

WESTERN AUSTRALIA
LEGISLATIVE COUNCIL
AMENDMENTS AND SCHEDULES
Supplementary Notice Paper No. 100
Issue No. 2
THURSDAY, 24 SEPTEMBER 2020

ELECTORAL AMENDMENT BILL 2020 [100-2]

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

New Clause 11A

Hon Alison Xamon: To move –

8/NC11A Page 5, after line 22 — To insert:

11A. Section 175M amended

- (1) In section 175M delete “For” and insert:
 - (1) For
- (2) At the end of section 175M insert:
 - (2) For the purposes of this Division the relevant details of other income are —
 - (a) the amount of the income; and
 - (b) the date on which the income was received; and
 - (c) the name and address of the person from whom the income was received.

Note: The heading to amended section 175M is to read:

Relevant details of gifts and income

Clause 12**Hon Alison Xamon:** To move –**9/12** Page 6, after line 19 — To insert:

- (d) the relevant details of other income —
 - (i) received by the party during the financial year in which the quarter occurs; and
 - (ii) the amount of which equals or exceeds the specified amount.

Hon Alison Xamon: To move –**10/12** Page 6, after line 23 — To insert:

- (2A) For the purposes of subsection (1)(d), if the political party receives 2 or more amounts of income from the same person, whether or not in the same quarter of the financial year, the amounts must be aggregated and are taken to be a single amount of income.

Hon Alison Xamon: To move –**1/12** Page 6, line 24 to page 7, line 4 — To delete the lines.**Hon Alison Xamon:** To move –**11/12** Page 7, after line 21 — To insert:

- (d) the relevant details of other income —
 - (i) received by the entity during the financial year in which the quarter occurs; and
 - (ii) the amount of which equals or exceeds the specified amount.

Hon Alison Xamon: To move –**12/12** Page 7, after line 25 — To insert:

- (2A) For the purposes of subsection (1)(d), if the entity receives 2 or more amounts of income from the same person, whether or not in the same quarter of the financial year, the amounts must be aggregated and are taken to be a single amount of income.

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.

