THE REGULATION OF POLITICAL DONATIONS AND GIFTS IN QUEENSLAND

December 2012

A comparative analysis

CRIME AND MISCONDUCT COMMISSION

QUEENSLAND

CMC vision:
That the CMC make a unique contribution to protecting Queenslanders from major crime, and promote a trustworthy public sector.

CMC mission:
To combat crime and improve public sector integrity.

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FOREWORD

As Queensland's independent misconduct oversight agency, the CMC frequently examines the frameworks employed to reduce the risk of corruption. It also has, through its research function, a long history of examining public policy and providing an evidence base for discussion and reform.

Queensland, like many jurisdictions, regulates the giving and receiving of political gifts and donations in order to reduce the risk of corruption and increase the transparency and integrity of the political process. The CMC therefore undertook to examine the state's regulatory framework, mapping it against those of other Australian and international jurisdictions.

Our purpose was to situate Queensland objectively in this larger context and enable interested parties to see how its provisions compare. Given this limited scope, we did not conduct broad stakeholder consultation or call for public submissions. Our report therefore does not assess the effectiveness of the framework nor make recommendations for reform. Its primary aim is to provide comprehensive information to a policy and specialist audience.

We believe this to be the first time that such information has been brought together in one document. Its value lies in its detailed examination of the individual provisions that constitute Queensland's regulatory framework in relation to political donations and gifts. In addition, it should improve understanding of and dispel misconceptions about an important issue that affects all Queenslanders.

Ross Martin SC
Chairperson

CONTENTS

Foreword iii

List of tables and figures vi

Abbreviations viii

Glossary ix

Summary xi

Part 1 An overview of the regulation of donations and gifts in Queensland 1

1 Introduction 2

Review aim and methods 2

Structure of the report 3

2 Regulation of donations and gifts in Queensland 4

Queensland's legislative framework 4

Political participants in Queensland 4

Political donations and gifts in Queensland 5

Tools to regulate donations and gifts 6

A summary of key provisions of Queensland's regulatory framework 7

Part 2 Regulation of donations and gifts at state government level 10

3 Prohibitions and restrictions on donations 11

Key findings 11

The rationale for prohibitions and restrictions on donations 11

Queensland's prohibitions and restrictions 11

Initiatives in other jurisdictions 17

4 Disclosure of donations 19

Key findings 19

The rationale for disclosure 20

Queensland's disclosure requirements 20

Initiatives in other jurisdictions 31

5 Compliance and enforcement 33

Key findings 33

The rationale for compliance and enforcement mechanisms 33

Queensland's compliance and enforcement scheme 33

Initiatives in other jurisdictions 43

Part 3 Regulation of donations and gifts at local government level 45

6 Prohibitions and restrictions on donations 46
Key findings 46
The rationale for prohibitions and restrictions on donations 46
Queensland's prohibitions and restrictions 46
Initiatives in other jurisdictions 47

7 Disclosure of donations 48
Key findings 48
The rationale for disclosure 48
Queensland's disclosure requirements 48
Initiatives in other jurisdictions 54

8 Compliance and enforcement 55
Key findings 55
The rationale for compliance and enforcement mechanisms 55
Queensland's compliance and enforcement scheme 55
Initiatives in other jurisdictions 58

Appendix 1: Legislative reforms to political donation regulations in Queensland, 2008–2012 59

References 61

Legislation 62

LIST OF TABLES AND FIGURES

Tables

Table 1: Definition of political participants in Queensland and relevant legislation 5

Table 2: Summary of Queensland's regulatory framework in relation to prohibitions and restrictions on donations, disclosure and reporting, and compliance and enforcement 9

Table 3: Features of Queensland's political donation disclosure scheme 20

Table 4: Audit requirements for disclosure returns 34

Figures

Figure 1: Types of political financing in Queensland 5

Figure 2: Thresholds for prohibitions against anonymous gifts 12

Figure 3: Prohibitions against foreign donations 13

Figure 4: Thresholds for prohibitions against informal loans 14

Figure 5: Caps for electoral donations to political parties 15

Figure 6: Caps for electoral donations to candidates 15

Figure 7: Caps for electoral donations to third parties 16

Figure 8: Disclosure thresholds for periodic and post-election reporting 21

Figure 9: Disclosure thresholds for special reporting 22

Figure 10: Disclosure obligations on political parties 23

Figure 11: Disclosure obligations on associated entities 24

Figure 12: Disclosure obligations on candidates 24

Figure 13: Disclosure obligations on MLAs 25

Figure 14: Disclosure obligations on third parties 26

Figure 15: Disclosure obligations on donors to political parties and candidates 27

Figure 16: Approximate timeframes for lodgement and public release of periodic disclosure returns 29

Figure 17: Approximate timeframes for lodgement and public release of post-election disclosure returns 30

Figure 18: Approximate timeframes for lodgement and public release of special disclosure returns 31

Figure 19: Maximum penalties for offences similar to 'receiving unlawful donations' 36

Figure 20: Maximum penalties for accepting foreign gifts and similar offences 37

Figure 21: Maximum penalties for accepting payments in excess of the donations cap 38

Figure 22: Maximum penalties for making payments in excess of the donations cap 38

Figure 23: Maximum penalties for failing to submit a return on time 39

Figure 24: Maximum penalties for submitting an incomplete return 40

Figure 25: Maximum penalties for knowingly submitting a false or misleading return 41

Figure 26: Maximum penalties for knowingly giving false or misleading information to another 42

Figure 27: Thresholds for prohibitions against anonymous gifts 47

Figure 28: Thresholds for prohibitions against informal loans 47
Figure 29: Disclosure thresholds for reporting by candidates 49
Figure 30: Disclosure thresholds for reporting by councillors 49
Figure 31: Disclosure obligations on candidates 51
Figure 32: Disclosure obligations on councillors 51
Figure 33: Approximate timeframes for lodgement and public release of post-election disclosure returns 54
Figure 34: Maximum penalties for offences similar to 'receiving unlawful donations' 56
Figure 35: Typical maximum penalties for disclosure offences 57
Figure 36: Maximum penalties for offences related to failing to lodge returns for registers of interests 58

ABBREVIATIONS

ACT	Australian Capital Territory
AEC	Australian Electoral Commission
BCC	Brisbane City Council
CDPP	Commonwealth Director of Public Prosecutions
CEA	*Commonwealth Electoral Act 1918* (Cwlth)
CEO	Chief Executive Officer
CMC	Crime and Misconduct Commission
Cwlth	Commonwealth of Australia
EA (ACT)	*Electoral Act 1992* (ACT)
EA (Can)	Canada Elections Act 2000
ECQ	Electoral Commission Queensland
EFEDA	*Election Funding, Expenditure and Disclosures Act 1981* (NSW)
FECA	Federal Election Campaign Act 1971 (USA)
JSCEM	Joint Standing Committee on Electoral Matters
LGA (Vic)	*Local Government Act 1989* (Vic)
LGA (NSW)	*Local Government Act 1993* (NSW)
LGEA	*Local Government Electoral Act 2011* (Qld)
LGGR (NSW)	Local Government (General) Regulation 2005 (NSW)
LGOR	Local Government (Operations) Regulation 2010 (Qld)
LGER (WA)	Local Government (Elections) Regulations 1997 (WA)
MLA	Member of the Legislative Assembly
NSW	New South Wales
NT	Northern Territory
NZ	New Zealand
PAC	Political Action Committee
PPER	Political Parties, Elections and Referendums Act 2000 (UK)
PQA	*Parliament of Queensland Act 2001* (Qld)
QEA	*Electoral Act 1992* (Qld)
Qld	Queensland
SA	South Australia
Tas	Tasmania
UK	United Kingdom
USA	United States of America
Vic	Victoria
WA	Western Australia

GLOSSARY

Associated entities	Entities controlled by or operated for the benefit of one or more registered political parties. Under Queensland legislation, an associated entity is treated as part of its related political party for certain purposes, including donation caps provisions.
Candidates	People — either elected members of parliament or other people in the community — who have announced their intention to be a candidate in an election or who have nominated for election. In Queensland, a candidate may appoint an agent for the purposes of the political financing provisions in the *Electoral Act 1992* (QEA), or act on their own behalf as agent.
Donors	Individuals or organisations that make donations to a registered political party, associated entity, third party or candidate.
Elected member	A currently elected member of the Parliament of Queensland Legislative Assembly or councillor of a local government. In some of the other jurisdictions reviewed, the comparable parliamentary body is the House of Commons (the United Kingdom and Canada) or the House of Representatives (the Commonwealth, the United States of America (USA) and New Zealand).
Electoral Commission Queensland	A regulatory body established under the QEA that monitors state and local government elections, ensures compliance with the QEA, and enforces penalties against political participants who breach the QEA.
Electoral donations	The term used in this report for donations that are intended by the donor to be used by the recipient for an electoral campaign. The Queensland legislation defines these as political donations, which is a term that has not been used in this report to avoid confusion.
Gifts	Gifts under the Queensland legislation means goods that are given without any payment or with a payment under the true value.
Periodic returns	Returns that are required to be submitted on a regular basis (for example, annually), regardless of an election.
Political donations	The Queensland legislation defines these as gifts and donations intended by the donor to be used for election campaign purposes. In this report we refer to these as electoral donations to avoid confusion.
Political parties	Organisations with the objective of promoting candidates for election. The QEA applies to political parties that are registered for state parliamentary elections (currently the Australian Labor Party, the Family First Party, Queensland Greens, Katter's Australian Party, the Liberal National Party and One Nation). A political party must have an agent for the purposes of the political financing provisions in the QEA.
Post-election returns	Returns that are required to be submitted after an election.

Special returns Returns that are required to be submitted when a certain threshold is reached outside of the usual reporting period.

Third parties Entities other than a registered political party, an associated entity or a candidate. Typically third parties incur electoral expenditure or make donations to political parties and candidates, whose activities are funded to some extent by donations. In the USA there has been a proliferation of third party campaigners such as Political Action Committees that run their own advertising campaigns in favour of (or against) a candidate.

In Queensland, a registered third party that is not an individual must have an agent for the purposes of the political financing provisions in the QEA. A registered third party that is an individual may appoint an agent for the purposes of the political financing provisions in the QEA or act on their own behalf as agent. Unregistered third parties may appoint an agent for the purposes of the political financing provisions in the QEA or act on their own behalf as agent (where not a person, each member of the executive committee is taken to be the agent).

