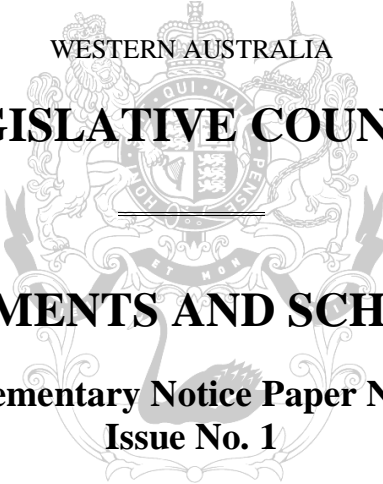


WESTERN AUSTRALIA



**LEGISLATIVE COUNCIL**

**AMENDMENTS AND SCHEDULES**

**Supplementary Notice Paper No. 100**  
**Issue No. 1**

**THURSDAY, 10 SEPTEMBER 2020**

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***ELECTORAL AMENDMENT BILL 2020 [100-2]***

When in committee on the *Electoral Amendment Bill 2020*:

**Clause 12**

**Hon Alison Xamon:** To move –

1/12 Page 6, line 24 to page 7, line 4 — To delete the lines.

**Clause 13**

**Hon Alison Xamon:** To move –

2/13 Page 8, lines 6 to 18 — To delete the lines and insert:

*prohibited donor* has the meaning given in section 175RB(2).

**Hon Alison Xamon:** To move –

3/13 Page 8, line 24 — To delete “foreign” and insert:

prohibited

**Hon Alison Xamon:** To move –

4/13 Page 8, line 29 — To delete “foreign” and insert:

prohibited

**Hon Alison Xamon:** To move –

**5/13** Page 9, line 2 — To delete “foreign” and insert:

prohibited

**Hon Alison Xamon:** To move –

**6/13** Page 9, line 5 — To delete “foreign” and insert:

prohibited

**Hon Alison Xamon:** To move –

**7/13** Page 10, after line 11 — To insert:

**175RB. Prohibited donor and related concepts**

(1) In this section —

*close associate* means —

- (a) in relation to an individual — the spouse or de facto partner of the individual;
- or
- (b) in relation to a body corporate —
  - (i) a director or officer of the body corporate or the spouse or de facto partner of such a director or officer; or
  - (ii) another body corporate that is related to the body corporate; or
  - (iii) a person whose voting power, as defined in the *Corporations Act 2001* (Commonwealth) section 9, in the body corporate or another body corporate that is related to the body corporate is greater than 20% or the spouse or de facto partner of such a person; or
  - (iv) if the body corporate or another body corporate that is related to the body corporate is a stapled entity in relation to a stapled security — the other stapled entity in relation to the stapled security; or
  - (v) if the body corporate is a trustee, manager or responsible entity in relation to a trust — a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust);

*officer*, of a body corporate, means a person who is an officer, as defined in the *Corporations Act 2001* (Commonwealth) section 9, of the body corporate;

*stapled entity* —

- (a) means an entity the interests in which are traded along with the interests in another entity as stapled securities; and
- (b) if an entity referred to in paragraph (a) is a trust, includes a trustee, manager or responsible entity in relation to the trust.

- (2) Each of the following persons is a ***prohibited donor*** —
- (a) a foreign donor;
  - (b) a property developer;
  - (c) a liquor or gambling industry business entity;
  - (d) a mineral resources or fossil fuel industry business entity;
  - (e) a tobacco industry business entity;
  - (f) an industry representative organisation if the majority of its members are persons referred to in paragraphs (a) to (d).
- (3) For the purposes of subsection (2), each of the following persons is a ***foreign donor*** —
- (a) an individual who is not —
    - (i) an Australian citizen; or
    - (ii) an Australian resident as defined in the *Social Security Act 1991* (Commonwealth) section 7(2);
  - (b) an entity that does not have —
    - (i) an Australian Business Number; or
    - (ii) any other number allocated or recognised by the Australian Securities and Investments Commission for the purpose of identifying a business.
- (4) For the purposes of subsection (2), each of the following persons is a ***property developer*** —
- (a) a person who carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit;
  - (b) a close associate of a person referred to in paragraph (a).
- (5) An activity engaged in by a person for the dominant purpose of providing commercial premises at which the person or, if the person is a body corporate, another body corporate that is related to the body corporate will carry on business must be disregarded for the purpose of determining whether the person is a property developer unless that business involves the sale or lease of a substantial part of the premises.
- (6) For the purposes of subsection (2), each of the following persons is a ***liquor or gambling industry business entity*** —
- (a) a body corporate engaged in a business undertaking that is mainly concerned with 1 or more of the following (but only if it is for the ultimate purpose of making a profit) —
    - (i) the manufacture or sale of liquor products;
    - (ii) wagering, betting or other gambling (including the manufacture of machines used primarily for that purpose);
  - (b) a close associate of a body corporate referred to in paragraph (a).
- (7) For the purposes of subsection (2), each of the following persons is a ***mineral resources or fossil fuel industry business entity*** —

- (a) a body corporate engaged in a business undertaking that is mainly concerned with the exploration or prospecting for, or the discovery, development or extraction of, mineral resources or fossil fuels;
  - (b) a close associate of a body corporate referred to in paragraph (a).
- (8) For the purposes of subsection (2), each of the following persons is a ***tobacco industry business entity*** —
- (a) a body corporate engaged in a business undertaking that is mainly concerned with the manufacture or sale of tobacco products;
  - (b) a close associate of a body corporate referred to in paragraph (a).

**175RC. Determination by Electoral Commissioner that person not prohibited donor**

- (1) A person (the ***applicant***) may apply to the Electoral Commissioner for a determination that the applicant or another person is not a prohibited donor for the purposes of section 175RA.
- (2) The Electoral Commissioner is authorised to make a determination if the Electoral Commissioner is satisfied that it is more likely than not that the person is not a prohibited donor.
- (3) A determination remains in force for 12 months after it is made but can be revoked by the Electoral Commissioner at any time by notice in writing given to the applicant.
- (4) A determination is conclusively presumed to be correct in favour of a person for the purposes of a gift that the person makes or receives while the determination is in force (even if the determination is subsequently found to be incorrect).
- (5) A determination is not presumed to be correct in favour of a person who makes or receives a gift knowing that information provided to the Electoral Commissioner in connection with the making of the determination was false or misleading in a material particular.
- (6) The Electoral Commissioner must keep a register of determinations made under this section and publish the register on the Commission website.
- (7) The Electoral Commissioner may establish and publicise policies as to how the Electoral Commissioner will deal with applications for determinations under this section.

