the candidate notwithstanding any such defect.

(3) Where, pursuant to subsection (2), the Authority refuses to register a candidate—

20 (a) the Authority shall forthwith notify the candidate's official agent of the refusal and of the reasons for the refusal;

(b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the relevant particulars; and

25 (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

*Election Funding.***Refusal to register groups.**

37. (1) The Authority shall not register a group in the Register of Candidates for a general election if the application for registration of the group was received by the Authority after the day of nomination for the  
5 general election.
- (2) The Authority may refuse to register a group if the Authority believes on reasonable grounds that any particulars in the application for registration of the group are incomplete or not correct, but may, if it thinks fit, register the group notwithstanding any such defect.
- 10 (3) Where, pursuant to subsection (2), the Authority refuses to register a group—
- (a) the Authority shall forthwith notify the group's official agent of the refusal and of the reasons for the refusal;
- 15 (b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by inserting or substituting the relevant particulars; and
- (c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.
- 20 (4) The Authority may refuse to register a group if, in the opinion of the Authority, the name of the group is obscene or offensive.
- (5) Where, pursuant to subsection (4), the Authority refuses to register a group—
- (a) the Authority shall forthwith notify the group's official agent of the refusal and of the reasons for the refusal;
- 25 (b) the official agent may, within 30 days after the date of the notification by the Authority, amend the application for registration by substituting the name of the group; and

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(c) the amended application shall be deemed to have been received by the Authority when the original application was received by it.

**Amendment of Register.**

38. (1) Where an alteration is made in any of the particulars as stated 5 in the Register of Candidates in relation to a candidate or group, being particulars of the kind required to be stated in the application for registration of the candidate or group, the candidate's or group's official agent shall, within 30 days after the date of the alteration, furnish the Authority with a statement in writing setting out details of the alteration.

10 Penalty: \$200.

(2) Where the Authority believes on reasonable grounds that a candidate's or group's official agent has not furnished the Authority with a statement setting out details of any alteration, as referred to in subsection (1), the Authority may, by notice in writing served on the official agent, require 15 the official agent to furnish such a statement before the date specified in the notice, or before the date of expiry of the period of 30 days after service of the notice, whichever is later.

(3) If a candidate's or group's official agent fails to furnish a statement in accordance with subsection (2), the Authority may cancel the 20 registration of the candidate or group.

(4) The Authority shall vary the particulars set out in the Register of Candidates in relation to a candidate or group in accordance with a statement furnished in accordance with this section or in accordance with the written request of the candidate's or group's official agent, unless the 25 Authority believes on reasonable grounds that the varied particulars are not correct.

(5) The Authority may cancel the registration of a candidate or group at the written request of the candidate's or group's official agent.

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- (6) The Authority may, of its own accord or on request, omit any particulars from the Register of Candidates if it is satisfied that the particulars are not correct.
- (7) The Authority may, of its own accord or on request, insert any particulars in the Register of Candidates if it is satisfied that the particulars are correct.
- (8) The Authority shall notify the relevant official agent of any alterations made to the Register of Candidates pursuant to this section.
- (9) The provisions of subsections (1)–(4) do not, if the regulations so provide, apply to particulars or alterations of a class or description specified in the regulations for the purposes of this subsection.

**DIVISION 3.—Register of Party Agents.****Register of Party Agents to be kept.**

39. (1) The Authority shall keep a register, to be called the Register of Party Agents.
- (2) The Register of Party Agents shall be kept on a continuous basis.
- (3) Subject to this Act, the Register of Party Agents shall be kept in such form and manner as the Authority thinks fit.

**20 Registration.**

40. (1) Registration of a party agent shall be effected by the insertion in the Register of Party Agents of the name of the party agent and the name of the party by which he was appointed.

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(2) There shall be included in the Register of Party Agents the address and occupation of each party agent, and such other particulars as the Authority thinks fit.

**Appointment, etc., of party agents.**

5 **41. (1)** A party shall appoint one party agent.

(2) A corporation shall not be appointed as a party agent.

(3) The appointment of a party agent may be revoked.

(4) If a party agent dies or resigns, the party by which he was appointed shall forthwith give notice of that fact in writing to the Authority.

10 (5) If a party agent dies or resigns or his appointment is revoked, the party by which he was appointed shall appoint another party agent in his place.

(6) The appointment, or the revocation of the appointment, of a party agent shall be made by notice in writing furnished to the Authority, 15 but does not take effect until the appropriate action has been taken under section 42.

(7) A notice under this section shall be in the form approved by the Authority.

20 (8) A notice of the appointment of a party agent shall be deemed not to have been properly given unless it is accompanied by the signed acceptance of appointment of the person appointed.

(9) A person appointed to any office or position under the Parliamentary Electorates and Elections Act, 1912, is not eligible to be a party agent.

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- (10) If a party commits an offence against this section—
- (a) each person who, at the time the offence is committed, is an officer of the party is guilty of an offence and liable to a penalty not exceeding \$10,000; and
  - (b) the party is liable to a penalty not exceeding \$20,000.

**Entries in the Register.**

42. (1) On receipt of a notice of the appointment of a party agent furnished under section 41, the Authority shall register the party agent in the Register of Party Agents.
- 10 (2) On receipt of a notice furnished under section 41 of the death or resignation, or the revocation of the appointment, of a party agent, the Authority shall remove the name of the party agent from the Register of Party Agents.
- (3) The Authority may reject a notice referred to in subsection (1) 15 or (2) if, in its opinion, the notice is not in accordance with this Act.

**Amendment of Register.**

43. The Authority may amend the Register of Party Agents by—
- (a) correcting a mistake or omission; or
  - (b) recording a change in the name, address or occupation of a party agent or a change in the name of the party by which a party agent was appointed.

**DIVISION 4.—Register of Official Agents.****Register of Official Agents to be kept.**

44. (1) The Authority shall keep a register, to be called the Register of 25 Official Agents, for each general election.

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(2) The Register of Official Agents for a general election shall be kept as from the polling day for the previous general election.

(3) Subject to this Act, the Register of Official Agents shall be kept in such form and manner as the Authority thinks fit.