SUMMARY

In Australia, the majority of financing for political parties and candidates comes from private sources, including donations. Although political donations are considered a legitimate exercise of the freedom of political association and expression, some donations can be motivated by a desire to purchase influence. The risk of corruption, or even the perception that it can occur, can severely undermine the integrity of the electoral system and the public's confidence in it.

To reduce the risk of corruption, Queensland, like many other jurisdictions, regulates political financing. Broadly, an effective regulatory framework aims to increase the transparency and integrity of the political process, and the accountability of and equity between the process's key participants.

This report examines political donation legislation to map Queensland's state and local government regulatory frameworks against other Australian and overseas jurisdictions. We focus on the following elements of the legislation:

- prohibitions and restrictions on donations
- disclosure of political donations
- compliance and enforcement mechanisms.

In doing this mapping, the Crime and Misconduct Commission (CMC) attempted to rank the various jurisdictions' provisions on a continuum from less to more regulation. In this context, more regulation places greater compliance obligations on participants in the political process. More regulation, however, does not necessarily mean the provision is 'better' than a provision with less regulation. There are obvious perils in over-regulation.

This report provides significant detail and targets a policy and specialist audience. We have not made recommendations. We anticipate that the report will inform public debate and decision makers responsible for setting the regulatory framework regarding political donations and gifts in Queensland.

Key findings of our jurisdictional comparison of provisions at the state government level are:

- Queensland's electoral donation caps are among the lowest of all comparable jurisdictions, and therefore provide the most regulation of electoral donations. Where Queensland has prohibitions on donations, these also generally provide more regulation than in other jurisdictions. However, Queensland's scheme prohibits considerably fewer types of donations overall.
- Queensland imposes disclosure obligations on participants in the political process that are generally similar to or stricter than most other jurisdictions. The exception is 'special reporting of large gifts', where Queensland's scheme involves less regulation than other jurisdictions because it has a substantially higher disclosure threshold, requires less frequent reporting, and applies to fewer political participants.
- Queensland's compliance and enforcement mechanisms are similar to most other jurisdictions in terms of the regulatory authority's [Electoral Commission Queensland's (ECQ's)] role and powers and the nature of offences for regulatory breaches. However, Queensland has lower penalties than some overseas jurisdictions for offences related to prohibited donations and donation caps, and significantly lower penalties than a number of jurisdictions for disclosure offences.

Key findings of our jurisdictional comparison of provisions at the local government level are:

- The prohibitions Queensland places on particular types of donations provide the most regulation of all Australian jurisdictions. However, Queensland's overall scheme of prohibitions provides less regulation than the New South Wales (NSW) scheme, which prohibits donations from a much wider range of sources. As in all other jurisdictions, there are no donation caps for Queensland local government elections.
- Queensland's disclosure obligations for candidates, councillors and third parties at the local government level are similar to or higher than most other jurisdictions. Notably, however, disclosure returns in Queensland take a much longer time to be made available to the public when compared with other jurisdictions.
- Queensland's compliance and enforcement mechanisms are largely similar to those in other Australian jurisdictions. Once again, the ECQ's powers to deal with breaches are consistent with those in the other jurisdictions. However, Queensland does not require audited disclosure returns like NSW does and generally has the lowest penalties for offences related to prohibited donations and disclosure offences.

As part of our review, we identified a number of trends and new initiatives in other jurisdictions. Some of the more significant trends relate to:

- **Increased regulation of third parties**: A number of jurisdictions have responded to the increasing role of third party campaigners in political financing and election campaigns by subjecting them to increased regulation.
- **Expansion of the range of prohibited donors**: The range of prohibited donors has become more extensive in some Australian and overseas jurisdictions, with corporations, children and foreign donors being common inclusions. Other types of prohibited donors, such as developers, have been included in some jurisdictions in response to perceived risks of undue influence within their sphere.
- **Increased disclosure obligations**: A number of jurisdictions have introduced provisions that increase political participants' disclosure obligations for a specified period prior to an election. This is intended to increase the transparency of donations for voters.
- **Online lodgement and publication of returns**: A number of jurisdictions have introduced or are considering online lodgement for disclosure returns, with prompt website publication. Such a strategy is again intended to increase the transparency of political financing by reducing the time it takes for information about donations to be made public.

Part 1

An overview of the regulation of donations and gifts in Queensland

CHAPTER 1: INTRODUCTION

In many countries political parties and candidates receive political funding from government and private sources. In Australia, the majority of funding comes from private sources, which include party membership fees, affiliation dues from state branches and affiliated bodies, investments, fundraising and donations (Australian Government 2008).

Donating to a political party or candidate is considered a legitimate exercise of the freedom of political association and expression (Australian Government 2008, p. 41). Political donations can be motivated by a general interest in the system of government, a demonstration of freedom of political association and expression or an affinity with the views of a particular party or candidate. However, political donations can also be motivated by a desire to purchase influence. The risk of corruption, or even the perception that it can occur, can severely undermine the integrity of the electoral system and the public's confidence in it.

To decrease the risk, or perception, that decision makers can be improperly influenced, many jurisdictions regulate political financing. In addition to this anti-corruption objective, an effective regulatory framework aims to ensure voters have the information necessary to make an informed decision on election day (transparency), hold all players in the democratic process accountable for their actions and inactions (accountability) and create a level playing field of competition between the political parties (equity).

The Crime and Misconduct Commission (CMC) has a mandated responsibility to raise standards of integrity and conduct, and promote public confidence, in units of public administration. The CMC independently assesses and, where appropriate, investigates complaints involving donations to elected members of state parliament and local government. In the last five years, the CMC has assessed around 50 allegations that involved conflicts of interests arising from the receipt of gifts and donations by state and local government elected members. In some instances the CMC conducts major investigations and makes recommendations that address the specific behaviour in question as well as broader, systemic recommendations that seek to improve transparency and accountability.[1]

In addition to dealing with complaints about official misconduct, the CMC plays a lead role in raising standards of integrity in units of public administration and building their capacity to prevent and deal with cases of misconduct effectively and appropriately. Further, the CMC's research provides an evidence base that informs public debate and shapes reform in key areas of public policy.

Review aim and methods

This report examines political donation legislation to map Queensland's regulatory framework against other Australian and overseas jurisdictions. It focuses on the following elements of the legislation:

- prohibitions and restrictions on donations
- disclosure and reporting
- compliance and enforcement.

1 Refer, for instance, to the CMC's 2005 investigation into the conduct of candidates and others during the 2004 Gold Coast City Council election (Crime and Misconduct Commission 2006).

The review compared Queensland's legislation relevant to donations with that of all relevant Australian state and Commonwealth jurisdictions. It also examined relevant legislation from the United States of America (USA), the United Kingdom (UK), New Zealand (NZ) and Canada. These international jurisdictions were selected because of their similarities with Australia's democratic system of government and the availability of relevant commentary and research literature (Parliament of New South Wales 2008). We also examined literature, evaluations and commentary related to these legislative frameworks.

In doing this mapping, we conducted a comprehensive analysis of individual provisions that, together, comprise the jurisdiction's regulatory framework. Only the most relevant provisions were included in our analysis and we do not analyse the nuances of the provisions and the less significant qualifications or exceptions. We attempted to place the various jurisdictions' provisions on a continuum from less to more regulation. In this context, more regulation places greater compliance obligations on participants in the political process. It is important to note that more regulation does not necessarily mean the provision is 'better' than a provision with less regulation.

The report provides significant detail and targets a policy and specialist audience. We have not made recommendations. We anticipate that the report will inform public debate and decision makers responsible for setting the regulatory framework regarding political donations and gifts in Queensland.

Structure of the report

This report has three parts:

- Part 1 outlines the background to this review and provides an overview of Queensland's regulatory framework (Chapters 1 and 2)
- Part 2 describes the regulation of donations and gifts at state government level (Chapters 3, 4 and 5)
- Part 3 describes the regulation of donations and gifts at local government level (Chapters 6, 7 and 8).

Within Parts 2 and 3, we separately address the key features of the relevant legislation: prohibitions and restrictions on donations; disclosure and reporting requirements; and compliance and enforcement mechanisms.

As noted above, there is some overlap between the state and local government regulatory frameworks, particularly in the area of political parties. Because political parties are much more involved in state government than in local government (Crime and Misconduct Commission 2006, p. 122), we explain the obligations of political parties in detail in Part 2. The obligations of political parties (as well as associated entities and donors to political parties) at the local government level are also identified in Part 3, but readers are referred back to Part 2 where relevant for a more detailed analysis.

It should also be noted that in Part 3 on local government, we only compare Queensland with other Australian jurisdictions because of the variation in overseas government structures.

CHAPTER 2: REGULATION OF DONATIONS AND GIFTS IN QUEENSLAND

Queensland's legislative framework

The nature and extent of regulation is informed by numerous factors. In Australia, these factors include constitutional issues relating to an individual's implied freedom of political speech and the powers of the Commonwealth and the states within the federal system, and a predominantly federal party political structure that operates across multiple jurisdictions. Consequently, Australian state and territory governments enact political financing legislation individually, whereas the Commonwealth legislates for federal elections and the federal registration of political parties. Further, most states and territories have a two tier government, state and local government, with different political financing legislation applying to each.

This is the case in Queensland. The *Electoral Act 1992* (Qld) (QEA) is the primary piece of legislation that regulates political financing for participants in state government elections in Queensland. The private funding of participants in Queensland local government elections is governed primarily by the *Local Government Electoral Act 2011* (Qld) (LGEA). Further, elected members of both the Legislative Assembly of Queensland and a local government have disclosure obligations associated with registers of interests — *Parliament of Queensland Act 2001*(Qld) (PQA) and Local Government (Operations) Regulation 2010 (Qld) (LGOR) respectively.

Political participants in Queensland

Regulatory frameworks identify, and treat differently, the various types of participants in the political process. Typically the same terminology applies across all our comparative jurisdictions, although small differences exist and these will be identified throughout the report as required.[2] In Queensland, the legislation distinguishes between six major participant groupings. Table 1 defines these groupings and specifies the legislation that relates to each, depending on whether they are involved at a State or local government election.

