

Political donations policy

Electoral Disclosure and Funding Act 2023

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1. Summary

The Tasmanian Electoral Commission (TEC) is responsible for promoting and enforcing the disclosure and funding compliance of electoral participants. This policy supports the interpretation and application of political donations definitions in Tasmanian parliamentary elections.

2. Policy statement

This policy provides the relevant legislative sections and definitions relating to political donations for parliamentary elections, with additional interpretation where required to provide clarity and guidance for stakeholders that make or receive political donations.

Understanding what is and is not a political donation is important for electoral participants in parliamentary elections, as electoral participants who make or receive political donations will have disclosure obligations under the *Electoral Disclosure and Funding Act 2023*.

3. Scope

The TEC is an impartial and independent statutory authority. The TEC's work to support political donation education and compliance for electoral participants is performed under the authority provided by the *Electoral Act 2004* and the *Electoral Disclosure and Funding Act 2023*.

Electoral participants are any person, group of people or other entity who either incur electoral expenditure, or make or receive political donations. They can be political parties, Members, candidates, intending candidates, associated entities, third-party campaigners, political donors, party agents or official agents.

This policy applies to:

- The promotion of education and compliance with the political donations requirements of the *Electoral Act 2004* and the *Electoral Disclosure and Funding Act 2023*
- Officers of the TEC, including contractors and third-party consultants, who are providing education, advice, or any other investigatory or compliance activity involving political donations in Tasmanian parliamentary elections.

Political donations by electoral participants must be disclosed to the TEC in accordance with the EDFA. Disclosure and recording obligations do not fall under the scope of this policy – further information can be found in the TEC's **Financial disclosure policy**.

Some political donations are prohibited under the EDFA. Further information about prohibited political donations and donors can be found in the TEC's **Prohibited political donations policy**.

4. Related legislation and documents

- *Electoral Act 2004* (“EA”)
- *Electoral Disclosure and Funding Act 2023* (“EDFA”)

5. Political donations

A number of definitions (many of which are interrelated) are key to understanding political donations in Tasmanian parliamentary elections, and are provided by the EDFA.

A **political donation** is a gift made to or for the benefit of¹:

- A political party
- A Member, any of which was or is intended to be used by the Member:
 - Primarily for a purpose related to an election or the Member’s parliamentary duties, or
 - To enable the Member to make a political donation or incur electoral expenditure, or
 - To reimburse the Member for making a political donation or incurring electoral expenditure
- A candidate, any of which was or is intended to be used by the candidate:
 - Primarily for a purpose related to the election, or
 - To enable the candidate to make a political donation or incur electoral expenditure, or
 - To reimburse the candidate for making a political donation or incurring electoral expenditure
- An associated entity, any of which was or is intended to be used by the associated entity to:
 - Make a political donation or incur electoral expenditure, or
 - Reimburse a political donation or electoral expenditure incurred by the associated entity
- A third-party campaigner in relation to an Assembly election, any of which was or is intended to be used to:
 - Make a political donation or incur electoral expenditure, or
 - Reimburse a political donation or electoral expenditure incurred by the third-party campaigner.

¹ EDFA, section 12

Also included in the definition of a political donation are loans that, if it had been a gift, would be a political donation – this does not include loans from financial institutions.

Gifts and gifts-in-kind

A **gift** is any disposition of property made for no or inadequate cost, in money or money's worth, and can include gifts-in-kind². A gift is made by a person to another person – here, a person can be an individual, or an incorporated or unincorporated body of persons, or a trustee.

A **gift-in-kind** is any of the following³:

- A gift of the use of facilities, by or at the direction of the person receiving the gift, primarily for election campaign purposes, including the use of a room and anything reasonably necessary for the conduct of a meeting in the room (not including any food, drink or other gift associated with the use of the facilities)
- The provision (for no or inadequate cost) of accommodation, vehicles, computers or other equipment, primarily for election campaign purposes
- The full or part payment by a person (other than a registered party, Member or candidate) of electoral expenditure for advertising or other purposes incurred or to be incurred by a registered party, Member or candidate, or an agreement to make such payment
- The waiving of full or part payment to a person, from a registered party, Member or candidate, of electoral expenditure for advertising incurred or to be incurred by said party, Member or candidate
- The provision of a service (for no or inadequate cost) primarily for election campaign purposes, other than the provision:
 - Of voluntary labour by any person, that does not constitute the provision of voluntary professional services, and
 - Of a service to a registered party, by an officer in relation to the registered party or by an Assembly Member who is endorsed by the party – which may be, but is not required to be, a voluntary professional service.

