

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 polling day**. In 2016 the capped expenditure period commences on 1 January 2016 and ends on 15 October 2016. The expenditure cap only applies to electoral expenditure incurred in relation to an ACT Legislative Assembly election during this period.

Expenditure cap amounts

For the 2016 election the electoral expenditure cap is \$40,000, indexed annually thereafter.

The expenditure cap amounts for 2016 for each category of political participant are:

- \$40,000 per party candidate to a maximum of 25 candidates (5 candidates for each of the 5 electorates) for party groupings (allowing for \$1 million total expenditure for a party fielding 25 or more candidates);
- \$40,000 per non-party candidate or non-party Member of the ACT Legislative Assembly (MLA) (if any);
- \$40,000 per third party campaigner; and
- \$40,000 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 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?

A person or entity incurs electoral expenditure when the service or product to which the expenditure relates is provided or delivered. For example, the cost of production of an electoral advertisement is incurred when the advertisement is broadcast, regardless of when the payment for the production of the advertisement was made. Similarly, electoral expenditure on printed pamphlets is said to be incurred when the pamphlets are distributed, not on the date that the payment for the production of 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.

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 polling day. Third party campaigners must also meet this deadline for expenditure returns. For the 2016 election the due date is 14 December 2016.

The return must list expenditure on specific items where the expenditure is incurred during the capped expenditure period.

Even if no expenditure was incurred, the entity must submit a nil return unless the entity did not contest the election.

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 \$40,000).

If a party MLA uses his or her communication allowance to produce 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.

For a non-party candidate, if electoral expenditure is incurred by or on behalf of the candidate, the expenditure incurred is taken to have been incurred by the non-party candidate grouping as a whole and is included in the total expenditure cap for that non-party candidate grouping. The non-party candidate grouping must ensure that its total expenditure does not exceed the \$40,000 expenditure cap.

Third party campaigner expenditure reporting

For a third party campaigner, if electoral expenditure of more than \$1,000 is incurred during the capped expenditure period, the third party campaigner is required to lodge an election return with the Electoral Commissioner within 60 days of polling day. The election return must show details of electoral expenditure incurred during the capped expenditure period.

Further information

For further information [view the Electoral Commission's election funding, expenditure and financial disclosure handbook - 2016 election](#).