**5 Registration.**

45. (1) Registration of an official agent shall be effected by the insertion in the Register of Official Agents of the name of the official agent and the name of the candidate or group by whom he was appointed.

10 (2) There shall be included in the Register of Official Agents the address and occupation of each official agent, and such other particulars as the Authority thinks fit.

**Appointment, etc., of official agents.**

46. (1) A candidate or group may appoint one official agent.

(2) A corporation shall not be appointed as an official agent.

15 (3) The appointment of an official agent may be revoked.

(4) If an official agent dies or resigns, the candidate or group by whom he was appointed shall forthwith give notice of that fact in writing to the Authority.

20 (5) If an official agent dies or resigns or his appointment is revoked, the candidate or group by whom he was appointed may appoint another official agent in his place.

(6) The appointment, or the revocation of the appointment, of an official agent shall be made by notice in writing to the Authority.

25 (7) A notice under this section shall be in the form approved by the Authority.

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(8) A notice of the appointment of an official agent shall be deemed not to have been properly given unless it is accompanied by the signed acceptance of appointment of the person appointed.

(9) A person appointed to any office or position under the Parliamentary Electorates and Elections Act, 1912, is not eligible to be an official agent.

**Entries in the Register.**

47. (1) On receipt of a notice of the appointment of an official agent furnished under section 46, the Authority shall register the official agent in the Register of Official Agents.

(2) On receipt of a notice furnished under section 46 of the death or resignation, or the revocation of the appointment, of an official agent, the Authority shall remove the name of the official agent from the Register of Official Agents.

15 (3) The Authority may reject a notice referred to in subsection (1) or (2) if, in its opinion, the notice is not in accordance with this Act.

**Amendment of Register.**

48. The Authority may amend the Register of Official Agents by—

- 20 (a) correcting a mistake or omission; or  
(b) recording a change in the name, address or occupation of an official agent or, in the case of an official agent appointed by a group, a change in the composition or name of the group.

**Where there is no official agent for a candidate or group.**

49. (1) At any time—

- 25 (a) before a candidate appoints an official agent under section 46 (1);  
or



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(b) after the official agent of a candidate has died or resigned or his appointment has been revoked and before the candidate appoints another official agent,  
 the candidate shall be deemed to be his own official agent, and references in 5 this Act to an official agent shall be construed accordingly.

**(2) At any time—**

(a) before a group appoints an official agent under section 46 (1); or  
 (b) after the official agent of a group has died or resigned or his appointment has been revoked and before the group appoints  
 10 another official agent,

the candidate whose name first appears on the list of members of the group shall be deemed to be the official agent of the group, and references in this Act to an official agent shall be construed accordingly.

**DIVISION 5.—Registers for by-elections.****15 Application of this Division.**

50. This Division applies to and in respect of each by-election (referred to in this Division as “the by-election”) at which there are 2 or more candidates for election.

**Registers.**

20 51. (1) The Authority shall keep 2 registers, to be called the Register of Candidates and the Register of Official Agents respectively, for the by-election.

(2) The registers shall be kept as from the day of the issue of the writ for the by-election.

25 (3) Subject to this Act, the registers shall be kept in such form and manner as the Authority thinks fit.

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- (4) The provisions of—
- (a) sections 32, 33, 35, 36 and 38 apply to and in respect of the Register of Candidates for the by-election in the same way as they apply to and in respect of the Register of Candidates to be kept for a general election; and
  - (b) sections 45, 46, 47, 48 and 49 apply to and in respect of the Register of Official Agents for the by-election in the same way as they apply to and in respect of the Register of Official Agents to be kept for a general election,
- and so apply as if—
- (c) references to groups were omitted;
  - (d) references to a general election were references to the by-election; and
  - (e) any other necessary adaptations were made.

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**DIVISION 6.—General.****Public access to registers.**

**52. (1)** Copies of each register kept under this Part shall be retained by the Authority and be available for public inspection during ordinary office hours.

**20 (2)** A copy of, or a summary of or extracts from, each current register kept under this Part shall be published in the Gazette within the period of 2 weeks before the polling day for each election.

**Statutory declarations.**

**25 53.** The Authority may require any particulars in an application or notice under this Part to be verified by statutory declaration.

*Election Funding.***False statements.**

54. A person who, in any application or statement made or furnished under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence and liable to a penalty not exceeding \$10,000.

**PART V.****PUBLIC FUNDING OF ELECTION CAMPAIGNS.****DIVISION 1.—Preliminary.****Election campaign expenditure.**

10 55. (1) For the purposes of this Part, a reference to expenditure for election campaign purposes—

(a) includes a reference to—

- (i) expenditure for goods and services for those purposes;
- (ii) expenditure for election campaign preparation purposes; and
- 15 (iii) expenditure incurred in respect of the audit of the relevant claim for payment under this Part and of the declaration lodged under Part VI in respect of the period ending on the polling day for the election (in each case not exceeding \$200 or such other amount as may be prescribed); and

20 (b) does not include a reference to—

- (i) expenditure incurred substantially in respect of an election for a legislature other than the Parliament;
- (ii) expenditure incurred substantially in respect of an election held before that in respect of which the relevant application for payment under this Part is made; or
- 25 (iii) expenditure of a prescribed class or description.

(2) The decision of the Authority as to whether any expenditure is or is not expenditure for election campaign purposes in accordance with this 30 Act, the regulations and the guidelines determined under section 24 is final.

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(3) The Auditor-General or an auditor is, for the purposes of this Act, entitled to rely on any decision of the Authority referred to in subsection (2).

DIVISION 2.—*Constitution of the funds.*5 **Creation of the funds.**

56. (1) For each general election, there shall be a Central Fund and a Constituency Fund, to be kept by the Authority.

(2) The funds shall be credited and distributed in accordance with this Act.

10 **Determination of credits to funds.**

57. (1) The amounts to be credited to the funds for a general election shall be determined by the Authority as soon as possible after 6 p.m. on the day of the issue of the writs for the general election.