Uncharged interest on a loan to a person is included in the definition of a gift⁴. Uncharged interest is the additional amount that would have been payable by the person if:

- The loan had been made on terms requiring the payment of interest at the generally prevailing interest rate for a loan of that kind
- Any interest payable had not been waived

² EDFA, section 11(1)

³ EDFA, section 11(2)

⁴ EDFA, section 11(4)

- Any interest payments were not capitalised.

The following dispositions of property involving registered parties are a gift under the EDFA⁵:

- To a Tasmanian branch of a registered party from the federal branch of the party
- To a Tasmanian branch of a registered party from another State or Territory branch of the party
- To a registered party from another registered party.

The EDFA also lists some specific exclusions from the definition of a gift⁶. The following are **not considered to be a gift**:

- A party subscription paid to a registered party, a branch or division of a registered party
- A levy that is required by a registered party to be paid by a Member who is a member of the registered party, and is paid by the Member to the registered party, a branch or division of the party
- A fundraising contribution of \$200 or less, or the first \$200 of a fundraising contribution larger than \$200
- A payment from the public funding of Assembly election campaigns or from the public funding of Assembly administrative expenditure.

A **fundraising contribution** is an amount paid by a person as a contribution, entry fee or similar to entitle them or another person to obtain a benefit from a fundraising venture or function, and includes an amount paid for a raffle ticket or an item at a fundraising auction⁷.

Property

The EDFA's definition of **property** includes money⁸, but forms part of a larger term referred to in the EDFA as the **disposition of property**⁹ which covers both money and other types of property.

The disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes any of the following:

- Any conveyance, transfer, assignment, settlement, delivery, payment, or other alienation, of money
- The allotment of shares in a company

⁵ EDFA, section 11(3)

⁶ EDFA, section 11(5)

⁷ EDFA, section 11(6)

⁸ EDFA, section 5

⁹ EDFA, section 5

- The creation of a trust in property
- The grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property
- The release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract, chose in action or interest in property
- The exercise by a person of a special or general power of appointment of property in favour of any other person (or a hybrid of both powers)
- Any transaction entered into by any person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person.

Interest in property – which is included in the definition of disposition of property – means any estate, interest, right or power of any kind, whether at law or in equity, under or over property¹⁰.

Loans

A **loan** means any of the following:

- An advance of money
- A provision of credit or any other form of financial accommodation
- A payment of an amount for/on account of/on behalf of/at the request of a person, if there is an express or implied obligation to repay the amount
- A transaction which in substance effects a loan of money.

6. Acceptance of political donations

In addition to providing the above definitions for political donations, the EDFA sets out a framework for how political donations must be accepted and used for parliamentary elections. These requirements are set for different types of electoral participants.

Registered party and its endorsed candidates

A political donation to a registered political party or an Assembly Member who is endorsed by a registered party must not be accepted unless¹¹:

- If the political donation is money – the money is paid to the party's agent, then paid by the party agent into the campaign account of the registered party
- If the political donation is not money – the political donation is accepted by the party's agent in relation to the registered party.

¹⁰ EDFA, section 5

¹¹ EDFA, section 31(1)

A political donation to an Assembly candidate (who is endorsed by a registered party) in relation to an election must not be accepted unless¹²:

- The candidate is registered in the Register of Candidates in relation to the election, and
 - If the political donation is money – the money is paid to the party’s agent and is then paid by the agent into the campaign account of the party, or
 - If the political donation is not money – the political donation is accepted by the party’s agent in relation to the registered party.

