

Part 5A — Disclosure of gifts

[Heading inserted: Gazette 20 Nov 1998 p. 6275.]

30A. Terms used

- (1) In this Part —

address means a residential or street address;

donor means a person who makes a gift to a candidate, and, if the gift is made on behalf of another person, includes that other person;

gift means a disposition of property, or the conferral of any financial benefit, made by one person in favour of another.

- (2) A gift can include a gift of money, a gift which is non-monetary but of value, a gift in kind, the payment of an inadequate financial consideration or the receipt of a discount (where the difference or discount is more than \$300 worth), financial or other contribution to travel, the provision of a service for no consideration or for inadequate consideration, and a firm promise or agreement to give a gift at some future time.
- (3) A gift can be made with or without an instrument in writing, without consideration in money or money's worth passing from one person to another, and in the present or sometime in the future.
- (4) A gift is only relevant if —
- (a) the value of the gift is \$300 or more; or
 - (b) the value of the gift is less than \$300, but the gift is one of 2 or more gifts, with a total value of \$300 or more, made by one person at any time during the period set out in regulation 30C.
- (5) A gift does not include —
- (a) a gift by will; or

r. 30BA

- (b) a gift by a relative (as defined in section 5.74(1) of the Act); or
- (c) a gift that does not relate to the candidate's candidature; or
- (d) the provision of volunteer labour.

[Regulation 30A inserted: Gazette 20 Nov 1998 p. 6275; amended: Gazette 14 Aug 2009 p. 3216; SL 2023/102 r. 31.]

30BA. Candidates not to receive gifts from unidentified donors

- (1) A candidate must not receive a gift during the period set out in regulation 30C unless the name and address of each donor are known to the candidate.
Penalty: \$5 000.
- (2) A candidate is taken not to have received a gift if as soon as the candidate became aware of the gift the candidate —
 - (a) takes reasonable steps to —
 - (i) return the gift; or
 - (ii) deliver the gift to the CEO for disposal;and
 - (b) discloses to the CEO the gift in the manner set out in regulation 30D(1).

[Regulation 30BA inserted: Gazette 14 Aug 2009 p. 3216-17.]

30B. Candidates to disclose gifts — s. 4.59

- (1) A candidate must disclose to the CEO a gift promised or received during the period set out in regulation 30C.
Penalty: \$5 000.
- (2) A candidate must make a disclosure to the CEO in the manner set out in regulation 30D(1), and within the time set out in regulation 30D(2).
Penalty: \$5 000.

[(3) deleted]

- (4) A candidate must provide the information set out in regulation 30F(1) relating to a gift, and the candidate must ensure that the information provided is not false or misleading.

Penalty: \$5 000.

*[Regulation 30B inserted: Gazette 20 Nov 1998 p. 6275;
amended: Gazette 14 Aug 2009 p. 3217.]*

30CA. Donors to disclose gifts — s. 4.59

- (1) A donor must disclose to the CEO a gift to a candidate promised or made during the period set out in regulation 30C.

Penalty: \$5 000.

- (2) A donor must make a disclosure to the CEO in the manner set out in regulation 30D(1), and within the time set out in regulation 30D(2).

Penalty: \$5 000.

- (3) A donor must provide the information set out in regulation 30F(1) relating to the gift, and the donor must ensure that the information provided is not false or misleading.

Penalty: \$5 000.

[Regulation 30CA inserted: Gazette 14 Aug 2009 p. 3217.]

30C. Disclosure period

- (1) For the purposes of regulation 30B(1) and 30CA(1), the period commences 6 months before the relevant election day, and concludes —

- (a) 3 days after the election day, for unsuccessful candidates; or
(b) on the start day for financial interest returns for successful candidates under section 5.74 of the Act.

r. 30D

- (2) Where a delay results from a declaration from the Court of Disputed Returns the period of delay is to be added to the 6 month period set out in subregulation (1).
- (3) If the day the *Local Government (Elections) Amendment Regulations 2009* regulation 3 comes into operation (the **commencement day**) is less than 6 months before a relevant election day, the period set out in subregulation (1) commences on the commencement day.