(2) The amounts to be credited, in the aggregate, to the funds for a general election shall be determined in accordance with the following formula:—

$$A = \frac{E \times Y \times M}{100}$$

20 where—

A represents the aggregate amount (in dollars) to be credited to the funds;

25 E represents the total number of electors enrolled for all electoral districts as at 6 p.m. on the day of the issue of the writs for the general election;

Y represents the number of years between the day for the return of the writs for the general election and the day for the return of the writs for the previous general election (both days inclusive), any fraction of a year being treated as one year; and

30 M represents the amount (in cents) of the monetary unit.

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- (3) For the purposes of subsection (2), the monetary unit for—
- (a) the first general election to which this Act applies shall be 22 cents; and
  - (b) any subsequent general election shall be that amount as adjusted in accordance with Schedule 1, determined by the Authority as at the day of the issue of the writs for the general election or 22 cents, whichever is greater.

**DIVISION 3.—The Central Fund.****Credits to the Central Fund.**

- 10 **58.** Of the total amount determined in accordance with section 57, two-thirds shall be credited to the Central Fund, any fraction of a dollar being disregarded.

**General entitlements of parties.**

- 15 **59. (1)** Parties are, subject to and in accordance with this Act, eligible for payments from the Central Fund.

(2) A party is eligible to participate in the distribution of the Central Fund for a general election if—

- (a) it is registered as a party in the Register of Parties for the general election as at the polling day for the election;
- 20 (b) it endorses a group for the periodic Council election;
- (c) the group is entered on the ballot-papers for the election under section 83B of the Parliamentary Electorates and Elections Act, 1912;
- 25 (d) the Authority is satisfied that the members of the group claim to be endorsed by the party and by no other party; and

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- (e) the total number of votes polled in favour of the members of the group at the periodic Council election is sufficient to secure the return of their deposits under section 81F of the Parliamentary Electorates and Elections Act, 1912.

**5 General entitlements of independent groups in Council elections.**

**60. (1)** Groups of candidates who have been nominated for election to the Council are, subject to and in accordance with this Act, eligible for payments from the Central Fund.

**(2)** A group is eligible to participate in the distribution of the Central Fund for a general election if—

- (a) it is registered as a group in the Register of Candidates for the general election as at the polling day for the election;
- (b) the group is entered on the ballot-papers for the periodic Council election under section 83B of the Parliamentary Electorates and Elections Act, 1912;
- (c) the Authority is satisfied that the candidates in the group are not endorsed by any party; and
- (d) the total number of votes polled in favour of the members of the group at the periodic Council election is sufficient to secure the return of their deposits under section 81F of the Parliamentary Electorates and Elections Act, 1912.

**General entitlements of independent candidates in Council elections.**

**61. (1)** Candidates who have been nominated for election to the Council are, subject to and in accordance with this Act, eligible for payments from the Central Fund.

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- (2) A candidate nominated for election to the Council is eligible to participate in the distribution of the Central Fund for a general election if—
- (a) he is registered as such a candidate in the Register of Candidates for the general election as at the polling day for the election;
  - 5 (b) the Authority is satisfied that he does not claim to be endorsed by any party and that he is not a member of a registered group claiming payment under this Part; and
  - (c) he is elected to the Council or the total number of votes polled in his favour at the periodic Council election is sufficient to secure  
10 the return of his deposit under section 81F of the Parliamentary Electorates and Elections Act, 1912.

**Formula for the distribution of the Central Fund.**

62. The Central Fund for a general election shall be distributed in accordance with the following formula:—

$$15 \quad P = \frac{F \times PV}{TEV}$$

where—

20 P represents the amount (in dollars) payable to a party, group or candidate eligible to participate in the distribution of the Central Fund;

F represents the amount (in dollars) standing to the credit of the Central Fund;

PV represents the primary votes of the party, group or candidate; and

25 TEV represents the total primary votes of all parties, groups and candidates eligible to participate in the distribution of the Central Fund.

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**Maximum amounts payable.**

63. (1) Notwithstanding anything in this Act, no one registered party, group or candidate may receive from the Central Fund more than one-half of the amount credited to the Central Fund.

5 (2) Any surplus amounts arising from the operation of subsection (1) shall not be available for distribution.

**DIVISION 4.—The Constituency Fund.****Credits to the Constituency Fund.**

64. Of the total amount determined in accordance with section 57, one-  
10 third shall be credited to the Constituency Fund, any fraction of a dollar being disregarded.

**General entitlements.**

65. (1) Candidates who have been nominated for election to the Assembly  
15 are, subject to and in accordance with this Act, eligible for payments from the Constituency Fund.

(2) A candidate is eligible to participate in the distribution of the Constituency Fund for a general election if—

(a) he is registered as a candidate for election to the Assembly in the Register of Candidates for the general election as at the polling day  
20 for the election; and

(b) he is elected to the Assembly or the total number of votes polled in his favour at the election is sufficient to secure the return of his deposit under section 79 of the Parliamentary Electorates and Elections Act, 1912.



*Election Funding.***Constituency Fund to be divided among electoral districts.**

66. (1) The amount standing to the credit of the Constituency Fund for a general election shall be divided by the number of electoral districts for which there are 2 or more candidates for election (as referred to in section 81 of the Parliamentary Electorates and Elections Act, 1912), any fraction of a dollar being disregarded.

(2) The amount ascertained in accordance with subsection (1) shall, subject to and in accordance with this Act, be available for distribution in respect of each electoral district referred to in that subsection.

**10 Formula for the distribution of the Constituency Fund.**

67. The Constituency Fund for a general election shall be distributed in accordance with the following formula:—

$$15 \quad C = \frac{F \times CV}{TEV}$$

where—

C represents the amount (in dollars) payable to a candidate who has been nominated for election for an electoral district at the general election;

20 F represents the amount (in dollars) available for distribution in respect of the electoral district;

CV represents the primary votes of the candidate; and

25 TEV represents the total primary votes of all candidates for election for the electoral district eligible to participate in the distribution of that amount.

**Maximum amounts payable.**

68. (1) Notwithstanding anything in this Act, no one candidate for election for an electoral district may receive from the Constituency Fund more than one-half of the amount available for distribution in respect of the electoral district.

(2) Any surplus amounts arising from the operation of subsection (1) shall not be available for distribution.