Note: a political donation can be made in the same ways as above to a registered party for a future candidate who has not yet been registered, before the candidate has been identified, selected or endorsed by the party¹³. If this occurs, the political donation must only be used by the registered party to incur electoral expenditure for or on behalf of an Assembly candidate¹⁴.

Independent candidates

A political donation to an independent Assembly Member or a Council Member must not be accepted unless¹⁵:

- If the political donation is money – the money is paid to the Member’s official agent, then paid by the agent into the campaign account of the Member
- If the political donation is not money – the political donation is accepted by the official agent in relation to the Member.

A political donation to an independent Assembly candidate, or a Council candidate, in relation to an election must not be accepted unless¹⁶:

- The candidate is registered in the Register of Candidates in relation to the election, and
 - If the political donation is money – the money is paid to the candidate’s official agent and is then paid by the agent into the campaign account of the candidate, or
 - If the political donation is not money – the political donation is accepted by the official agent in relation to the candidate.

¹² EDFA, section 31(2)

¹³ EDFA, section 32(a)

¹⁴ EDFA, section 32(b)

¹⁵ EDFA, section 33(1)

¹⁶ EDFA, section 33(2)

Associated entities

A political donation to an associated entity, for the purposes of incurring or reimbursing a person for incurred electoral expenditure, must not be accepted unless¹⁷:

- The associated entity is registered in the Register of Associated Entities, and
 - If the political donation is money – the money is paid to the associated entity’s official agent and is then paid by the agent into the campaign account of the associated entity, or
 - If the political donation is not money – the political donation is accepted by the official agent in relation to the associated entity.

Third-party campaigners

A political donation to a person who is or becomes a third-party campaigner in relation to an Assembly election, for the purposes of incurring or reimbursing a person for incurred electoral expenditure during the election campaign period, must not be accepted unless¹⁸:

- The first person mentioned above is registered in the Register of Third-party Campaigners in relation to the election, and
 - If the political donation is money – the money is paid to the third-party campaigner’s official agent and is then paid by the agent into the campaign account of the third-party campaigner, or
 - If the political donation is not money – the political donation is accepted by the official agent in relation to the third-party campaigner.

7. Use of political donations

The EDFA restricts the use of political donations by registered parties, Members and candidates for parliamentary elections.

Registered parties must only use received political donations for the objects and activities of the party, including¹⁹:

- The administration of the party and community activities
- Electoral expenditure for Assembly elections
- Electoral expenditure for or on behalf of Assembly Members or Assembly candidates who are endorsed by the party.

¹⁷ EDFA, section 34

¹⁸ EDFA, section 35

¹⁹ EDFA, section 37(1)

A political donation received by a registered party must not be used for the personal use of a person acting in a private capacity²⁰.

Members and candidates must only use received political donations²¹:

- To incur electoral expenditure or reimburse a person for incurring electoral expenditure
- In relation to the performance of parliamentary duties by the Member or Candidate
- For any other specific purpose authorised by the EDFA.

8. Additional determinations by the TEC

While there are currently no additional guidelines in place about the meaning of political donations for parliamentary elections, the TEC may consider issuing a guideline²² to provide further clarity and direction if a particular type of gift or political donation, or a part of the legislative definition requires a more formal determination.

The TEC may also use data gathered from stakeholder contacts or compliance activities to inform future educational content for electoral participants.

9. Responsibilities

Who	How
Tasmanian Electoral Commission	<ul style="list-style-type: none"> • Approves this policy and associated documents
Director, Legislation and Compliance	<ul style="list-style-type: none"> • Participates in the consultation process • Determines policy instrument content and compliance with electoral disclosure and funding laws • Communicates policy development and revision with relevant third parties as appropriate
Manager, Compliance and Investigation	<ul style="list-style-type: none"> • Develops and amends policy instruments as required • Coordinates administration of the policy development and review process • Manages the publication, amendment or archiving of approved policy instruments

²⁰ EDFA, section 37(2)

²¹ EDFA, section 38

²² EDFA, section 173(1)

10. Version history and review

Version	Date	Changes made	Approved by
1.0	21/03/25	Initial approval	Tasmanian Electoral Commission
2.0	12/12/25	Updated TEC address. Modified version history table.	Tasmanian Electoral Commission