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JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Inquiry into the Electoral Legislation Amendment (Electoral Funding and Reform) Bill 2017

Issue date: 9 April 2018

Electoral Funding and Reform Bill Inquiry Report

The Joint Standing Committee on Electoral Matters has released its multi-partisan report on the Electoral Funding and Reform Bill, referred to the committee in December 2017.

Committee Chair Senator Linda Reynolds said the committee unanimously agreed that foreign donations for the purpose of election campaigning should be banned.

“While most would agree that only Australians should have the power to influence our election outcomes, Australia is one of the few western democracies where foreign money can still be used to influence domestic elections,” Senator Reynolds said.

“The committee in-principle supports passage of the Bill subject to the government addressing the 15 recommendations contained in the report. These recommendations provide greater clarity for charities to ensure and to align definitions as closely as possible with the intent and principles of the Bill, while ensuring regulatory and compliance burdens are minimised.

“The committee also recommended the introduction of a new and easily accessible transparency register to provide voters with the ability to readily identify who is seeking to influence their vote. A transparency register would also assist all third parties, particularly those not currently compliant with legislative requirements, to better understand and comply with their legislative obligations.”

Senator Reynolds said in recognition of the significance of this issue to our Democracy, committee deliberations on the multi-partisan report were underpinned by the principles of national sovereignty, voter transparency and the preservation of democratic freedoms.

“Australian citizens must have visibility of who is seeking to influence their votes and have confidence that foreigners are not seeking to influence the outcome of their votes. Therefore, Australia’s electoral laws must apply equally to all participating in the political process with the aim of influencing electors voting intentions,” Senator Reynolds said.

“Despite consensus on the principle of banning foreign donations, over the course of the inquiry there has been significant and democratically important public debate on the Bill. In particular, debate on who, and what activities should be subject to the ban.

“At the heart of the debate on this Bill lies the fact that election campaigning today is very different from that in the 1980s when the relevant provisions in the Electoral Act were written.

“It is essential for the effective functioning of Australia’s democracy that the Electoral Act reflects contemporary campaigning practices - while not restricting freedom of expression. This report achieves both, thanks to the hard work and dedication of all committee members and the Secretariat staff.”



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The committee's recommendations are:

Recommendation 1

2.33 The Committee recommends the Government reconsider introducing the term 'political purpose' into the *Electoral Act 1918*, having regard to potential confusions with the *Charities Act 2013* in which the term has a divergent meaning.

Recommendation 2

2.34 The Committee recommends that the Government consider amending the definition of 'political expenditure' to define the type of expenditure which constitutes expenditure undertaken to influence voters to take specific action as voters, so as not to capture non-political issue advocacy.

Recommendation 3

2.56 The Committee recommends that a publically available 'Transparency Register' be established that provides:

- voluntary registration for all entities engaged in 'political expenditure';
- mandatory registration for all entities engaged in activities that require disclosure of 'political expenditure' that reach a minimum 'expenditure threshold'; and
- disclosure obligations that are commensurate with levels of expenditure.

The registration process for the Transparency Register should be simple and provide access to additional support for registrants to fulfil their reporting obligations.

Recommendation 4

2.61 The Committee recommends that the Government consider setting expenditure thresholds for triggering increased reporting obligations under the proposed Transparency Register be set at a level that could reasonably be expected to have a significant impact on voter behaviour and that these obligations be proportionate to levels of expenditure.

Recommendation 5

2.65 The Committee recommends that the Government consider establishing a process that requires, prior to each election, all political parties to reaffirm their registration or be subject to automatic deregistration.

Recommendation 6

2.80 The Committee recommends that the Government reconsider the definition of 'associated entity' proposed in the Bill, and instead consider retaining the definition of 'associated entity' currently in the Electoral Act.



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Recommendation 7

2.87 The Committee recommends that the Government consider introducing administrative action to support consistent compliance with the provisions of the Electoral Act, as amended, by third party entities.

Recommendation 8

3.30 The Committee recommends that the Government give consideration to replacing the definition of 'allowable donor' with a definition of 'non-allowable' donors.

Recommendation 9

3.36 The Committee recommends that the Government consider:

- removing the potential requirement for statutory declarations for all gifts;
- simplifying the process for entities to verify whether a donor is a non-allowable donor.

Recommendation 10

3.37 The Committee recommends that the Government consider removing the aggregation of donations received under the allowable amount, provided that appropriate anti-avoidance measures are implemented.

Recommendation 11

3.50 The Committee recommends the Government consider providing a legislative mechanism to give greater transparency of foreign funds that are moved through multiple organisations, whether they be charities, not for profits, industry associations or businesses, and to prohibit the use of such funds by way of political expenditure; noting the need to reach agreement on defining 'political expenditure' and noting the Australian Greens' concerns that non-partisan issue based advocacy not be included in the definition of 'political expenditure'.

Recommendation 12

3.83 The Committee recommends that the Government consider establishing a minimum expenditure threshold before requiring substantiation for public funding claims.

3.84 Subject to the above amendment, the Committee recommends that the proposals relating to public funding be agreed.

Recommendation 13

4.17 The Committee recommends that the Government consider reducing the proposed penalties in the Bill, and that penalties be proportionate to the type of breach displayed.

Recommendation 14

4.18 The Committee recommends that the Government consider:

- an appropriate legislative mechanism whereby organisations which hold Deductible Gift Recipient (DGR) status which donate funds to another organisation in breach of their DGR obligations forfeit the right to DGR status; and



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- that any legislation include a mechanism to allow for a warning before removal of DGR status.

Recommendation 15

- 4.19 The Committee recommends that the Government appropriately resource both the Australian Electoral Commission and the Australian Charities and Not-for-profits Commission to undertake a comprehensive education campaign for the charity sector on their obligations under the *Electoral Act 1918*.

The report is now available on the Committee's [website](#).

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For background:

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