*Election Funding.*DIVISION 5.—*Advance payments.***Entitlement to advance payments.**

69. (1) A party is, subject to and in accordance with this Act, eligible for the payment, as an advance payment for expenditure incurred for election campaign purposes for a general election, of an amount, ascertained in accordance with subsections (2) and (3), for each of the first 2 complete years after the day for the return of the writs for the previous general election.

(2) The amount payable, by way of advance payment, for the first complete year after the day for the return of the writs for the previous general election referred to in subsection (1) is an amount equal to 10 per cent of the total amount to which the party was entitled under this Part for that previous general election.

(3) The amount payable, by way of advance payment, for the second complete year after the day for the return of the writs for the previous general election referred to in subsection (1) is twice the amount payable for the first complete year.

(4) The amount payable for a year under this section may be paid, as a lump sum or by way of instalments, at any time after the expiration of that year, but before the polling day for the general election to which the payment relates.

(5) A party is not eligible for any advance payments under this section for a general election if it is not registered as a party in the Register of Parties for the election.

**25. Advance payments to be deducted from other entitlements.**

70. Any amount paid to a party by way of advance payment for a general election shall be deducted from the amount payable to the party from the Central Fund for that election.

*Election Funding.***Overpayments.**

71. (1) Where a party receives amounts by way of advance payments under this Division in respect of a general election in excess of the amount (if any) to which it becomes entitled from the Central Fund for the general election, the amount of the excess shall be repaid to the Authority within 60 days after the day for the return of the writs for the periodic Council election that forms part of the general election.

(2) The amount of any excess referred to in subsection (1) may be recovered by the Authority as a debt in any court of competent jurisdiction.

10

**DIVISION 6.—Funds for by-elections.****Application of this Division.**

72. This Division applies to and in respect of each by-election (referred to in this Division as "the by-election") at which there are 2 or more candidates for election.

**15 By-election Constituency Fund.**

73. (1) There shall be a By-election Constituency Fund for the by-election.

(2) The amount to be credited to the fund shall be determined by the Authority as soon as possible after 6 p.m. on the day of the issue of the writ for the by-election.

(3) The amount to be credited to the fund shall be determined in accordance with the following formula:—

$$E \times M \times 3$$

25

where —  $A = \frac{\text{---}}{100}$

A represents the total amount (in dollars) to be credited to the fund;  
E represents the total number of electors enrolled for the electoral district concerned as at 6 p.m. on the day of the issue of the writ for the by-election; and

30

M represents the amount (in cents) of the monetary unit.

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(4) For the purposes of subsection (3), the monetary unit shall be the amount that would, had the by-election been a general election, have been the monetary unit for that general election.

(5) The amount to be credited to the fund in accordance with this section shall, subject to and in accordance with this Act, be available for distribution among the candidates at the by-election.

(6) The provisions of sections 67 and 68 apply to and in respect of the fund in the same way as they apply to and in respect of the Constituency Fund to be kept for a general election, and so apply as if—

- 10 (a) references to a general election were references to the by-election; and  
 (b) any other necessary adaptations were made.

DIVISION 7.—*General.***Claims for, and approvals of, payments.**

15 74. (1) Subject to this Act, the Authority shall approve the making of a payment under this Part to a party, group or candidate if—

- (a) a claim for the payment is made by the registered agent for the party, group or candidate in the form and manner approved by the Authority;  
 20 (b) the claim is audited by an auditor; and  
 (c) the Authority is satisfied that the party, group or candidate is eligible for the payment.

(2) The Authority shall refuse to approve the making of a payment under this Part—

- 25 (a) to the extent that the payment would exceed the amount of expenditure incurred for election campaign purposes; or  
 (b) if the claim is received by the Authority after the expiry of the period of 90 days after the day for the return of the writs for the periodic Council election or, in the case of a by-election, within  
 30 90 days after the day for the return of the writ for the by-election.

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(3) In assessing a claim for payment under this Part, the Authority may require the applicant to provide the Authority with further or other information relative to the assessment.

(4) Where the Authority is satisfied that it is proper to do so, it may disallow, wholly or in part, any items of expenditure covered by a claim under this Part.

(5) Where an amount payable under this Part would include a fraction of a dollar, the Authority may round off the amount in such manner as it thinks fit, and the amount as so rounded off shall be the amount payable.

**10 Audit of claim.**

75. A claim under this Part shall be deemed not to be validly lodged with the Authority unless it is accompanied by a certificate of an auditor stating—

- 15 (a) that he was given full and free access at all reasonable times to all accounts, records, documents and papers of the agent by whom the claim is to be lodged, and of the party, group or candidate, as the case may require, relating directly or indirectly to the expenditure referred to in the claim;
- 20 (b) that he duly examined such of those accounts, records, documents and papers as he considers material for the purpose of giving the certificate;
- (c) that he received all information and explanations that he asked for with respect to the expenditure referred to in the claim, subject to the qualifications (if any) specified in the certificate;
- 25 (d) that he is satisfied that, from the information available to him, the expenditure specified in the claim was incurred and is, having regard to this Act, the regulations and the guidelines determined under section 24, expenditure which may properly be the subject of such a claim; and
- 30 (e) that he has no reason to think that any statement in the claim is not correct.

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**Expenditure to be vouched for.**

76. A claim under this Part shall be deemed not to be validly lodged with the Authority unless all expenditure specified in the claim is vouched for in the prescribed manner.

**5 Making of payments.**

77. (1) Subject to this Act, a payment to be made to a party, group or candidate under this Part shall be made to the registered agent of the party, group or candidate.

(2) The Authority may, if it thinks it proper to do so in the circumstances, direct that the whole or any part of a payment under this Part be made to a specified bank account established by or on behalf of or in trust for or for the members of a party or group or to a specified bank account established by or on behalf of or in trust for a candidate instead of to the registered agent of the party, group or candidate, and payment shall be made accordingly.

(3) Subject to and in accordance with the regulations, the Authority may, if it thinks it proper to do so in the circumstances, direct that the whole or any part of a payment under this Part be made to a person, body or organisation other than the registered agent referred to in subsection (1), and payment shall be made accordingly.

(4) Except as prescribed by the regulations, details of any direction under subsection (3) shall be included in the report of the Authority under section 107 (2) for the reporting period in which the direction was given.

