

## Electoral expenditure cap

### The ACT Legislative Assembly electoral expenditure cap

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

### Capped expenditure period

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 commences 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 (See [When is electoral expenditure said to be incurred?](#) below).

### Expenditure cap amounts

For the 2020 election the electoral expenditure cap is \$42,750.

The expenditure cap amounts for 2020 for each category of political participant are:

- \$42,750 per party candidate to a maximum of 25 candidates (5 candidates for each of the 5 electorates) for party groupings (allowing for \$1,068,750 million total expenditure for a party fielding 25 candidates);
- \$42,750 per non-party candidate or non-party Member of the ACT Legislative Assembly (MLA);
- \$42,750 per third-party campaigner; and
- \$42,750 per associated entity.

### Penalty for exceeding the expenditure cap

If an entity breaches the cap on electoral expenditure, 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.

### Electoral expenditure included in the cap

The expenditure cap only applies to specified categories of electoral expenditure. These are expenditure incurred on:

- Broadcasting or publishing an electoral advertisement;

- Displaying an electoral advertisement at a theatre or other place of entertainment;
- Producing an electoral advertisement referred to above;
- Producing, broadcasting, publishing, displaying or distributing any other electoral matter;
- Fees paid to consultants or advertising agents relating to electoral advertisements or other electoral matter; and
- Opinion polling and other electoral research undertaken to support the production of electoral matter.

The expenditure cap does not apply to electoral matter that is paid for by the Legislative Assembly or the Territory. It also does not apply to administrative expenditure undertaken by political participants.

## Electoral matter

The term “electoral matter” is defined by the *Electoral Act 1992* (ACT) to mean matter, in printed or electronic form, that is intended or likely to affect voting at an ACT Legislative Assembly election. This includes, but is not limited to, matter which contains an express or implicit reference to, or comment on:

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

## When is electoral expenditure said to be incurred?

Electoral expenditure is incurred by a person or entity when the service or product to which the expenditure relates is provided or delivered. For example, the cost of producing an electoral advertisement is incurred on the date that the advertisement is broadcast, not on the date that payment for this service was made. Electoral expenditure on producing printed campaign material, for example, is incurred when the pamphlets are distributed, not on the date the payment for producing the pamphlets is finalised.

## Gifts-in-kind

Where gifts-in-kind are used for purposes related to ACT electoral expenditure, the value of those gifts-in-kind is included in the calculation of the total amount of electoral expenditure incurred during the expenditure cap period.

## Expenditure reporting requirements

After an election, the reporting agents for party groupings, non-party MLAs, non-party candidates and associated entities are required to lodge an election expenditure return within 60 days of election day. Third-party campaigners are also bound by this deadline for submitting their electoral expenditure return.

For the 2020 election, all election expenditure returns must be submitted to the ACT Electoral Commissioner by close of business on 16 December 2020.

The return requires entities to disclose against specific categories of expenditure where the expenditure is incurred during the capped expenditure period.

It is important to note that an expenditure return must be submitted by an entity who has participated the election, even if they have not incurred any expenses during the expenditure cap period.

### Party grouping expenditure reporting

A party grouping consists of a registered political party, its MLAs, candidates and prospective candidates. For a party grouping, if electoral expenditure is incurred by, or on behalf of, any of these entities, the expenditure incurred is taken to have been incurred by the party grouping as a whole and is included in the total expenditure cap for the party grouping. The party grouping must ensure that its total expenditure does not exceed its expenditure cap (calculated by multiplying the number of party candidates contesting the election by \$42,750).

If a party MLA produces material that falls within the definition of electoral matter, the amount incurred by the MLA must be included in the expenditure cap of the party grouping.

### Non-party candidate expenditure reporting

A "non-party candidate grouping" is the term used to describe a non-party candidate and any other person or entity that has incurred electoral expenditure with the authority of the candidate to support the candidate in contesting the election.

If electoral expenditure is incurred by or on behalf of a non-party candidate, the expenditure is considered to have been incurred by the non-party grouping as a whole and is included in the total expenditure cap of \$42,750 for that non-party candidate grouping.

### Third-party campaigner expenditure reporting

If an entity (other than a political party, an MLA, an associated entity, a candidate, a prospective candidate, a broadcaster, a publisher, an Australian government body or the ACT Legislative Assembly) incurs electoral expenditure of \$1,000 or more during the expenditure cap period, they are legally considered to be a third-party campaigner and are required to lodge an election return. This return must be submitted by the third-party campaigner within 60 days of election day (in 2020 the deadline is 16 December). The return must include the details of electoral expenditure incurred during the expenditure cap period.

## Further information

For further information view the *Election funding, expenditure and financial disclosure handbook* at <https://www.elections.act.gov.au/>