2 For example, third parties are referred to as third party campaigners in New Zealand.

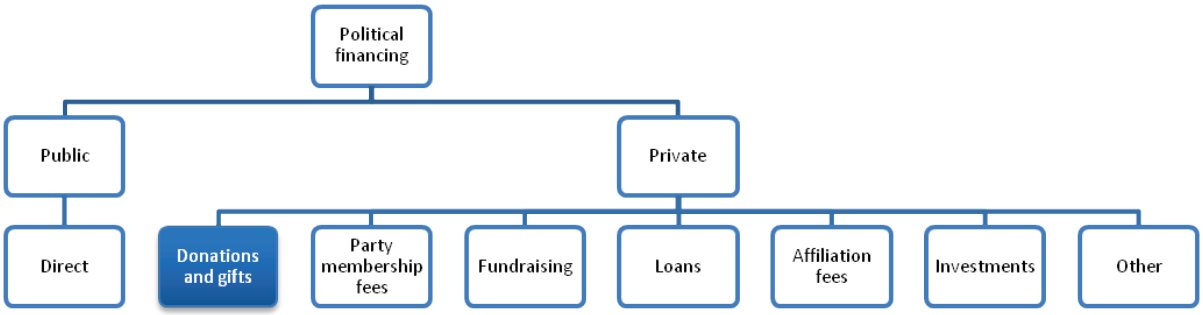
Table 1: Definition of political participants in Queensland and relevant legislation

Participant type	Definition	Relevant legislation	
		State Government	Local Government
Political parties	An organisation with the object of promoting candidates for election.	QEA	QEA
Associated entities	An entity that is controlled by or operated for benefit of one or more registered political parties.	QEA	QEA
Third parties	An entity other than a registered political party, an associated entity or a candidate that incurs political expenditure (including making donations).	QEA	LGEA
Donors	A person or body who makes a donation to a registered political party, candidate or third party.	QEA	QEA, LGEA
Candidates	An elected member or other person who has announced their intention to be a candidate or whose nomination has been accepted.	QEA	LGEA
Elected members	A currently elected member of the Parliament of Queensland Legislative Assembly or councillor of a local government.	PQA	LGOR

Political donations and gifts in Queensland

In Queensland, like in many other jurisdictions, donations and gifts are only one way in which political parties and candidates generate income to run their election campaigns and meet their general running costs. As illustrated in Figure 1, Queensland political parties and candidates receive private funding from other sources, and direct public funding (money given to political parties specifically for election campaign purposes or party administration).[3] These other types of funding are not further discussed here given our focus on donations.

Figure 1: Types of political financing in Queensland



3 'Registered political parties and independent candidates are eligible for reimbursement (up to a prescribed maximum) of election campaign expenditure for state elections in respect of candidates who received at least four per cent of first preference votes' (Department of Parliamentary Services 2012). Registered political parties in Queensland are also entitled to receive administrative funding, based on a formula set out in the *Electoral Act 1992* (QEA).

The terms 'donations', 'gifts' and 'contributions' tend to be used interchangeably in both the literature and the legislative provisions of most jurisdictions we reviewed. In Queensland, however, distinctions are made between 'gifts' and 'political donations':

- A gift is 'a disposition of property, other than by will, without consideration in money or money's worth or with inadequate consideration' [s. 201(1) *Electoral Act 1992* (QEA)], which means the giving of goods without any payment or with a payment under the true value.
- A gift includes the provision of a service (other than volunteer labour) for no or inadequate payment, and uncharged or undercharged interest on a loan [s. 201(2) QEA].
- The term 'political donation' is used in Queensland to refer specifically to a gift or donation made during the 'capped expenditure period' and intended by the donor to be used for election purposes.[4] A political donation must be accompanied by a written statement from the donor with words to this effect, and can only be used by the recipient to promote a political party or candidate for election.[5] Other gifts comprise those that are given for political purposes but are general in nature (that is, not intended to be used solely for election purposes) or are intended to go towards the recipient's administrative costs. Throughout the remainder of the report, we refer to gifts for election campaign purposes as 'electoral donations' and gifts for all political purposes as 'donations'.

It is also important to note that in Queensland some of the other types of private funding shown in Figure 1 are considered 'gifts' for the purpose of the state's regulatory framework (discussed below). These are:

- **Fundraising.** With regards to fundraising activities, it has been noted that 'while at least part of the amount paid is for a tangible return (for example receipt of a dinner and wine, a chance to win a prize, acquiring an item), arguably, some component of the amount paid is a gift or donation' (Queensland Government 2010, p. 11). Since 2011, the QEA provides that any fundraising contributions over $200 are to be counted as electoral donations to ensure that fundraising activities are captured by Queensland's regulatory scheme.[6]
- **Party membership fees.** Without regulation of membership fees paid to a political party, there is the potential for these to be used as a way of avoiding donation regulations. Following the 2011 reforms, Queensland only allows membership fees to the amount of $500 to be paid into a state campaign account [s. 220(1)(h) QEA].
- **Uncharged interest on loans.** The term 'gift' captures interest that is unpaid due to the non-commercial rate applied to the loan or due to the interest being waived [s. 201(2), (3) QEA]. Candidates are required to disclose loans separately from gifts under section 262 of the QEA.

Tools to regulate donations and gifts

In Queensland, three tools are used to regulate the giving and receiving of political donations and gifts. These regulatory tools are common in the jurisdictions that we examine in this report and other international jurisdictions.

- **Prohibitions and restrictions on donations.** Prohibitions or restrictions (e.g. donation caps) on receiving donations from certain sources are intended to achieve the regulatory aims of integrity and equity.
- **Requirements to disclose donations.** Requirements to declare details of donations made and received to the regulatory body are intended to achieve the regulatory aims of transparency, integrity and accountability.
- **Compliance and enforcement.** Oversight by a statutory body is intended to achieve the regulatory aims of transparency and accountability.

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4 The capped expenditure period starts two years after the polling day for the last election or the day the writ is issued for the current election, whichever is the earlier (s.197 QEA).

5 Electoral donations must be deposited into a state campaign account and only electoral expenditure is allowed to be paid out of the account.

6 Only the amount exceeding $200 will be counted as an electoral donation.

These tools are broad and allow for a significant degree of variation. Queensland's legislation, like other jurisdictions, places different requirements and obligations on different participants in the political process. Further, different requirements and obligations are in place for state and local government elections. Consequently, providing a concise and comprehensive summary of Queensland's regulatory framework is not possible. The following section summarises key provisions of Queensland's regulatory framework in relation to prohibitions and restrictions on donations, disclosure and reporting, and compliance and enforcement. Table 2 (page 9) provides an overview of these key provisions.

A more comprehensive outline of the provisions, as well as comparison with other jurisdictions reviewed, is provided in Part 2 (Regulation of donations and gifts at state government level) and Part 3 (Regulation of donations and gifts at local government level).

A summary of key provisions of Queensland's regulatory framework

Prohibitions and restrictions on donations and gifts

Queensland's regulatory framework prohibits and restricts certain donations and gifts based on their source (prohibited donations) or their size (capped donations). It is important to note that the prohibition rules apply to donations, whereas the donation cap rules apply only to electoral donations.

Political parties and state candidates are prohibited from receiving:

- gifts of foreign property
- anonymous donations of $200 or more
- loans of $1000 or more from a non-financial institution, without prescribed records (referred to in this report as 'informal loans').

For local government candidates and groups of candidates, the following are prohibited:

- anonymous donations of $200 or more
- loans of $200 or more from a non-financial institution, without prescribed records.

In addition to prohibitions, Queensland also places a number of restrictions or caps on electoral donations. In state government elections, the donation cap for a financial year is $5000 for political parties,[7] and $2000 for candidates and third parties. There are no electoral donation caps for participants in local government elections.

Political parties, state candidates and third parties[8] are required to establish state campaign accounts. Only electoral donations that fall under the cap are able to be deposited into the account and only electoral expenditure is allowed to be paid out of the account. Any electoral donation that exceeds the cap can only be deposited into a general administration account.[9] There is no cap on general donations that are unrelated to election campaigns.

In contrast to the state government regulatory scheme, there are no caps on electoral or general donations in local government elections in Queensland.

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7 A political donation to an associated entity is treated as a political donation to the political party (s. 204 QEA).

8 This obligation only applies to third parties intending to use donations to pay for electoral expenditure during a state election campaign period.

9 'In kind' donations in excess of the cap are required to be reimbursed to the donors.

There are a number of provisions that seek to prevent the circumvention of electoral donation caps:

- multiple payments by one person to the same entity are totalled
- funds transfers between federal and state branches of political parties are included in the donation cap
- donations from multiple interstate branches of a Queensland registered party are treated as a donation from a single person
- donations from related corporations are treated as a donation from a single entity.

Disclosure

Queensland's disclosure schemes, for both state and local government, feature a combination of periodic, post-election and special returns. The type of participant dictates the nature and frequency of the return and corresponding threshold. In some cases, the monetary threshold determines whether a return is required or not, however, in most instances the threshold determines the level of detail required in the return.

Queensland's state government disclosure scheme has the following features:

- a general disclosure threshold of $1000
- a biannual periodic disclosure for registered political parties, associated entities and donors to political parties
- post-election returns for candidates, third parties and elected members (by virtue of their need to provide a statement of interests on taking up their seat)
- special reporting of donations totalling $100 000 or more within a six month period by registered political parties, associated entities and donors
- a register of interest special reporting obligation on Members of the Legislative Assembly (MLAs) with a $500 threshold for gifts.

Queensland's local government disclosure scheme has the following features:

- a general disclosure threshold of $200
- post-election returns for candidates, groups of candidates and donors to political parties or candidates
- post-election returns for third parties where they receive donations totalling $1000 or more from a single donor and where the donation is used for political purpose
- a register of interest special reporting obligation on councillors, with a $500 threshold for gifts
- the state government reporting obligations and thresholds apply to political parties and associated entities and their donors who participate in local government elections.

Compliance and enforcement by a regulatory body

The Electoral Commission Queensland (ECQ) monitors state and local government elections. Participants of the political process are responsible for disclosing donations to the ECQ. In turn, the ECQ publishes information on its website.

The ECQ has the responsibility for enforcing the prohibitions and restrictions on donations, and the disclosure provisions. To support this enforcement function, the ECQ has investigative powers typical to a law enforcement agency.

The responsibility for ensuring compliance with the register of interests provisions for MLAs and councillors lies with the Parliamentary Registrar and the Chief Executive Officer of the relevant local government respectively.