[Regulation 30C inserted: Gazette 20 Nov 1998 p. 6276; amended: Gazette 14 Aug 2009 p. 3217.]

30D. Manner and time of disclosure

- (1) For the purposes of regulation 30B(2) or 30CA(2), a disclosure is to be made by completing Form 9A and lodging it with the CEO.
- (2) For the purposes of regulation 30B(2) or 30CA(2), a disclosure is to be made —
 - (a) within 3 days of the making, receipt (or promise) of the gift, once nominations are made; or
 - (b) within 3 days of nomination, for gifts made, received (or promised) between the commencement of the period set out in regulation 30B and the day of nomination,

unless the CEO is satisfied that the lodging of a disclosure has occurred outside the time period in paragraph (a) or (b) due to circumstances beyond the control of the person who is required to make the disclosure.

[Regulation 30D inserted: Gazette 20 Nov 1998 p. 6276; amended: Gazette 14 Aug 2009 p. 3218.]

[30E. Deleted: Gazette 14 Aug 2009 p. 3218.]

30F. Information to be provided

- (1) For the purposes of regulation 30B(4) and 30CA(3), a disclosure is to contain the following information —
 - (a) a description of the gift;
 - (b) the date the gift was made, received or promised;
 - (c) the value of the gift;
 - (d) the name and address of each donor.
- (2) If a candidate is unable to provide some or all of the information set out in subregulation (1), the candidate does not commit an offence under regulation 30B(4) if, on the ‘disclosure of gifts’ form, the candidate —
 - (a) provides as much of the information as is available to the candidate; and
 - (b) indicates what of the required information has not been provided; and
 - (c) sets out the reasons for not being able to provide the information.
- (3) In subregulation (2) —

reasons must be, in the opinion of the CEO, sufficient and appropriate.

*[Regulation 30F inserted: Gazette 20 Nov 1998 p. 6276;
amended: Gazette 14 Aug 2009 p. 3218.]*

30G. Electoral gift register

- (1) The CEO is to establish and maintain an electoral gift register.
- (2) The CEO is to ensure that all ‘disclosure of gifts’ forms completed by candidates and donors and received by the CEO are placed on the electoral gift register —
 - (a) upon receipt by the CEO; and
 - (b) in a manner that clearly identifies and distinguishes the forms relating to each candidate.

r. 30H

- (3) Any ‘disclosure of gifts’ forms relating to a candidate must be kept on the electoral gift register until the end of the period of 4 years after the relevant election day.
- (4) The CEO must —
 - (a) remove those forms from the electoral gift register at the end of that 4-year period; and
 - (b) retain them separately for a period of at least 2 years.
- (5) The CEO must publish an up-to-date version of the electoral gift register on the local government’s official website.
- (6) The version of the electoral gift register published under subregulation (5) must not include the address of an individual included in a ‘disclosure of gifts’ form and must instead include the town or suburb mentioned in the address.

[Regulation 30G inserted as regulation 30H: Gazette 20 Nov 1998 p. 6276; renumbered as regulation 30G: Gazette 22 Dec 1998 p. 6869; amended: 14 Aug 2009 p. 3219; SL 2020/213 r. 27; SL 2023/102 r. 32.]

30H. Public to have access to electoral gift register

The electoral gift register is to be kept at the appropriate local government offices.

[Regulation 30H inserted as regulation 30I: Gazette 20 Nov 1998 p. 6276; renumbered as regulation 30H: Gazette 22 Dec 1998 p. 6869.]

30I. Offence to publish information in certain cases

- (1) A person must not publish —
 - (a) any information derived from an electoral gift register unless that information constitutes a fair or accurate report or summary of information contained in the register and is published in good faith; or

- (b) any comment on the facts set forth in an electoral gift register unless that comment is fair and published in good faith.

Penalty: \$5 000.

- (2) In subregulation (1) —

publish has the meaning that the term has in the law of tort (as modified by the *Defamation Act 2005*) relating to defamation.

[Regulation 30I inserted as regulation 30J: Gazette 20 Nov 1998 p. 6276-7; renumbered as regulation 30I: Gazette 22 Dec 1998 p. 6869; amended: SL 2020/213 r. 28.]