(5) Payments may be made under this Part to an agent subject to such reasonable conditions with respect to the disbursement of the amount paid as the Authority determines.

(6) An agent shall comply with any condition determined in accordance with subsection (5) and applicable to him or any of his predecessors.

30 Penalty: \$10,000.

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(7) It is a defence to a prosecution for an offence arising under subsection (6) if the agent establishes that he did not know, and could not have been reasonably expected to know, that the condition was applicable as referred to in that subsection.

5 (8) Where a payment is made under this Part and the recipient is not entitled to receive the whole or any part of the amount paid, whether because of a false statement in a claim or otherwise, the amount or that part may be recovered by the Authority as a debt in any court of competent jurisdiction.

10 **Payments conditional on disclosure.**

78. A party, group or candidate is not eligible for any payment (other than advance payments) under this Part in respect of a general election unless and until the disclosure required by Part VI to be made in respect of the party, group or candidate for the period ending on the polling day for the  
15 election has been made and the provisions of this Act have been complied with in relation to that disclosure.

16 **Death of a candidate.**

79. Where a candidate dies and would, but for his death, have been entitled to a payment under this Part, the Authority may make the payment  
20 to the candidate's legal personal representatives or otherwise in accordance with section 77.

21 **Alteration in composition of group.**

80. Where there is an alteration in the composition of a group and the Authority is satisfied that the identity of the group is substantially unaltered,  
25 payments may be made under this Part as if its composition had not altered.

26 **Public access to claims, etc.**

81. (1) A claim lodged with the Authority for a payment under this Part, together with any papers and correspondence relating to the assessment of the claim by the Authority, or a copy thereof, shall be retained by the

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Authority for at least 6 years after the polling day for the election to which it or they relate, and any such claim, papers and correspondence, or a copy thereof, shall be available for public inspection during ordinary office hours.

(2) The Authority may, on application made to it and on payment of a reasonable fee to be determined from time to time by the Authority, provide copies of or extracts from any claim, papers or correspondence referred to in subsection (1).

**False statements.**

82. A person who, in any claim lodged with the Authority for a payment under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence and liable to a penalty not exceeding \$10,000.

**PART VI.****POLITICAL CONTRIBUTIONS AND ELECTORAL EXPENDITURE.****15 Obligation of parties to make disclosure.**

83. Within 90 days after the day for the return of the writs for a general election (referred to in this section as "the current election"), the registered party agent of each party shall lodge with the Authority a declaration of political contributions received and electoral expenditure incurred during the 20 period—

- (a) commencing on the polling day for that previous general election; and
- (b) ending on the polling day for the current election.



*Election Funding.***Obligation of groups to make disclosure.**

84. Within 90 days after the day for the return of the writs for a general election (referred to in this section as "the current election"), the registered official agent of each group nominated for election at the election shall lodge with the Authority a declaration of political contributions received and electoral expenditure incurred during the period—

- (a) commencing on the day of nomination for the current election; and
- (b) ending on the polling day for the current election.

**Obligation of candidates to make disclosure.**

85. Within 90 days after the day for the return of the writs for a general election or by-election (referred to in this section as "the current election"), the registered official agent of each candidate nominated for election at the election shall lodge with the Authority a declaration of political contributions received and electoral expenditure incurred during the period—

- (a) commencing on—
  - (i) where the candidate was registered at any time in the Register of Candidates for the previous general election—the day following the polling day for that previous general election;
  - (ii) where the candidate was registered at any time in the Register of Candidates for a by-election (not being the current election) following the previous general election—the day following the polling day for that by-election;
  - (iii) where the candidate was registered at any time in the Register of Candidates for the current election—the day on which the candidate was so registered; or

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- (iv) the day on which the candidate was nominated for election at the current election,  
whichever first occurs; and  
(b) ending on the polling day for the current election.

**5 Form and manner of disclosure.**

**86. (1)** Subject to this Act, a declaration of political contributions and electoral expenditure under this Part shall be made in the form and manner approved by the Authority.

**(2)** The date on which each political contribution is made, and the name and address of the person making the contribution, shall be included in a declaration under this Part, except in relation to contributions excluded from the declaration by virtue of section 87 (3) or (4).

**(3)** A declaration shall, for the purposes of section 96, be deemed not to have been lodged under this Part unless it contains a statement to the effect that—

**(a)** no political contributions other than the contributions (if any) specified in the declaration were received during the relevant period; and

**(b)** no electoral expenditure other than the expenditure (if any) specified in the declaration was incurred during that period.

**Political contributions that are to be disclosed.**

**87. (1)** The political contributions to be disclosed under this Part by the agent of a party, group or candidate are gifts made to the party, group or candidate during the relevant period referred to in section 83, 84 or 85.

**(2)** A contribution to a group or candidate need not be disclosed in a declaration if the contribution was not given for the purposes of the current election referred to in section 84 or 85.

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(3) A contribution to a party or group need not be disclosed in a declaration if the amount of the contribution is not more than \$1,000.

(4) A contribution to a candidate need not be disclosed in a declaration by the candidate if the amount of the contribution is not more than \$200.

(5) Subsection (3) or (4) does not apply to 2 or more contributions made by one person, body or organisation during any period of 12 months during the period in respect of which the declaration relates, if the contributions, in the aggregate, exceed \$1,000 or \$200, as the case may require.

(6) Corporations that are deemed to be related to each other for the purposes of the Companies Act, 1961, shall be regarded as a single corporation for the purposes of this section.

(7) For the purposes of this Act—

- (a) a payment under this Act;
- (b) an annual subscription of not more than \$200 paid to a party by a member of the party; and
- (c) a payment made under the condition that the money paid is to be used for the sole purpose of promoting or opposing the election of a person or persons to a legislature other than the Parliament, are not political contributions.

**Electoral expenditure that is to be disclosed.**

88. (1) The electoral expenditure to be disclosed under this Part by the agent of a party, group or candidate is expenditure for or in connection with promoting or opposing, directly or indirectly, a party or the election of a candidate or candidates or for the purpose of influencing, directly or indirectly, the voting at an election.