Table 2: Summary of Queensland's regulatory framework in relation to prohibitions and restrictions on donations, disclosure and reporting, and compliance and enforcement

Entity		Prohibited donations *(maximum penalty for breach)*	Caps on electoral donations *(maximum penalty for breach)*	Reporting obligations and disclosure thresholds *(maximum penalty for breach)*
Political party	**STATE**	Foreign property *(1 year imprisonment or $26 400 fine)* Anonymous donations of $200 or over *(fine of twice the amount of the donation or $22 000, whichever is the greater)* Loans of $1000 or more from a non-financial institution (without prescribed records) *(fine of twice the amount of the donation or $22 000, whichever is the greater)*	$5000 ($5300 indexed) per donor per financial year (including donations made by the same donor to an associated entity) *(fine of twice the amount of the donation or $22 000, whichever is the greater)*	Biannual — receipts, electoral donations, expenditure and debts, and details of individual donations of $1000 or more from the same donor *(fine between $2200 and $5500, or between $11 000 and $22 000 for agents, depending on the offence)* Special reporting — each donation totalling $100 000 or more from the same donor in each six-month period January – June; July – December *(penalty as above)*
	LOCAL	As above for political party in state government	Nil	As above for political party in state government
Associated entity	**STATE**	Nil	$5000 ($5300 indexed) per donor per financial year (including donations made by the same donor to the associated political party) *(fine of twice the amount of the donation or $22 000, whichever is the greater)*	Biannual — receipts, expenditure and debts, and details of individual donations of $1000 or more from the same donor *(fine between $2200 and $5500, or between $11 000 and $22 000 for agents, depending on the offence)* Special reporting — each donation totalling $100 000 or more from the same donor in each six-month period January – June; July – December *(penalty as above)*
	LOCAL	Nil	Nil	As above for associated entity in state government
Candidate (and groups of candidates for LOCAL)	**STATE**	Foreign property *(1 year imprisonment or $26 400 fine)* Anonymous donations $200 or over *(fine of twice the amount of the donation, or $22 000, whichever is the greater)* Loans of $1000 or more from a non-financial institution (without prescribed records) *(fine of twice the amount of the donation, or $22 000, whichever is the greater)*	$2000 ($2200 indexed) per donor per financial year *(fine of twice the amount of the donation or $22 000, whichever is the greater)*	Post-election — electoral expenditure, details of general donations totalling $1000 or more from the same donor, electoral donations and loans from non-financial institutions *(fine between $2200 and $5500, or between $11 000 and $22 000 for agents, depending on the offence)*
	LOCAL	Anonymous donations $200 or over *(fine of the amount of the donation)* Loans of $200 or more from a non-financial institution (without prescribed records) *(fine of the amount of the donation)*	Nil	Post-election — electoral expenditure and details of donations and loans totalling $200 or more from the same donor *(fine between $2200 and $11 000, depending on the offence)*
Elected member	**STATE**	Nil	Nil	Initial reporting — statement of interests submitted on taking seat including gifts valued at more than $500 Annual — confirmation of statement of interests Special reporting – details of gifts from a single donor valued at more than $500 (*contempt penalties , fine of $2000)*
	LOCAL	Nil	Nil	Initial reporting — register of interests submitted on election Special reporting — updating of register of interests as circumstances change including details of gifts from same donor valued at more than $500 *(fine of $9350)*
Third party (receiver of donations)	**STATE**	Nil	$2000 ($2200 indexed) per donor per financial year *(fine of twice the amount of the donation or $22 000, whichever is the greater)*	Post-election[a] — electoral expenditure, and details of donations totalling $1000 or more from same donor that enables it to incur expenditure for political purpose *(fine between $2200 and $5500, or between $11 000 and $22 000 for agents, depending on the offence)*
	LOCAL	Nil	Nil	Post-election[b] — electoral expenditure and details of donations totalling $1000 or more from same donor that enables it to incur expenditure for political activity *(fine between $2200 and $5500, depending on the offence)*
Donor (giver of donations)	**STATE**	Nil	$5000 ($5300 indexed) per political party (includes associated entity) per financial year *(fine of $11 000)* $2000 ($2200 indexed) per candidate or third party per financial year *(fine of $11 000)*	Biannual[b] — total amount to political party of $1000 or more *(fine between $2200 and $5500, depending on the offence)* Post-election[b] — total amount to candidate of $1000 or more *(penalty as above)* Special Reporting — each donation totalling $100 000 or more to a political party or associated entity in each six-month period January – June; July – December *(penalty as above)*
	LOCAL	Nil	Nil	Biannual[b] — total amount to political party $1000 or more *(fine between $2200 and $5500, depending on the offence)* Post-election[b] — details of expenditure on political activity (including donations to a political party or candidate) totalling $200 *(penalty as above)* Special Reporting — each donation totalling $100 000 or more to a political party or associated entity in each six-month period January – June; July – December *(penalty as above)*

Notes: [a] Return required only where receives electoral donation or incurs expenditure for political purpose of $1000 or more. [b] Return required only if threshold reached.

Part 2

Regulation of donations and gifts at state government level

CHAPTER 3: PROHIBITIONS AND RESTRICTIONS ON DONATIONS

Key findings

Queensland's regulatory framework for prohibiting and restricting donations is positioned as follows in relation to other Australian and overseas jurisdictions:

- *Anonymous gifts* — Queensland is one of the most regulated jurisdictions with regards to anonymous donations to political parties and candidates, particularly in Australia. The Australian Capital Territory (ACT) and NZ have more regulation in that they also put a cap on the total amount of anonymous donations that can be accepted.
- *Gifts of foreign property* — Queensland only prohibits gifts of foreign property to political parties and candidates. In contrast, many other jurisdictions prohibit all gifts from foreign donors.
- *Informal loans* — Queensland is one of the few jurisdictions to restrict informal loans to political parties and candidates.
- *Other prohibitions* — Unlike some other jurisdictions, Queensland's overall scheme of prohibitions and restrictions does not prohibit donations from categories of donors such as corporate donors, children and property developers.
- *Donation caps* — Queensland is one of the few jurisdictions to impose a cap on electoral donations, including donations to third parties.
- *Provisions to prevent donation regulations from being circumvented* — Queensland's provisions to prevent political participants from avoiding donation prohibitions and caps are generally comparable to those in other jurisdictions. However, a number of other Australian jurisdictions also prohibit indirect gifts, or attempts to circumvent regulations by making donations in another person's name.

The rationale for prohibitions and restrictions on donations

Prohibitions and restrictions on the source or size of donations are included in political financing schemes to:

- minimise the influence, or the perception of influence, of donors on the political process (integrity)
- support a 'level playing field' between the key participants in the political process (equity).

However, regulators have to balance these aims against the freedom to participate in the political process.

Queensland's prohibitions and restrictions

To achieve the above goals, Queensland's regulatory framework prohibits and restricts certain donations based on their source (prohibited donations) or their size (capped donations). It is important to note that the prohibition rules apply to donations, whereas the donation cap rules apply only to 'electoral donations'.

Donations that are prohibited in Queensland are:

- anonymous gifts of $200 or more (s. 271 QEA)
- gifts of foreign property (s. 270 QEA)
- loans of $1000 or more from non-financial institutions without the prescribed records (referred to in this report as 'informal loans')(s. 272 QEA).

Permitted electoral donations are capped at:

- $5000 per donor per year for political parties and associated entities
- $2000 per donor per year for candidates
- $2000 per donor per year for third parties.[10]

Queensland's regulatory framework also contains several provisions to prevent these prohibitions and caps from being circumvented. These include provisions relating to:

- multiple donations from a single donor
- the transfer of funds between state and federal political parties
- multiple donations from related corporations.

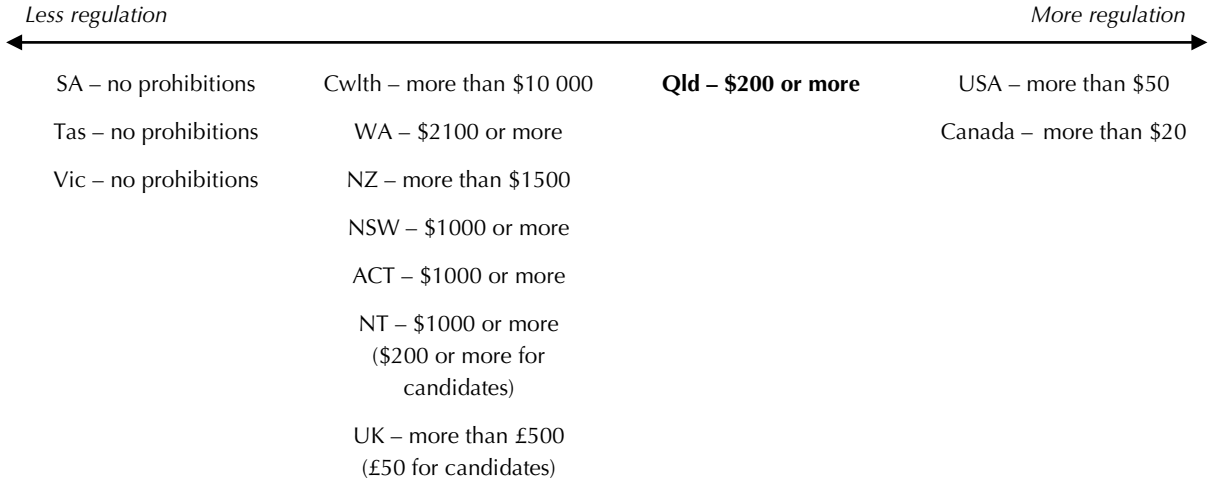
In the following sections, we compare Queensland's regulations with those adopted in other jurisdictions.

Prohibited donations

Anonymous gifts

In Queensland, political parties and candidates are not permitted to receive anonymous gifts of $200 or more. Figure 2 shows that, compared with other jurisdictions, particularly within Australia, Queensland is one of the most regulated jurisdictions in this regard.

Figure 2: Thresholds for prohibitions against anonymous gifts



10 The capped amount is indexed according to a formula in the QEA; however, the figures shown in this report as set out in the Act are for comparative purposes and do not take into account indexing that has occurred since 1 July 2011.

In Queensland, political parties and candidates are further restricted in that they cannot apply an anonymous gift towards an election campaign.[11]

Currently, the prohibition on anonymous gifts in Queensland does not apply to third parties. This is in contrast to other jurisdictions, where the prohibition of anonymous donations, including for third parties incurring political expenditure, has been identified as an emerging trend in political financing (Parliament of Australia 2011, p. 87). In New South Wales (NSW) for instance, third parties cannot accept anonymous gifts [s. 96F *Election Funding, Expenditure and Disclosures Act 1981* (EFEDA)], and in Canada, third parties cannot use an anonymous gift for the purpose of election advertising [s. 357(3) Canada Elections Act 2000 (EA (Can))].

It is also worth noting that, unlike Queensland, the ACT places a $25 000 cap on the total amount of anonymous gifts that can be accepted [s. 222 *Electoral Act 1992* (ACT) (EA (ACT))]. This ensures that a major donor cannot 'anonymously' make unlimited donations.

