



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Peter Cain MLA (Chair), Dr Marisa Paterson (Deputy Chair), Mr Andrew Braddock MLA

## Submission Cover Sheet

### Inquiry into Electoral and Road Safety Legislation Amendment Bill 2023

**Submission Number: 002**

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**ACT LABOR SUBMISSION TO  
THE INQUIRY INTO THE  
ELECTORAL AND ROAD  
SAFETY LEGISLATION  
AMENDMENT BILL 2023**



Committee Secretary  
Standing Committee on Justice and Community Safety  
ACT Legislative Assembly  
By Email: [LACommitteeJCS@parliament.act.gov.au](mailto:LACommitteeJCS@parliament.act.gov.au)

Dear Secretary

Thank you for the opportunity to provide a submission to the Inquiry into the *Electoral and Road Safety Legislation Amendment Bill 2023*.

ACT Labor supports fair and transparent elections in the ACT. I write to bring the Committee's attention to a few matters in the Amendment Bill which may have more impact in practice than expected:

**Any gift of \$100 or above be disclosed within 7 days.**

ACT Labor supports real-time disclosure of donations over a certain threshold as it provides greater transparency of donations and is simple to administer in respect of a clear threshold for disclosure. ACT Labor encourages the Committee to consider whether the \$100 threshold is too low, particularly considering a few key factors:

1. ACT Labor agrees with the matter raised in the Bill's Explanatory and Human Rights Compatibility Statement in relation to individuals' right to privacy. Many ACT Labor donors, likely similarly across all political entities, like to provide a donation or gift to their party of choice but are sensitive to having their information published, whether due to their employment, personal or other reasons. \$100 is a low threshold to forego anonymity.
2. The administrative burden on political entities and the ACT Electoral Commission. For example, a political entity receiving a generous gift of a bouquet of flowers, a ticket to an event, a dinner, etc. would be required to seek the necessary information from the donor, send it to the reporting agent, the reporting agent would be required to collate the information, ensure it is as accurate as possible and if required, submit it within seven days of receipt. Any details provided with the gift could not be thoroughly audited or checked for accuracy given the short timeframe. The Electoral Commission would also be required to resource the collection and publication of the information it receives. Expand that system to up to 25 candidates per party during an election period and the difficulty to comply increases significantly.
3. Due to high levels of inflation, the value of \$100 has decreased considerably over recent years and continues to decrease. As the value of \$100 continues to decrease, the threshold will capture more gifts, increasing the burden of compliance.

4. I would also bring the Committee's attention to the [ACT Labor Submission to the Inquiry into 2020 ACT Election and the Electoral Act](#). Particularly in relation to the double reporting of gifts for MLAs and political entities, which remains an issue and will increase in administration with a lower threshold.

**Recommendation:**

The \$100 donation disclosure threshold be increased. It may make sense to increase the threshold to a minimum of \$250 in line with several other existing thresholds (membership fees of less than \$250 not being a gift, threshold on property developer donations becoming a criminal offence, foreign donations, etc.).

**Any entity which donates more than 13 times in one year requiring disclosure.**

The Bill requires that where a political entity receives 13 or more gifts that are less than \$100 each from the same person in the relevant period, the financial representative must give the commissioner a return within 7 days of receipt of the 13th gift and any subsequent gifts.

There is a high degree of administration required in any disclosure scheme with an accumulative reporting requirement. Currently, there is a \$1,000 accumulative reporting requirement, which requires that any gifts received by a political entity be checked against all other gifts to ensure compliance. It is currently manageable due to the disclosure time of 7 days within the end of a month, which allows for end of month reconciliation across ACT Labor and Members of the Legislative Assembly.

A shift from one accumulative reporting scheme to another with an increasingly short disclosure period will significantly increase the burden on reporting entities as well as the audit and compliance regime required for the ACT Electoral Commission.

Particularly for ACT Labor, as a relatively large political party, it is not unusual to have dozens of party members who donate regular small amounts to multiple Members of the Legislative Assembly, donate centrally to the ACT Labor Party, purchase raffle tickets in the local Branch meetings and attend low-cost events. The requirement to track each of these events on the date of receipt for thousands of ACT Labor members (not including gifts received from non-members) within a seven-day reporting period may prove almost impossible.

As an example, during 2020, ACT Labor recorded over 2,200 gift or gift-in-kind related transactions, all of which need to be checked against past transactions to ensure compliance under an accumulative scheme. The median value was \$25.

**Recommendation:** Retaining the current annual return requirements, that all receipts totalling over \$1,000 in a year are disclosed, would seem like the best opportunity to ensure transparency in the reporting scheme whilst also ensuring the intent of the Bill is met in respect of donations over a set threshold being disclosed in real time.

## **Annual Returns.**

The amendment also requires that annual returns by parties, MLAs and by associated entities state the information required where receipts total \$100 or more.

In a similar vein to privacy outlined above, this may require ACT Labor to publish the details of a majority of ACT Labor members, as the general membership fee of ACT Labor exceeds \$100 annually. This is of significant concern in relation to members' privacy.

### **Recommendation:**

Retain annual return requirements of total receipts more than \$1,000 requiring disclosure in the annual return.

## **Corflutes.**

ACT Labor supports the restriction of the use of corflutes during elections. There may be a question of how the Bill interacts with corflutes outside of elections, particularly given the upcoming Referendum.

### **Recommendation:**

The Committee consider the impact of these restrictions in the context of referenda.

## **Discretion on reporting requirements**

Another related issue which the Committee may wish to consider is the lack of discretion in the disclosure scheme. Political entities are often staffed with a very small paid or volunteer cohort, when one or more of these staff members are on leave, particularly over the Christmas-New Year period, it is necessary to work during shutdown or annual leave, or even sick leave to ensure the reporting requirements are met. Given that the requirements are complex, it is often down to the knowledge of one or two people in an office to be able to meet the requirements. If there is an issue, there are no options available to the Electoral Commissioner besides a breach of the disclosure scheme.

### **Recommendation:**

The Committee may consider whether it is possible for the Electoral Commissioner to be provided discretion in particular circumstances to formally extend the timeframes for disclosure of a political entity or entities.

Thank you for the opportunity to provide a submission to the inquiry. I look forward to the Committee's report.

Sincerely



Ash van Dijk  
ACT Labor Secretary