(2) For the purposes of this Act—

- (a) expenditure on advertisements in radio, television, cinemas, newspapers, periodicals, billboards, posters, brochures, how-to-vote cards and any other printed election material;
- (b) expenditure on the holding of election rallies;

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- (c) expenditure on the distribution of election material;
- (d) expenditure on travel and accommodation expenditure of a candidate for election;
- (e) expenditure on research associated with election campaigns;
- 5 (f) expenditure incurred in raising funds for an election;
- (g) expenditure on stationery, telephones, messages, postage and telegrams;
- (h) expenditure on committee rooms;
- (i) expenditure classified as electoral expenditure by the Authority;
- 10 and
- (j) such other expenditure as may be prescribed,

is electoral expenditure.

**(3)** For the purposes of this Act, expenditure on factual advertising of—

- 15 (a) meetings to be held for the purpose of selecting persons for nomination as candidates for election;
- (b) meetings of parties, branches of parties or conferences, committees or other bodies of parties or branches of parties for organisational purposes; and
- 20 (c) any other matter involving solely the administration of parties, branches of parties or conferences, committees or other bodies of parties or branches of parties,

is not electoral expenditure.

**Additional matters to be included in declaration.**

- 25 **89.** Subject to section 87 (2), there shall be included in a declaration made under this Part in respect of a party, group or candidate—
- (a) the amount of each contribution excluded from the declaration by virtue of section 87 (3) or (4) and the number of donors making contributions of each size;
- 30 (b) the total amount of annual subscriptions excluded from the declaration by virtue of section 87 (7) (b); and

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- (c) the net proceeds of fund-raising ventures or functions and details of each such venture or function, including a brief description of its nature and the date on which or period in which it was held.

**Certain matters to be included in Authority's report to Parliament.**

- 5 **90.** Except as prescribed by the regulations, details of gifts included in a declaration under this Part shall be included in the report of the Authority under section 107 (2) for the reporting period in which the declaration is lodged with the Authority.

**Nil returns.**

- 10 **91.** Where no details are to be included in a declaration under this Part, the declaration shall nevertheless be lodged, in which shall be included a statement to the effect that no contributions were received and no expenditure was incurred of the kind required to be disclosed.

**Special provisions relating to group declarations.**

- 15 **92.** An item disclosed in a group's declaration need not be also disclosed in the declaration of a member of the group, and an item disclosed in the declaration of a member of a group need not also be disclosed in the group's declaration.

**Audit of declaration.**

- 20 **93.** A declaration under this Part shall be deemed not to be validly lodged with the Authority unless it is accompanied by a certificate of an auditor stating—

- 25 (a) that he was given full and free access at all reasonable times to all accounts, records, documents and papers of the agent by whom the declaration is to be lodged, and of the party, group or candidate, as the case may require, relating directly or indirectly to any matter required to be set out in the declaration;

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- (b) that he duly examined such of those accounts, records, documents and papers as he considers material for the purpose of giving the certificate;
- 5 (c) that he received all information and explanations that he asked for with respect to any matter required to be set out in the declaration, subject to the qualifications (if any) specified in the certificate; and
- (d) that he has no reason to think that any statement in the declaration is not correct.

**Contributions and expenditure to be vouched for.**

- 10 **94.** A declaration under this Part shall be deemed not to be validly lodged with the Authority unless all political contributions and electoral expenditure specified in the declaration are vouched for in the prescribed manner.

**Public access to declarations, etc.**

- 15 **95. (1)** A declaration lodged with the Authority under this Part, together with any papers and correspondence relating to the declaration, or a copy thereof, shall be retained by the Authority for at least 6 years after the period to which it or they relate, and any such declaration, papers and correspondence, or a copy thereof, shall be available for public inspection  
20 during ordinary office hours.

(2) The Authority may, on application made to it and on payment of a reasonable fee to be determined from time to time by the Authority, provide copies of or extracts from any declaration, papers or correspondence referred to in subsection (1).

**25 Failure to lodge declaration.**

**96. (1)** Where the registered party agent of a party fails to lodge a declaration as required by section 83—

- (a) the agent is guilty of an offence and liable to a penalty not exceeding \$10,000; and
- 30 (b) the party is guilty of an offence and liable to a penalty not exceeding \$20,000.

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(2) Where the registered official agent of a group or candidate fails to lodge a declaration as required by section 84, the agent is guilty of an offence and liable to a penalty not exceeding \$10,000.

**False statements.**

5 97. A person who, in any declaration lodged under this Part, makes a statement that is false or misleading in a material particular, knowing it to be false or not reasonably believing it to be true, is guilty of an offence and liable to a penalty not exceeding \$10,000.

**PART VII.**

10

**FINANCIAL PROVISIONS.****Appropriation of Consolidated Revenue Fund for electoral funding.**

98. There shall be paid from the Consolidated Revenue Fund, from time to time, such amounts as are necessary to meet the amount of any payments to be made in accordance with Part V, and the Consolidated  
15 Revenue Fund is to the necessary extent hereby appropriated accordingly.

**Funding of other expenses.**

99. (1) Expenditure incurred in the administration or execution of this Act (other than payments referred to in section 98 and subsection (2)) shall be deemed to be expenses lawfully incurred under and in the execution of the  
20 Parliamentary Electorates and Elections Act, 1912.

(2) Expenditure incurred in connection with research referred to in section 25, and the engaging of consultants referred to in section 108, shall be met from money provided by Parliament.

**Money received by Authority.**

25 100. Any money received or recovered by the Authority shall be paid to the Consolidated Revenue Fund.

*Election Funding.***Statement of accounts.**

- 101. (1)** A reference in this section to a reporting period is a reference to each year ending on 30th June or to such other periods (each not exceeding 2 years) as the Governor may from time to time determine.
- 5 **(2)** The Authority shall cause to be kept proper accounts and records in relation to all of its operations.
- (3)** The Authority shall, as soon as practicable, but within 6 months, after the end of each reporting period, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together  
10 with the Auditor-General's certificate given under this section in relation to the statement.
- (4)** The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions  
15 of the Authority.
- (5)** The Authority shall, as soon as practicable, but within 4 months, after the end of the reporting period to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.
- 20 **(6)** The Auditor-General's certificate shall state that he has audited the accounts of the Authority relating to the relevant reporting period, and shall indicate whether the statement of accounts complies with subsection (4), and shall set forth any qualifications subject to which the certificate is given.
- 25 **(7)** Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.
- (8)** The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses  
30 of Parliament as soon as practicable after the receipt by him of the statement.