Gifts of foreign property

In Queensland, it is unlawful for a political party or a candidate during their candidacy to receive a gift of foreign property.[12] This includes all cash deposits, credit or other property not located within Australia. To ensure the provision cannot be circumvented, ss. 269(2) and (3) of the QEA capture a transfer of the foreign property to an intermediate recipient or to a new location within Australia.

Despite these provisions, Queensland has less regulation than many other jurisdictions. This is because, unlike NSW, the ACT, Canada, the USA, NZ and the UK (see Figure 3), Queensland's provisions do not capture foreign donors. This means, for example, that a foreign donor could still donate Australian property to a Queensland political party or candidate.

Figure 3: Prohibitions against foreign donations

Less regulation ⟷ *More regulation*

Cwlth – no prohibitions Vic – no prohibitions SA – no prohibitions WA – no prohibitions Tas – no prohibitions NT – no prohibitions	**Qld – gifts of foreign property**	NZ – more than $1500 from 'overseas persons' UK – more than £500 (£50 for candidates) from impermissible donors, who include people not on the electoral register	NSW – donations from people not on the electoral roll ACT – donations from people not on the electoral roll[a] Canada – donations from non-citizens or non-permanent residents USA – donations from foreign nationals

Note: [a] Does not apply to donations to third party campaigners.

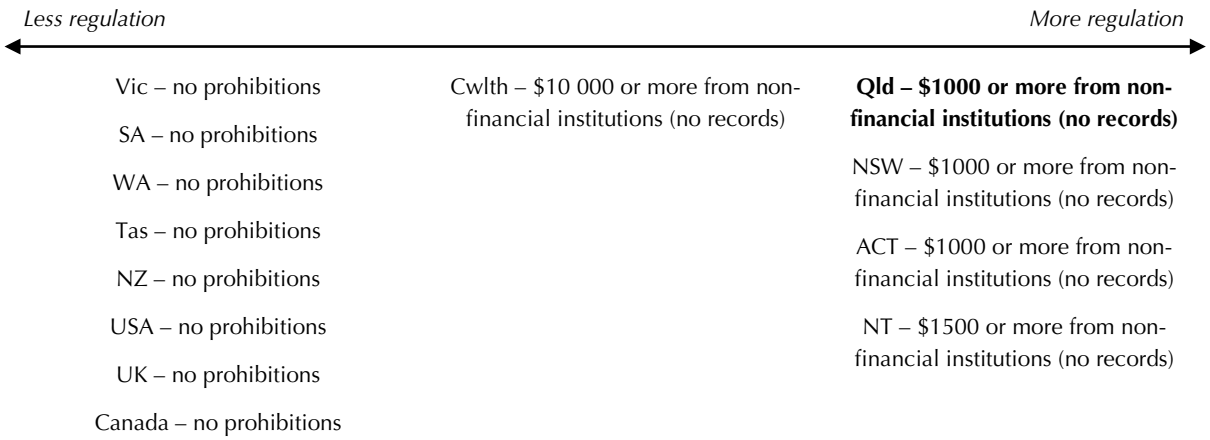
11 The definition of political (electoral) donation in s. 250(5) of the QEA excludes anonymous gifts.

12 The candidacy period starts on the day the candidate announces an intention to nominate or the day the nomination is made, whichever is the earlier, and finishes 30 days after polling day (s. 267 QEA).

Informal loans

In Queensland, it is unlawful for a political party or candidate to receive a loan of $1000 or more from an entity other than a financial entity unless prescribed records are kept by the receiver, including the loan's terms and conditions and the lender's particulars. As shown in Figure 4, Queensland is among the most regulated jurisdictions we reviewed in this regard.

Figure 4: Thresholds for prohibitions against informal loans



Capped donations

In Queensland, electoral donations are capped for political parties and their associated entities, candidates and third parties. Electoral donations must be deposited into a dedicated state campaign account from which only electoral expenditure can be paid (ss. 219, 220, 275 QEA).

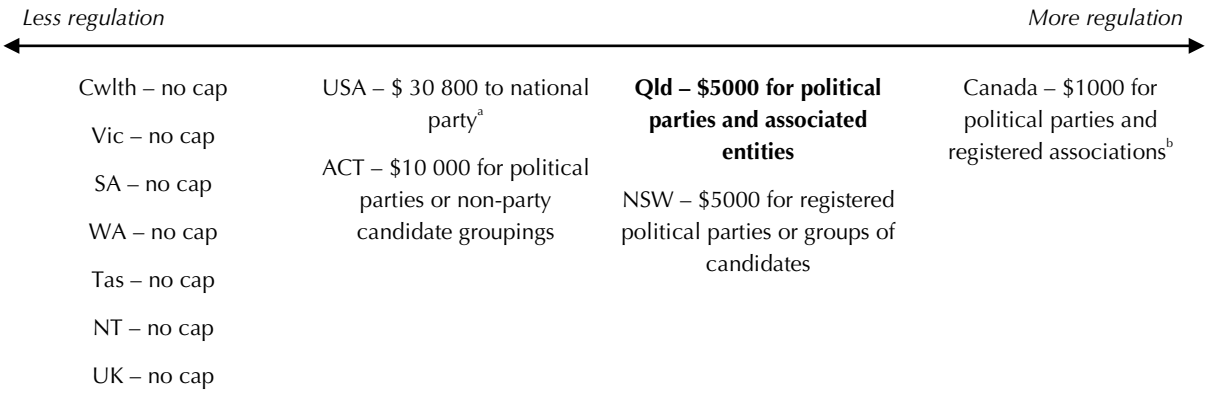
Electoral donation caps for political parties and associated entities

Political parties can accept electoral donations of up to $5000 per donor per financial year (ss. 252, 254 QEA).[13] An electoral donation to an associated entity is treated as an electoral donation to the political party for the purpose of the capping provisions (s. 204 QEA). If they were not included, political parties could circumvent donation caps by excluding amounts received by the associated entity for the party's benefit when calculating the threshold.

As can be seen in Figure 5, the Queensland and NSW caps are the lowest of all Australian jurisdictions, and thus provide the most regulation. Of the international jurisdictions we reviewed, only Canada has a lower cap (and therefore more regulation) than Queensland.

13 The capped amount is indexed according to a formula in the QEA; however, the figures shown in this report as set out in the Act are for comparative purposes and do not take into account indexing that has occurred since 1 July 2011.

Figure 5: Caps for electoral donations to political parties



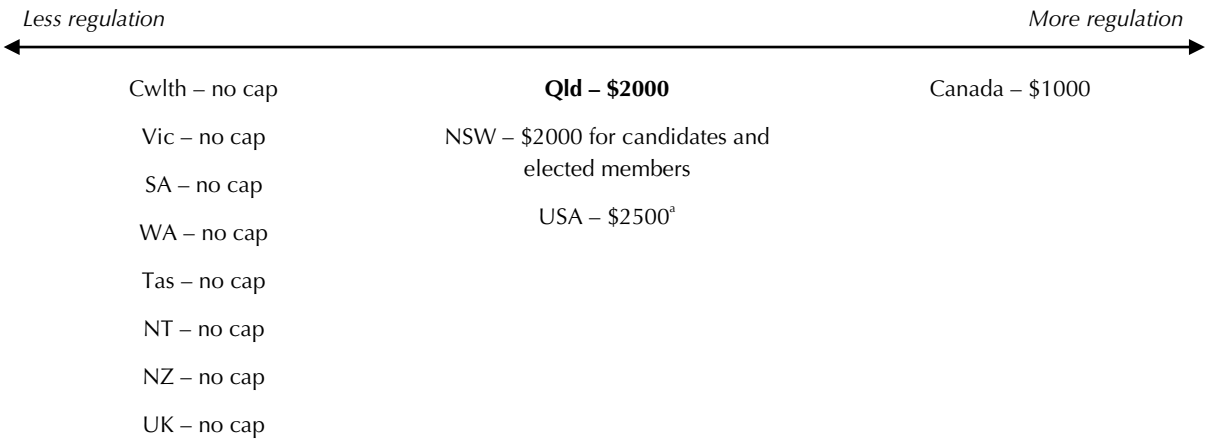
Notes:
[a] Indexed amount and subject to a biennial cap.

[b] A registered association is an electoral district association that has been registered to accept contributions [s. 403.01 EA (Can)].

Electoral donation caps for candidates

In Queensland, candidates can accept electoral donations of up to $2000 per donor per financial year (ss. 252, 256 QEA).[14] Again, we found that Queensland and NSW have the most regulation of all Australian jurisdictions in this regard, and have less regulation only than Canada (see Figure 6).

Figure 6: Caps for electoral donations to candidates



Notes:
The ACT has not been included as its regulatory scheme imposes a cap on political parties and non-party candidate groupings, rather than individual candidates.

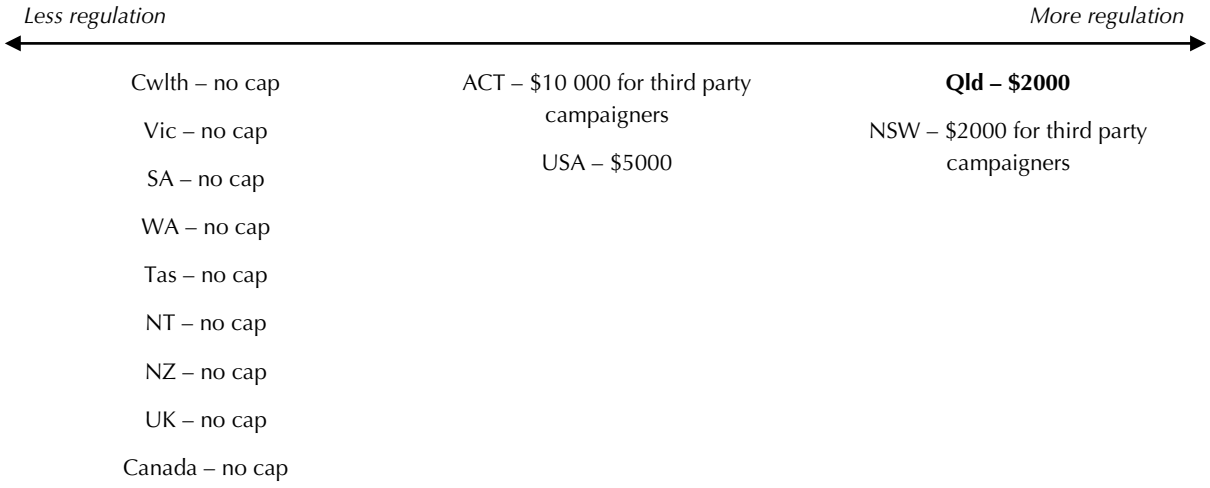
[a] This amount has been indexed for inflation.

