



Funding and Disclosure

Information for third party campaigners

The *Electoral Act 2002* has been amended, introducing new political funding and disclosure laws for Victoria.

The laws apply to a person or an organisation that gives or receives political donations in relation to elections in Victoria, being registered political parties, candidates, groups of candidates, elected members, associated entities, third party campaigners, nominated entities and donors.

A third party campaigner is a person or organisation that:

- receives political donations or incurs expenditure of more than \$4,000 per financial year for the purpose of helping promote or oppose a candidate, elected member or registered political party at an election (known as political expenditure), and
- is not a registered political party, candidate at an election, a group, an elected member, an associated entity, or a nominated entity of a registered political party.

Activist and public interest groups are examples of potential third party campaigners.

If the third party campaigner is a person, the third party campaigner is responsible for ensuring they comply with the funding and disclosure laws. If the third party campaigner is an organisation, the financial controller is responsible for ensuring the third party campaigner complies with the funding and disclosure laws.

A third party campaigner, whether a person or an organisation, may choose to appoint an Agent to be responsible for ensuring compliance with the funding and disclosure laws.

These responsibilities include disclosing all donations, maintaining the State campaign account and submitting annual returns.

Political donations

A political donation is:

- any gift (be it money, services, a loan, a guarantee or giving of property) given to a registered political party, a candidate, a group of candidates, an elected member, or a nominated entity
- a gift to an associated entity or third party campaigner for the purpose of helping the associated entity or third party campaigner make a political donation, or incur political expenditure.

A gift does not include:

- gifts made in a private capacity for personal use
- annual subscription fees paid to political parties

- annual affiliation fees paid to political parties
- annual levies paid to political parties
- gifts made for Commonwealth electoral purposes that are not paid into the State campaign account
- volunteer labour
- labour shared between branches
- property used by a shared labour resource between branches (e.g. a telephone used by a worker).

If a third party campaigner chooses to use a membership fee or annual levy for political expenditure by paying that amount into their State campaign account, then it is considered a political donation.

Political expenditure

Political expenditure is any expenditure for the main purpose of directing how a person should vote at an election by promoting or opposing a candidate, elected member or registered political party.

For third party campaigners, political expenditure only occurs:

- during the election campaigning period (for a general State election from 1 October to 6 pm on election day, for any other election from the day the writ is issued to 6 pm on election day), or
- when material published, aired or otherwise issued by the third party campaigner refers to both a candidate/registered political party, and how a person should vote.

Disclosing donations

From 25 November 2018, both donors and recipients must disclose political donations worth \$1,000 or more, made in a financial year, via the Victorian Electoral Commission (VEC) website. These donations must be disclosed within 21 days of giving or receiving that donation. Details to be included in these disclosures are:

- name and address of the donor (only the suburb and state of individual donors will be published and no address details of silent electors will be published)
- name of the recipient
- date the donation was given or received
- type of donation (e.g. money, service, loan, guarantee, property)
- amount of the donation (which may require supporting evidence in the case of services or property).

Recipients must ensure the donor is aware of their obligation to disclose the donation.

Before disclosing donations, recipients and donors must be registered on the VEC website.

Banned donations

From 1 August 2018, the following political donations are banned:

- donations from foreign donors (i.e. the donor is not an Australian citizen or resident, or a business with a relevant Australian Business Number)

- anonymous donations of \$1,000 or more (i.e. the donor must provide their name and address for any donation of or above \$1,000).

Limits on donations

From 25 November 2018, there is a cap of \$4,000 from any one donor to any one recipient within an election period (the period between a general election and the next – this is usually a four-year period).

Agent

The Agent is the person responsible for disclosing all donations a recipient receives via the VEC website, maintaining the State campaign account, and submitting the recipient's annual returns.

The Agent is the third party campaigner themselves in the case of an individual, or the Financial Controller in the case of an organisation. However, a third party campaigner may choose to appoint an Agent.

The appointment of an Agent must be completed via the VEC website and be registered by the VEC before it comes into effect.

To be eligible to be appointed as an Agent, a person must be at least 18 years of age and must not have any convictions against the funding and disclosure provisions (Part 12) of the *Electoral Act 2002* or the funding and disclosure provisions (Part XX) of the *Commonwealth Electoral Act 1918* (Cth).

Third party campaigners may appoint an agent from 25 November 2018.

State campaign account

From 25 November 2018, all recipients of political donations must maintain a State campaign account(s) for the purpose of State elections.

The State campaign account must be with an authorised deposit-taking institution (e.g. bank, credit union, building society) within Australia.

All political donations received for State electoral purposes must be paid into the State campaign account and all political expenditure must be paid through the State campaign account.

Money for Commonwealth electoral purposes must not be paid into the State campaign account.

Annual returns

All recipients must submit annual returns to the VEC.

From 2019, annual returns must be submitted to the VEC by 20 October each year.

In relation to the State campaign account, a third party campaigner annual return must include the following information:

- the total amount received by, or on behalf of, the third party campaigner
- the details of amounts received that exceed the \$1,000 disclosure limit for the year
- the total amount paid by, or on behalf of, the third party campaigner
- the total amount of all outstanding debts incurred by, or on behalf of the third party campaigner
- the details of outstanding debts that exceed the \$1,000 disclosure limit for the year.

Penalties

Significant penalties apply for failing to comply with the legislation, including fines and imprisonment.

Please note, the information contained in this document is general in nature and does not take into account your individual circumstances; it is not legal advice. If in doubt you should seek professional advice.

More Information

More information on the obligations in relation to funding and disclosure can be found at www.vec.vic.gov.au

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