Third-party campaigners

Disclaimer/Qualification

A number of Electoral Amendment Bills are currently before the ACT Legislative Assembly for debate. Provisions within these Bills may introduce amendments to the Electoral Act 1992 (ACT) that may have an effect on some of the information contained within this document. Without the formalisation of these Electoral Amendment Bills into law by the Assembly, this fact sheet provides an overview of the requirements and obligations based on the existing legislation for third-party campaigners for the 2020 ACT Legislative Assembly election.

The Electoral Commission will update and re-publish this document on the website as soon as the outcome of the Electoral Amendment Bills is known.

More details on the current Bills can be found at https://www.elections.act.gov.au/elections_and_voting/act_electoral_legislation

Third-party campaigners in ACT Legislative Assembly elections

A third-party campaigner is defined as a person or entity, who is not a political party, a Member of the Legislative Assembly (MLA), an associated entity, a candidate, a prospective candidate, a broadcaster, a publisher, an Australian Government body or the ACT Legislative Assembly, that incurs a total of $1,000 or more in electoral expenditure during the electoral expenditure cap period for an ACT Election.

What is electoral expenditure?

Electoral expenditure incurred in relation to an election falls within the following categories:

- Broadcasting electoral advertisements (including production costs);
- Publishing electoral advertisements in a news publication, including printed and electronic newspapers or periodicals (including production costs);
- Displaying electoral advertisements at a theatre or other place of entertainment (including production costs);
- Production of printed or electronic electoral matter requiring authorisation (for example, how-to-vote cards, posters, pamphlets and internet advertising);
- Producing, broadcasting, publishing or distributing electoral matter, other than material included above (such as direct mailing, including printing and postage, business cards promoting candidacy, T-shirts, badges, buttons, pens, pencils and balloons);
- Consultant’s or advertising agent’s fees in respect of services provided or material used relating to the election; and
Opinion polling and other electoral research undertaken to support the production of electoral matter included in any of the above.

Electoral expenditure does not include:

- Electoral matter paid for by the Territory or the ACT Legislative Assembly; or
- Administrative expenditure, such as the cost of maintaining office accommodation, office supplies, travel and staff.

**Disclosure period**

The disclosure period relevant to third-party campaigners is the period beginning on the 31st day after election day for the last previous election and ending at the end of the 30th day after election day for the current election. For the 2020 ACT election the disclosure period commenced on 15 November 2016 and ends on 16 November 2020.

**Third-party campaigner obligations**

A person or entity, as a third-party campaigner, is subject to a range of legal requirements and restrictions.

**Electoral expenditure cap**

The expenditure cap limits the amount of money that can be spent on an election campaign for an ACT Legislative Assembly election by political participants.

The capped expenditure period for an ACT Legislative Assembly election is the period from 1 January in an election year until the end of election day. In 2020 the capped expenditure period commenced on 1 January 2020 and ends on 17 October 2020. The expenditure cap only applies to electoral expenditure incurred in relation to an ACT Legislative Assembly election during this period.

For the 2020 election the electoral expenditure cap for third-party campaigners is $42,750.

If a third-party campaigner’s expenditure during the electoral expenditure cap period is in excess of the capped amount, the entity is liable to pay a penalty to the Territory equal to twice the amount by which the electoral expenditure cap has been exceeded. For example, if a third-party entity spent $5,000 over the expenditure cap, the entity will be liable to pay a $10,000 penalty to the Territory.

**Reporting obligations – disclosure of electoral expenditure and gifts received**

All third-party campaigners must lodge a completed election return to the ACT Electoral Commissioner outlining all details of electoral expenditure incurred during the electoral expenditure cap period.

A third-party campaigner may also be required to detail gifts (including gifts-in-kind) received.
The obligation to submit details of gifts received arises if:

- The third-party campaigner received from an individual or an entity, one or more gifts totalling $1,000 or more, all or part of which was used to:
  - Enable the third-party campaigner to incur electoral expenditure during the disclosure period; or
  - Reimburse the third-party campaigner for electoral expenditure incurred during the disclosure period.

Election returns are required to be lodged with the Commissioner within 60 days after election day. For the 2020 election the due date is 16 December 2020. Extensions to the deadline are not permitted under the Electoral Act and failure to lodge an electoral return may be subject to a penalty.

**Authorisation of electoral matter**

Any material, in printed or electronic form, containing matter that falls within the definition of “electoral matter” must include an authorisation statement. This provision applies at all times, not only during an ACT Legislative Assembly election campaign.

**What is electoral matter?**

Electoral matter is matter that is intended to affect or is likely to affect voting in an election for the ACT Legislative Assembly. It is taken to be intended or likely to affect voting if it contains an express or implicit reference to, or comment on:

- The election;
- The performance of the Government, the Opposition, a previous Government or a previous Opposition of the ACT Legislative Assembly;
- The performance of an MLA or former MLA;
- The performance of a political party, candidate or a group of candidates in an election; or
- An issue submitted to, or otherwise before, the electors in connection with an election.

For further information, see the [Authorising electoral material fact sheet](https://www.elections.act.gov.au/).  

**Further information**


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While this fact sheet provides an overview of the requirements for third-party campaigners participating in the 2020 ACT election, it should not be regarded as a substitute for the law. You are advised to obtain a copy of the Electoral Act 1992 (ACT) from [www.legislation.act.gov.au](http://www.legislation.act.gov.au) and seek your own legal advice if necessary.