14 The capped amount is indexed according to a formula in the QEA; however, the figures shown in this report as set out in the Act are for comparative purposes and do not take into account indexing that has occurred since 1 July 2011.

Electoral donation caps for third parties

In Queensland, third parties can accept electoral donations of up to $2000 per donor per financial year (ss. 252, 258 QEA).[15] As shown in Figure 7, Queensland and NSW have the lowest caps, and therefore most regulation, of all the jurisdictions we reviewed.

Figure 7: Caps for electoral donations to third parties



Provisions to prevent donation regulations from being circumvented

Multiple donations from a single donor

To stop donors circumventing donation caps by splitting their donations, Queensland legislation provides that multiple payments by one person to the same entity are to be totalled [for example, s. 253(1) QEA].

There are also some additional restrictions on donations to candidates, in recognition of the fact that some candidates will be endorsed by the same political party and some will be independent. Section 255(1)(c) of the QEA provides that a political donation to two or more candidates endorsed by the same party are to be totalled, as are donations to two or more independent candidates [s. 255(1)(d) QEA].

Transfer of funds between state and federal parties

With a federal system such as Australia's, funds can be easily transferred between political parties at the national and state levels. Intra-party transfers can give the major parties an electoral advantage, undermining the goal of 'equity'. Queensland addresses this by requiring that any funds transferred for campaign purposes from a federal or interstate branch of a party to a Queensland registered political party or candidate must be included in the donation cap [s. 250(1) QEA]. Further, electoral donations made by multiple interstate branches of a Queensland registered party are treated as a donation by one person for the purpose of the donation cap [s. 253(2) QEA].

15 The capped amount is indexed according to a formula in the QEA; however, the figures shown in this report as set out in the Act are for comparative purposes and do not take into account indexing that has occurred since 1 July 2011.

Multiple donations from related corporations

To ensure both a level playing field and integrity, section 205 of the QEA provides that two corporations that are related in accordance with the meaning in the *Corporations Act 2001* (Cwlth), are taken to be the one entity. On this basis, related companies with the same interests or motivation cannot make separate donations to the one entity, thereby circumventing the donation caps for individual donors.

The definition in the Corporations Act is dependent on a subsidiary or holding company relationship, and does not cover informal links between corporations such as a common director or shareholders. Consequently, linked companies could still make multiple donations and be treated as individual donors.

Initiatives in other jurisdictions

Prohibitions on donations from corporations

Corporate donations have the potential to undermine the perception of integrity and transparency of a political financing scheme. The main concern with such donations relates to a corporation's motivation for donating and an increased perception of undue influence (Parliament of Australia 2011, pp. 77-8). Further, when a donation is made by a corporation, it is difficult to determine the identity of the individuals behind the donation. Without doing a corporations search, a member of the public would not know whether apparently independent corporate donors share the same director or shareholders.

Currently, Queensland has no direct arrangements in place to prevent donations from corporations. In contrast, donations from corporations have been prohibited in NSW, the ACT, NZ, Canada and the USA.[16]

Prohibitions on donations from minors

In contrast to Queensland, some jurisdictions prohibit donations from children — either expressly (as in the USA), or implicitly, by only allowing donations from individuals on the local electoral roll (as in NSW, the ACT, Canada and the UK).

Such prohibitions have the effect of preventing an adult from avoiding donation caps or disclosure thresholds (discussed in the next chapter) by splitting a large donation among family members, including children.

Prohibitions on donations from other sources

Various jurisdictions specifically prohibit donations from the following sources:[17]

- gaming entities (NSW and Victoria)[18]
- liquor entities (NSW)
- property developers (NSW)
- the tobacco industry (NSW)
- trade unions (Canada and the USA)
- government contractors (the USA).

16 In some jurisdictions, the ban does not apply to donations to third parties [for example, s. 205I(4) EA (ACT)].

17 In some jurisdictions, these donors may also be excluded by a general prohibition of donors who are not individuals on the electoral roll [for example, s. 96D EFEDA (NSW)].

18 In Victoria, this refers to donations over $50 000 from holders of casino licences and gaming licences.

Some of these restrictions address a concern that is specific to the jurisdiction.[19]

Provisions to prevent donation regulations being circumvented through donations from intermediary donors

There is potential for 'smurfing' in political financing schemes with prohibited or restricted donation rules. This practice involves the primary donor using individuals or third party groups to make multiple small donations to avoid a prohibition or circumvent a cap (Parliament of Australia 2011).

There is currently no provision in Queensland that would directly prevent this practice; however, some jurisdictions have express provisions to prevent this from occurring, or to make this conduct unlawful. While the provisions are different, they each achieve this purpose:

- In NSW, it is unlawful for a person to make a donation on behalf of a prohibited donor (s. 96GA EFEDA).
- In the ACT, there are prohibitions against giving indirect gifts to political parties, associated entities, candidates and MLAs to avoid statutory limits [s. 205J EA (ACT)].
- In the UK, a donation to a political party that exceeds the threshold must be accompanied by a declaration that no other person has contributed to the donation [s. 54A Political Parties, Elections and Referendums Act 2000 (PPER)].
- In the USA, people are prohibited from making a contribution in the name of another, or knowingly permitting their name to be used to make such a contribution [s. 441f Federal Election Campaign Act 1971 (FECA)].

19 For example, in NSW the prohibition of donations from property developers (s. 96GAA EFEDA) followed a number of investigations by the NSW Independent Commission Against Corruption (ICAC) into the role of donations and gifts by developers to councillors and members of parliament in planning and environment decisions.

CHAPTER 4: DISCLOSURE OF DONATIONS

Key findings

Queensland's requirements for the disclosure and publication of donations are positioned as follows in relation to other Australian and overseas jurisdictions:

- *Disclosure thresholds* — Queensland's thresholds for periodic and post-election reporting of donations under the QEA, and for MLAs under the PQA, are the same or similar to most other jurisdictions we reviewed. However, Queensland's threshold for special reporting under the QEA is substantially higher and therefore provides less regulation than other jurisdictions with special reporting.
- *Frequency of special reporting* — Special reporting occurs less frequently in Queensland than in other jurisdictions such as the ACT and the USA, which increase the required frequency of disclosure during specified election periods.
- *Disclosure by political parties and associated entities* — Political parties and associated entities in Queensland have the highest reporting obligations in Australia. However, political parties in Canada, the USA and the UK have even greater reporting obligations.
- *Disclosure by candidates* — Queensland's reporting obligations on candidates are similar to most other Australian and overseas jurisdictions. However, the USA and the ACT also require special reporting for candidates, and in the case of the USA, periodic and pre-election reporting.
- *Disclosure by MLAs* — MLAs in Queensland have among the highest reporting obligations of all the jurisdictions reviewed.
- *Disclosure by third parties* — Queensland's reporting obligations on third parties are the same as most other reviewed jurisdictions. The Commonwealth, NSW and the USA have more reporting in that they also require third parties to do periodic reporting and, in the case of the USA, pre-election reporting.
- *Disclosure by donors* — In most jurisdictions, donors to political parties and candidates do not have any reporting obligations. Of those that do, Queensland has the most frequent periodic reporting (six-monthly), and is the only jurisdiction to require special reporting by donors.
- *Particulars to be disclosed* — The particulars that need to be disclosed in returns in Queensland are substantially the same as those in other jurisdictions. Importantly, in Queensland, the requirement to disclose particulars extends to unincorporated associations, trust funds and professional trust accounts.
- *Lodgement and public release of returns* — Queensland's timeframes for the lodgement and public release of disclosure returns under the QEA are moderate compared with other jurisdictions. The USA has the fastest timeframe, including a requirement to publish a return within 48 hours where it has been lodged electronically. For disclosure by MLAs under the PQA, Queensland's timeframes for lodgement and public release are among the shortest of all the reviewed jurisdictions.

The rationale for disclosure

The requirement to disclose donations:

- enables voters to make informed decisions at the ballot box (transparency)
- ensures voters have information about the financial arrangements of participants in the political process at critical times (integrity)
- enables the regulatory authority to monitor compliance with the electoral donation caps (accountability).

Queensland's disclosure requirements

Disclosure schemes establish the basis for reporting donations. The key features of Queensland's disclosure scheme are outlined in Table 3.

Table 3: Features of Queensland's political donation disclosure scheme

1.	Disclosure thresholds	The financial thresholds that trigger a disclosure requirement
2.	Disclosing individuals and entities	The participants in the political process who are required to disclose political donations. Schemes can include: • political parties • associated entities • candidates • third parties • donors • MLAs.
3.	Frequency of disclosure	Disclosure can be: • periodic — donations must be disclosed on a regular basis, regardless of an election • post-election — donations must be disclosed after an election • special — donations must be disclosed when they reach a certain threshold, such as a large donation or a series of donations from the same source.
4.	Particulars to be disclosed	The details of political donations and gifts that must be disclosed (for example, amount, donor name and address).
5.	Timeframes for lodgement and public release of disclosure returns	This comprises: • the timeframe within which disclosing individuals and entities must submit their disclosure returns to the regulatory body • the timeframe within which the regulatory body must make the disclosed information available to the public.

The regulation of disclosure at the state government level in Queensland comes primarily from two sources — the QEA, which applies to political parties, associated entities, candidates, third parties and donors, and the PQA, which applies to MLAs.

In the following sections, we compare Queensland's disclosure scheme to schemes in other jurisdictions.

Disclosure thresholds

Disclosure thresholds under the QEA

In Queensland, the disclosure threshold for periodic and post-election reporting under the QEA is $1000 or more. For donors to candidates and political parties, this means they are obliged to submit disclosure returns when their donations reach the threshold (ss. 264, 265 QEA). For political parties and associated entities, this means they must disclose in their periodic returns the particulars of any single donor whose contributions reach the threshold (ss. 290, 291, 294 QEA).