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**Audit.**

**102.** (1) The accounts and records of financial transactions of the Authority shall be inspected and audited by the Auditor-General.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Authority and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a member or person engaged in the administration of this Act, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty: \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Authority and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

**Application of Audit Act, 1902.**

**103.** So much of the provisions of the Audit Act, 1902, as applies to accounting officers of public departments shall apply to the members and staff of the Authority who would be accounting officers if the Authority were such a department.

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## PART VIII.

## MISCELLANEOUS.

**Shortened references to Authority.**

104. In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the "Election Funding Authority" shall be read and construed as a reference to the Election Funding Authority of New South Wales.

**Proof of certain matters not required.**

105. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of or holding of office by any member; or
- (d) the presence or nature of a quorum at any meeting of the Authority.

**Extensions of time.**

106. (1) The Authority may, in any particular case, extend the time for doing anything under this Act, if it is satisfied that proper reasons exist justifying the extension.

(2) Subsection (1) has effect notwithstanding any other provision of this Act, and whether or not the time for doing the thing under any such provision has expired.

**Reports to Parliament.**

107. (1) A reference in this section to a reporting period is a reference to each year ending on 30th June or to such other periods (each not exceeding 2 years) as the Governor may from time to time determine.

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(2) As soon as practicable after, but within 3 months after, each reporting period, the Authority shall prepare and forward to the President of the Council and the Speaker of the Assembly a report of its work and activities for that reporting period.

5 (3) The Authority may prepare and forward to the President of the Council and the Speaker of the Assembly reports of its work and activities for such periods and at such times as the Authority thinks fit, in addition to the reports required by subsection (2).

10 (4) The President of the Council shall cause each such report to be laid before the Council as soon as practicable after the receipt by him of the report.

(5) The Speaker of the Assembly shall cause each such report to be laid before the Assembly as soon as practicable after the receipt by him of the report.

**15 Staff.**

**108.** (1) Such staff as may be necessary to enable the Authority to exercise its functions or to assist the Authority in the exercise of its functions shall be employed under the Public Service Act, 1979.

20 (2) The Authority may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

(3) The Authority may engage persons having suitable qualifications and experience as consultants to the Authority.

**25 Certain persons not to be auditors.**

**109.** A candidate or registered agent, or a person appointed to any office or position under the Parliamentary Electorates and Elections Act, 1912, is not qualified to perform any action as an auditor for the purposes of Part V or VI.

*Election Funding.***Inspection.****110. (1) In this section—**

“bankers’ books” means books of a banker or cheques, orders for the payment of money, bills of exchange or promissory notes in the possession or under the control of a banker;

“inspector” means a person who is employed or whose services are being used, as referred to in section 108 (1) or (2), and who is for the time being appointed by the Authority as an inspector for the purposes of this section.

**(2)** For the purpose of ascertaining whether this Act is being or has been contravened, an inspector may—

(a) inspect or make copies of, or take extracts from, any records kept by or on behalf of, or any bankers’ books so far as they relate to, a party, group or candidate or agent for a party, group or candidate or a former party, group, candidate or agent; and

(b) enter at any reasonable time any place at which the inspector has reasonable grounds for believing that any such records or bankers’ books are kept.

**(3)** For the purpose of and in connection with an inspection under subsection (2), an inspector may—

(a) request any person employed or engaged at any place entered pursuant to that subsection to produce to the inspector such records or, as the case may be, such bankers’ books, relating to a party, group, candidate or agent or former party, group, candidate or agent as are in the custody or under the control of the person so employed or engaged;

(b) examine with respect to matters under this Act any person employed or engaged at any place so entered; and

(c) make such examination and inquiries as he thinks fit for the purpose of ascertaining whether this Act is being or has been contravened.

**(4)** A person shall not—

(a) refuse or intentionally delay the admission to any place of an inspector in the exercise by him of his powers under this section;

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- (b) intentionally obstruct an inspector in the exercise by him of any such power; or
- (c) fail to comply with a request of an inspector made under any such power.

5 Penalty: \$10,000.

(5) Every inspector shall be provided with a certificate of his appointment, and on applying for admission to any place where he is empowered by this section to enter, shall, if requested to do so, produce the certificate to the occupier of the place.

**10 Proceedings for offences.**

111. (1) Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

15 (2) If proceedings in respect of an offence against this Act or the regulations are brought in a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, \$4,000 or the maximum penalty provided by this Act in respect of the offence, whichever is the lesser.

20 (3) If proceedings in respect of an offence against this Act or the regulations are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.

25 (4) Proceedings in respect of an offence against this Act or the regulations may be commenced within 3 years after the offence was committed and no longer.

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(5) Proceedings in respect of an offence against this Act (section 102 excepted) or the regulations may only be commenced with the consent of the Authority.

**Prosecution of unincorporated parties.**

5 112. A proceeding in respect of an offence against this Act alleged to be committed by a party that is unincorporated, or in respect of any amount recoverable from such a party under section 71 or 77, may be instituted against an officer or officers of the party as a representative or representatives of the members of the party, and a proceeding so instituted shall be deemed 10 to be a proceeding against all the persons who were members of the party at any relevant time.

**Recovery of penalties, etc., from parties.**

113. For the purposes of enforcing any judgment or order given or made in a proceeding under this Act against a party that is unincorporated, 15 process may be issued and executed against any property of the party, or any property in which the party has, or any members of the party have in their capacity as such members, a beneficial interest, whether vested in trustees or however otherwise held, as if the party were a corporation and the absolute owner of the property or interest, but no process shall be issued or executed 20 against any other property of members, or against any property of officers, of the party.

**Evidence.**

114. A certificate signed by the Commissioner or a person authorised generally or specifically by the Commissioner to do so certifying—

- 25 (a) that a specified party, group or candidate was or was not registered in a specified register kept under this Act at a specified time or during a specified period;
- (b) that a specified person was or was not registered as an agent in a specified register kept under this Act at a specified time or during 30 a specified period; or

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(c) that there was no person registered at a specified time or during a specified period as the agent of a specified party, group or candidate,

is admissible in any proceedings and shall be prima facie evidence of the matters so certified.

