FUNDING AND DISCLOSURE IN THE ACT

ACT Electoral Commission

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Introduction

- Objectives
- History
- Current arrangements
- Comparison of Australian schemes
- Improvements to the ACT scheme
- Other issues
  - Public funding
  - Regulating donations and expenditure
  - Enforcement
- Other considerations

Objectives

- Parties and candidates can present policies through provision of public funding
- Disclosure of sources of, and reduction of party reliance on, private funding to prevent corruption and undue influence
- Transparency in finances of political participants by informing electorate of sources of political funding

History

- 1989 and 1992 elections conducted using Commonwealth provisions
- ACT scheme from 1994 based on Commonwealth scheme
- Various amendments since to simplify and/or keep in step with Commonwealth
- Commonwealth changes in 2006 led to breaking nexus with ACT

Current ACT Arrangements - Public Funding

- Direct entitlement scheme
- Must receive 4% of formal votes
- Payment = formal votes x prescribed amount
- Prescribed amount adjusted each 6 months by ↕ in CPI
- 2008 election = 144.722 cents
- Currently = 153.551 cents

Current ACT Arrangements - Disclosure

- Disclosure thresholds generally $1000
- Election returns
  - Parties – electoral expenditure
  - Candidates – gifts received, electoral expenditure
  - Broadcasters & publishers – advertisements
  - Other participants – gifts received, electoral expenditure

Current ACT Arrangements - Disclosure (cont)

- Election returns due
  - Broadcasters & publishers – 8 weeks after polling day
  - All others – 15 weeks after polling day
- Election returns made public
  - 25 weeks after polling day (early April of next year)

Current ACT Arrangements - Disclosure

- Annual returns
  - Parties and MLAs
    - Total amounts received
    - Details of givers of $1000 or more, but ignore amounts < $1000
    - Total amounts paid
    - Total debts

Current ACT Arrangements - Disclosure (cont)

- Annual returns
  - Associated entities
    - Total amounts received
    - Details of givers of all amounts, except if a membership fee of < $50, or reasonable payments for food or drink, or income from gaming
    - Details of all who deposited capital
    - Total debt
    - Details of all to whom $1000 or more is owed

Current ACT Arrangements - Disclosure (cont)

- Annual returns
  - Donors to parties, MLAs, associated entities
    - Details of who is given gift of $1000 or more
    - Details of who gives gift to donor of $1000 or more, where it is used to make a gift

Current ACT Arrangements - Disclosure (cont)

- Annual returns due
  - All except donors – 16 weeks after end of financial year
  - Donors – 20 weeks after end of financial year, except in election year, when it is 24 weeks
- Annual returns made public
  - beginning of February of next year

Comparing ACT, Commonwealth and State/Territory schemes

- South Australia
  - No funding or disclosure scheme
- Victoria
  - Funding by reimbursement
  - No disclosure scheme, but parties must submit copy of Commonwealth returns
  - Donations > $50,000 per f/y from casino & gambling licensees to parties prohibited

Comparing ACT, Commonwealth and State/Territory schemes (cont)

- Tasmania
  - No funding or disclosure scheme
  - Candidates in Legislative Council elections must disclose all expenditure and provide receipts for items > $20
  - Election expenditure for Legislative Council candidates capped (2008 = $11,500)
  - Parties prohibited from incurring expenditure on Legislative Council elections

Comparing ACT, Commonwealth and State/Territory schemes (cont)

- Commonwealth and other States and the NT
  - Refer to separate handout

Improvements 1

- Parties do not need to take account of amounts of < $1000 to determine if a donor has given a party $1000 or more
  - Potentially donors can give significantly more than $1000 and details not be disclosed
  - May only be detected through detailed audit of party accounts

Improvements 2

- Gifts versus receipts
  - Definition of gift
  - Fundraisers such as dinners, “meet the Minister” events
  - Level of disclosed receipts compared to total sum of receipts – issue of transparency
  - Should all sources of party income be disclosed (as per associated entities), including its purpose?

Improvements 3

- Is there a need for donor returns?
  - Disclosure requirements met if all details of receipts are in party returns
  - Audits of party accounts to ensure disclosure complete and accurate

Improvements 4

- Anonymous donations
  - If individually under $1000 they can be retained by a party, MLA or associated entity
    - Potential loophole if many donations of under $1000 made by same person
    - Solution may be to prohibit anonymous donations once a total of $1000 reached
  - No current threshold on anonymous donations received by a third party
    - Apply same provision as that for parties, MLAs and associated entities

Improvements 5

- Lodgement and public display of returns
  - Current scheme very drawn-out
    - Bring forward deadlines for lodgement and display
    - Lodgement and display determined from date of receipt

Public Funding

- Direct and indirect
  - Latter a policy issue
- Reimbursement or direct entitlement
  - Reimbursement
    - Labour intensive especially for smaller parties and independents, and the Commission
    - Funding rarely exceeds expenditure
  - Direct entitlement
    - Simple formula based on electorate support

Regulating political donations and expenditure

- Policy considerations
- Legal considerations
  - Constitutional issues
  - Enforceability
- Practical considerations
  - Third party campaigning
  - Consistency with the Commonwealth

Enforcement

- Donors not lodging returns is most common area of non-compliance
  - Time between making donation and deadline for returns
  - Party returns don't distinguish between donations and other receipts
  - If already disclosed in party return has disclosure objective been met?
- Tightening of laws will require additional funding for enforcement

Other considerations

- Commonwealth Green Paper: Donations, Funding and expenditure
- Commonwealth Electoral Amendment (Political Donations and Others Measures) Bill 2009
- Relationship between Commonwealth and ACT schemes
  - Impact of different thresholds

Questions?