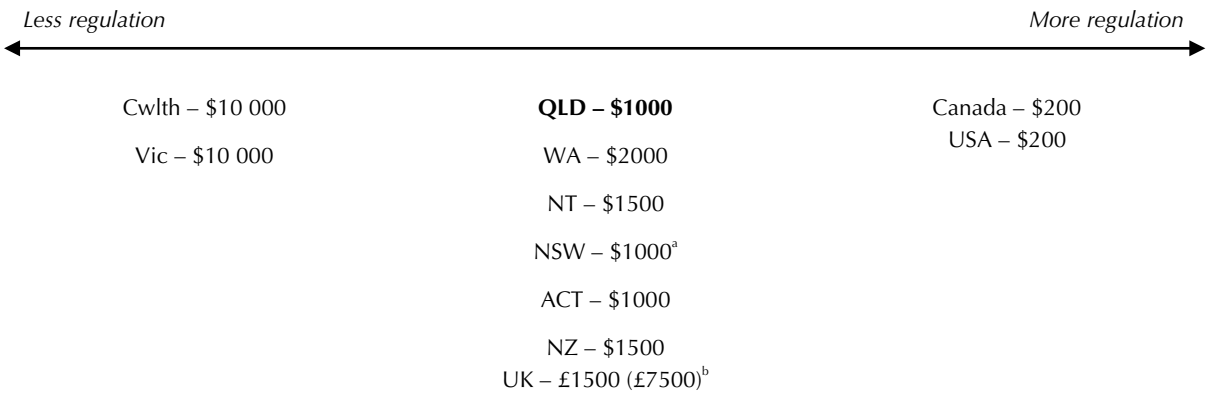
Figure 8 shows that Queensland's disclosure threshold is the same as, or similar to, those in other Australian states and territories. It is lower (and therefore provides more regulation) than the Commonwealth threshold, and higher than the thresholds in Canada and the USA.

To prevent participants from circumventing disclosure obligations by making multiple small donations, most of the disclosure provisions require the value of gifts and donations from or to an entity to be aggregated.

The provisions relating to the way the threshold is calculated for political parties in Queensland appear to differ slightly from other entities. Section 291(1) of the QEA states that particulars of a donating entity must be disclosed where 'the sum of all political donations or other amounts received' is $1000 or more. However, the following subsection states that 'in calculating that sum, an amount of less than $1000 need not be counted' [s. 291(2) QEA]. It is unclear whether this means a donor can make numerous individual payments under the $1000 threshold and not be identified in a return. If that is the case, a donor's return and a political party's return may not disclose exactly the same donations.

In 2011, the ACT Electoral Commission noted the inconsistency in the identical provision in the then ACT legislation (Legislative Assembly for the ACT 2011). The ACT legislation has subsequently been amended and the additional provision removed [s. 232 EA (ACT)].

Figure 8: Disclosure thresholds for periodic and post-election reporting



Notes:
Amounts shown have not been indexed.

SA and Tas do not have disclosure schemes.

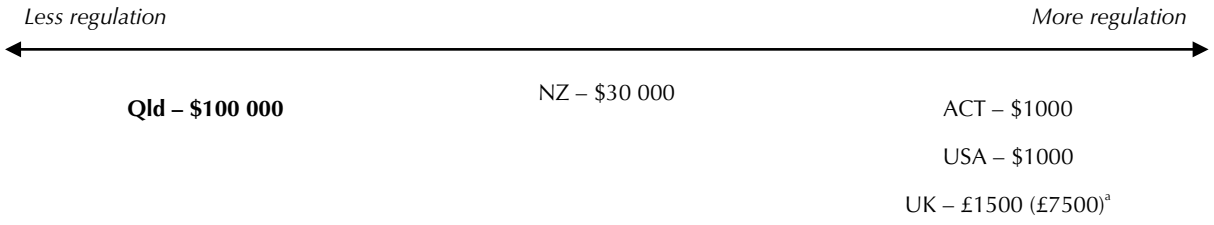
[a] NSW has periodic (annual) reporting only.

[b] Thresholds in the UK vary, with the threshold for political parties, member associations and third parties being relatively high at £7500, compared with £1500 for others (£50 for candidates).

For special reporting under the QEA, the disclosure threshold in Queensland is $100 000. This means that they must submit a return each time the gift or gifts from one donor reaches $100 000 within the six-month reporting period ending either 30 June or 31 December (s. 266 QEA). These requirements help to achieve the transparency aims of the disclosure scheme.

Figure 9 shows that Queensland's disclosure threshold is by far the highest, and thus provides the least regulation, of all jurisdictions reviewed with special reporting requirements.

Figure 9: Disclosure thresholds for special reporting



Notes:
Amounts shown have not been indexed.

Cwlth, NSW, NT, WA, Vic and Canada do not have special reporting requirements in their disclosure schemes, and SA and Tas do not have disclosure schemes.

[a] Thresholds in the UK vary, with the threshold for member associations being £7500, compared with £1500 for others.

Disclosure thresholds for MLAs under the PQA

In contrast to other participants in the political process, Queensland MLAs have disclosure obligations, not under the QEA, but under the PQA, which requires them to report gifts above a certain threshold. These are recorded in a register of MLAs' financial interests, maintained by a parliamentary official.

The threshold for these reporting obligations (which comprise a combination of annual, post-election and special reporting; see page 25) is $500. This is the same threshold as in most other jurisdictions reviewed, and a similar threshold to the remainder — the lowest threshold (and therefore the most regulation) is in the ACT ($250), while the highest threshold is in the Commonwealth and South Australia (SA) ($750). The UK threshold is based on one per cent of the member's salary.[20]

Frequency of disclosure for disclosing individuals and entities

Political parties

In Queensland, political parties are subject to:

- periodic reporting obligations — they are required to submit six-monthly returns showing, among other things, the total amount of donations they received in the reporting period, and the particulars of donations above the $1000 threshold (s. 290 QEA)
- special reporting obligations — when the $100 000 threshold for a single donor is met, they are required to submit a return showing the amount of the gift, the date on which it was made, and the name and address of the political party receiving it [s. 266(11) QEA].

20 Estimated to be £660 in April 2010 (Category 5, Code of Conduct together with the Guide to the Rules Relating to the Conduct of Members 2012).

Figure 10 shows that political parties in Queensland are subject to the highest level of reporting among all Australian jurisdictions, with periodic reporting being more frequent than in the Commonwealth, the ACT, NSW, Western Australia (WA) and the Northern Territory (NT) (all annual). However, political parties in overseas jurisdictions are subject to even greater reporting requirements, with:

- periodic reporting being at least quarterly in Canada, the UK and the USA
- the addition of pre-election reporting in the USA
- the addition of weekly reporting during defined election periods in the UK.

Figure 10: Disclosure obligations on political parties

Less reporting ⟷ *More reporting*

SA – no reporting Tas – no reporting	Cwlth – annual reporting NSW – annual reporting Vic – annual reporting[a] WA – annual reporting NT – annual reporting	ACT – annual reporting; special reporting[b] NZ – annual reporting; special reporting	**Qld – 6-monthly reporting; special reporting**	USA – monthly or quarterly reporting; pre- and post-election reporting; special reporting[c] UK – quarterly reporting; weekly reporting for elections Canada – quarterly reporting (political parties) or annual reporting (registered associations)

Notes:
[a] This only applies to political parties that are federally registered.

[b] Special reporting applies to 'party groupings', which includes political parties [S. 198 EA (ACT)].

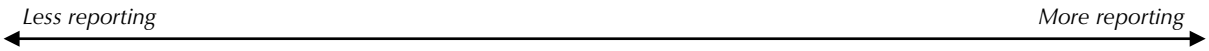
[c] Periodic and post-election reporting applies to political committees, which includes candidate committees, party committees and Political Action Committees (PACs) [s. 431(4) FECA; Federal Election Commission US 2004, p. 3]. Special reporting applies to campaign committees of political parties and candidates.

Associated entities

Associated entities in Queensland are required to submit six-monthly and special disclosure returns, the same as for political parties [ss. 294, 266 (8) QEA].

As shown in Figure 11, the disclosure obligations on associated entities in Queensland are the highest of all Australian jurisdictions, with periodic reporting occurring more frequently than in the Commonwealth, the ACT, WA and the NT.

Figure 11: Disclosure obligations on associated entities



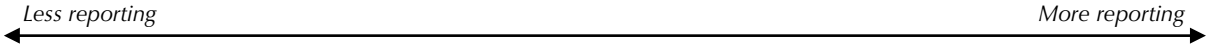
NSW – no reporting	Cwlth – annual reporting	ACT – annual reporting; special reporting[a]	**Qld – 6-monthly reporting; special reporting**
Vic – no reporting	WA – annual reporting		
SA – no reporting	NT – annual reporting		
Tas – no reporting			
NZ – no reporting			
USA – no reporting			
UK – no reporting			
Canada – no reporting			

Note: [a] Special reporting applies to a party grouping, which includes an associated entity of the party.

Candidates

After an election, candidates in Queensland are required to provide details of gifts, donations and loans received during the disclosure period (ss. 261, 262 QEA).[21] Figure 12 shows that Queensland is similar to most other jurisdictions reviewed in this regard. Only the ACT and the USA were considered to have more reporting obligations, with candidates in those jurisdictions also having special reporting obligations, and periodic and pre-election reporting obligations in the USA.

Figure 12: Disclosure obligations on candidates



Vic – no reporting	**Qld – post-election reporting**	ACT – post-election reporting; special reporting[b]
SA – no reporting	Cwlth – post-election reporting	USA – monthly or quarterly reporting; pre- and post-election reporting; special reporting[c]
Tas – no reporting	WA – post-election reporting	
	NT – post-election reporting	
	NZ – post-election reporting	
	Canada – post-election reporting	
	UK – post-election reporting	
	NSW – annual reporting[a]	

Notes:

[a] The disclosure period for a candidate is each 12 month period ending on 30 June. A candidate who was not registered at the last election must disclose all political donations they received 12 months prior to the day on which they nominated.

[b] Post-election reporting applies to 'non-party candidates' only. Special reporting applies to 'party groupings', 'non-party candidate groupings' and 'non-party prospective candidate groupings', all of which include candidates.

[c] Special reporting applies to campaign committees of political parties and candidates.

21 The disclosure period for candidates from the previous election starts four weeks after that election and ends four weeks after the current election. For new candidates, the disclosure period starts at the announcement, pre-selection or nomination of candidacy (whichever is earlier) and ends four weeks after the election (s. 198 QEA).

Members of the Legislative Assembly

In Queensland, if a currently elected MLA nominates for the next election, they will have the disclosure obligations of a candidate under the QEA for that election (s. 2 QEA). Otherwise, their only other disclosure obligations as MLAs in Queensland are those under the PQA.