**Delegation.**

115. (1) The Authority may, by instrument in writing under seal, delegate to the Chairman the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Authority by or under this or any other Act as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

15 (3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation under this section, the Authority may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Authority and shall be deemed to have been done or suffered by the Authority.

25 (6) An instrument purporting to be signed by a delegate of the Authority in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Authority under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Authority  
30 under this section.

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**Transitional provisions.**

116. Schedule 2 has effect.

**Regulations.**

117. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- 10 (a) requiring the making, keeping and auditing of records of political contributions given or received, and electoral expenditure incurred, by parties, groups, candidates and other persons, and requiring and otherwise providing for the production, examination and copying of those records; and
- 15 (b) the exemption of any class or description of persons, organisations or bodies, or of acts, matters or things, from all or any of the provisions of this Act.

(2) A regulation may impose a penalty not exceeding \$2,000 for any contravention thereof.

(3) A provision of a regulation may—

- 20 (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- 25 (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.



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(4) The Minister shall, before a regulation is at any time made under this Act, certify to the Governor that the regulation is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations, but nothing in this subsection affects the validity of that or any other regulation.

## SCHEDULE 1.

(Secs. 57, 73.)

## INDEXATION OF THE MONETARY UNIT.

**Interpretation.**

- 10 1. (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—
- “adjustment percentage”, in relation to a current quarter, means the percentage for that quarter, calculated in accordance with clause 2;
- 15 “base quarter” means the quarter preceding that in which the day on which the writs for the first general election to which this Act applies are issued occurs;
- “current quarter” means the last quarter for which an Index number was last published before the day of the issue of the writs for the election for the purposes of which the monetary unit is to be calculated in accordance with this Schedule;
- 20 “Index number”, in relation to a quarter, means the number for that quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician;
- “quarter” means—
- 25 (a) the period commencing on and including 1st July and ending on and including the next 30th September;
- (b) the period commencing on and including 1st October and ending on and including the next 31st December;
- (c) the period commencing on and including 1st January and ending on and including the next 31st March; or
- 30 (d) the period commencing on and including 1st April and ending on and including the next 30th June.

**Election Funding.****SCHEDULE 1—continued.****INDEXATION OF THE MONETARY UNIT—continued.**

(2) Where the monetary unit is to be adjusted under this Schedule by reference to the adjustment percentage for a quarter, a reference (however expressed) in this Schedule to adjusting the monetary unit is a reference to—

- (a) where the adjustment percentage is calculated in accordance with the formula set out in clause 2 (1) (a)—increasing the monetary unit; or
- (b) where the adjustment percentage is calculated in accordance with the formula set out in clause 2 (1) (b)—reducing the monetary unit.

**10 Calculation of adjustment percentage.**

2. (1) For the purposes of the definition of “adjustment percentage” in clause 1 (1), the percentage for a current quarter shall be calculated—

- (a) if the Index number for that current quarter is greater than the Index number for the base quarter—in accordance with the following formula:—

$$15 \quad P = \frac{100 (A - B)}{B}$$

- (b) if the Index number for that current quarter is less than the Index number for the base quarter—in accordance with the following formula:—

$$20 \quad P = \frac{100 (B - A)}{B}$$

where—

P represents the percentage to be obtained;

25 A represents the Index number for that current quarter; and

B represents the Index number for the base quarter.

(2) If at any time, whether before or after the commencement of this Schedule, the Australian Statistician has published in respect of a particular quarter an Index number in substitution for an Index number previously published by him in respect 30 of that quarter—

- (a) except as provided in paragraph (b)—the publication of the later Index number shall be disregarded; or

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SCHEDULE 1—*continued.*

INDEXATION OF THE MONETARY UNIT—*continued.*

(b) if the Authority so directs—regard shall, after the direction is given, be had to the later and not to the earlier Index number,  
5 for the purposes of this Schedule.

(3) Notwithstanding subclause (2), if at any time after the commencement of this Schedule the Australian Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this Schedule after the change takes place, regard shall be had only to Index numbers  
10 published in terms of the new reference base.

**Adjustment of monetary unit.**

3. The monetary unit for an election shall be determined as at the day of the issue of the writs for the election, by adjusting the amount of 22 cents by the adjustment percentage for the current quarter.

**15 Calculation of percentages and amounts.**

4. Where a percentage that is to be calculated under this Schedule is or includes a fraction of one-tenth of 1 per cent—
- (a) if that fraction is less than one-half of one-tenth—that fraction shall be disregarded; and
  - 20 (b) if that fraction is not less than one-half of one-tenth—that fraction shall be treated as one-tenth.

**Rounding off of monetary unit.**

5. For the purposes of the application of the monetary unit in connection with an election, the Authority may round off any fraction of a cent in such manner as it  
25 thinks appropriate.

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**SCHEDULE 2.**

(Sec. 116.)

**TRANSITIONAL PROVISIONS.****Term of office of appointed members and alternates.**

- 5 1. Each appointed member or alternate first appointed under this Act shall, subject to this Act, hold office—
- (a) from the day appointed and notified under section 2 (2) or from the date the appointment is made, whichever is the later; and
- 10 (b) until the end of the period of 6 months commencing on and including the day for the return of the writs for the next general election.

**First general election to which Act applies.**

2. (1) If the day appointed and notified under section 2 (3) is later than the day of the issue of the writs for the next general election after that day, this Act does not apply to that election, but applies to the following general election.
- 15 (2) If the day appointed and notified under section 2 (3) occurs during the period of 70 days before the day of the issue of the writs for the first general election to which this Act applies, section 29 (1) shall have no force or effect in relation to that election.
- (3) In relation to the first general election to which this Act applies, references in Parts IV and VI to the polling day for the previous general election shall, except in
- 20 so far as the Authority otherwise directs, be construed as references to the day appointed and notified under section 2 (3).

**Advance payments.**

3. Advance payments may not be made in respect of the first general election to which this Act applies.

**25 By-elections.**

4. This Act does not apply to any by-elections held or to be held before the first general election to which this Act applies.

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