Within one month of taking their seat in parliament, the elected member is required to submit an initial statement of interests (s. 69B PQA). After this, a member is required to report to the registrar any changes, including the receipt of a gift or gifts of $500 or more from the one donor in the reporting period, within one month of becoming aware of the change [s. 69B(2) PQA]. In addition, each member is required to confirm correct particulars within one month of 30 June each year [Sch. 2, Cl 5(3) Standing Rules and Orders of the Legislative Assembly of Queensland 2004]. Consequently, MLAs in Queensland have a combination of post-election, special and annual reporting obligations.

As shown in Figure 13, MLAs in Queensland have among the greatest reporting obligations of all the jurisdictions we reviewed.

Figure 13: Disclosure obligations on MLAs

Less reporting ◄——————————————————► *More reporting*

Cwlth – post-election reporting; special reporting	Vic – annual reporting	**Qld – annual reporting; post-election reporting; special reporting**
NT – post-election reporting; special reporting	SA – annual reporting	ACT – annual reporting; post-election reporting; special reporting
Canada – special reporting	Tas – annual reporting	
UK – post-election reporting; special reporting	WA – annual reporting	
	NSW – annual reporting; supplementary six-month reporting; special reporting (discretionary)[a]	
	NZ – annual reporting; post-election reporting	
	USA – annual reporting; post-election reporting; termination reporting[b]	

Notes:

[a] Members are required to submit an ordinary return (covering the previous financial year) by 1 October each year, and a supplementary return (covering the previous period from 1 July to 31 December) by 31 March each year.

[b] Members are required to submit a return within 30 days of termination for the period of the calendar year since the last return was filed.

It should be noted that Figure 13 refers to the reporting obligations imposed on MLAs through several sources — non-electoral legislation such as the PQA, standing rules and orders of parliament, and, in the ACT and the UK, specific electoral legislation that imposes disclosure obligations on MLAs:

- In the ACT, MLAs are required to disclose donations annually to the same extent as a political party [s. 230 EA (ACT)].
- In the UK, elected office holders are 'regulated donees', and are required to make special disclosures within 30 days of accepting donations that are for use in connection with political activity above the £1500 threshold (Sch. 7 PPER).

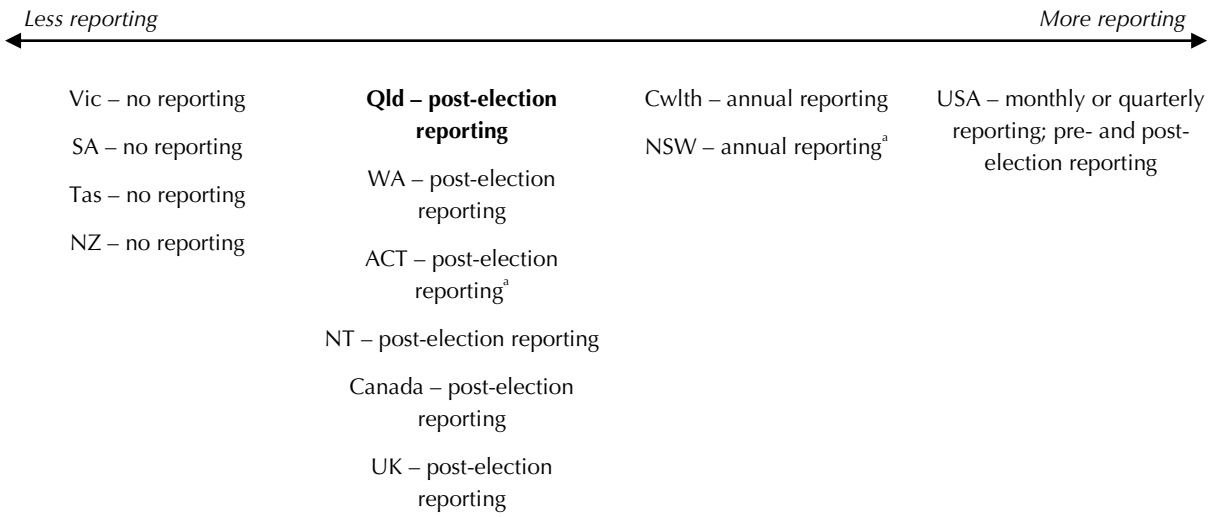
Third parties

We have previously noted the increasing participation of third parties in the political process. Requiring third parties to disclose the donations they receive aids transparency in the political process and supports the enforcement role of regulatory authorities like the ECQ. Third parties also have obligations to disclose donations they make. These are discussed in the section on donors below.

As a result of the 2011 amendments to the QEA, third parties in Queensland now have greater reporting requirements. A third party must submit a post-election return when it receives a gift of $1000 or more that enables it to incur expenditure for a political purpose during the disclosure period.[22]

Despite these changes, Figure 14 shows that third parties in Queensland are required to disclose less often than third parties in some other jurisdictions. Although Queensland is similar to many of the jurisdictions reviewed, it has only post-election reporting requirements for third parties, whereas the Commonwealth, NSW and the USA require third parties to disclose on a periodic basis (at least annually). Third parties in the USA are also subject to pre-election reporting requirements.

Figure 14: Disclosure obligations on third parties



Note: [a] Applies to 'third party campaigners'.

Donors

Donor disclosure allows regulatory authorities to cross-check disclosure returns from donors against disclosure returns from other participants in the political process as an aid to enforcement.

As shown in Figure 15, Queensland is one of the few jurisdictions that require donors to disclose the donations they make to political parties and candidates; however, there is no disclosure obligation for donors to associated entities, despite the fact that the associated entity must disclose particulars of donors over the threshold.[23]

22 Expenditure for political purposes (which includes gifts to political parties and candidates [s. 263(5) QEA] must be at least $1000 in the same period.

23 Section 204 does not apply to Division 7 *Disclosure* and there is no specific inclusion of associated entities as in special returns [s. 266(8) QEA].

In Queensland, donors (which may include third parties) are required to submit:

- six-monthly returns if they donate an amount above the disclosure threshold to a political party within the reporting period (s. 265 QEA)[24]
- post-election returns if they donate an amount above the disclosure threshold to a candidate in an election (s. 264 QEA)[25]
- special returns if they make a large gift to a registered political party or associated entity (s. 266 QEA).[26]

Figure 15: Disclosure obligations on donors to political parties and candidates

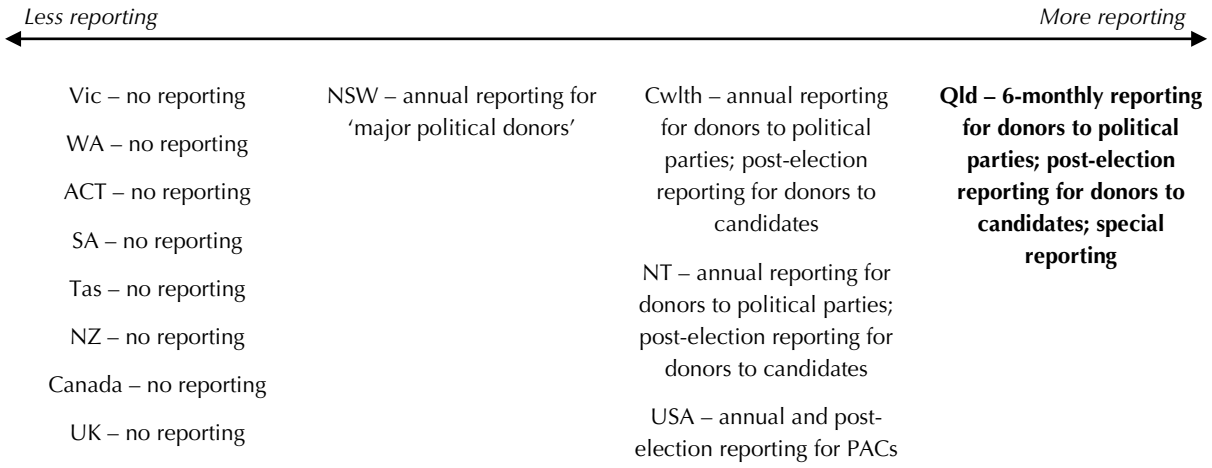


Figure 15 shows that Queensland's disclosure requirements for donors are the highest of all jurisdictions reviewed, with periodic reporting occurring more frequently than in the Commonwealth, the NT and the USA, and with the addition of special reporting obligations.

'Major political donor' obligations in NSW cover not only donations made to candidates and parties, but extend also to donations made to other participants in the political process — elected members, 'groups of candidates' and third party campaigners [s. 88 EFEDA]. Neither Queensland nor any other jurisdiction reviewed requires donors to disclose the donations they make to these entities.

24 'Reporting period' is either the first six months of a financial year or a full financial year (s. 197 QEA). A person who discloses a gift in the first six months and makes no further donations is not required to make a return for the full financial year [s. 265(5) QEA]. A person who makes a return for the full year does not have to disclose donations disclosed in an earlier six month return [s. 265(6) QEA].

25 Captures third parties.

26 Candidates, political parties and associated entities are obliged to inform a donor who has made donations above the threshold of the donor's obligation to lodge a return (ss. 264, 265, 266 QEA).

Particulars to be disclosed

In Queensland, the following details must be disclosed about electoral donations over the threshold:

- the amount or value of the donation
- the date the donation was received
- identifying information for the donor as follows:
  - where the donor is an individual, their name and address
  - where the donor is an unincorporated association, the names and addresses of the members of the executive committee
  - where the donation is from a trust fund, the names and addresses of the trustees
  - where the donation is from a trust account of a lawyer or accountant under the instructions of a person, the name and address of that person
- the political party or candidate that is receiving the donation (for donor returns only).

These requirements apply to all disclosing individuals and entities (ss. 261, 263–5, 291 QEA) and all reporting types.[27] The particulars required for donors above the threshold in Queensland are substantially the same as those in the other jurisdictions we reviewed.

Candidates in Queensland are also required to disclose the total amount of gifts and electoral donations received, in addition to the total number of donors (s. 261 QEA). Political parties must also disclose total amounts of receipts, political donations, expenditure and outstanding debts (s. 290 QEA).

The Queensland legislation also has some specific provisions to ensure that the original sources of donations are identified. This helps to enhance the transparency and accountability of the financing system (Parliament of Australia 2011, p. 164). The provisions require that donors, including third parties, disclose the above particulars for gifts or donations they received that were used or enabled them to make a gift or electoral donation to a candidate or political party (ss. 263, 265 QEA).

However, there is no such requirement for donations from an individual to a candidate (s. 264 QEA). There is also no requirement for donors to disclose an original source, if any, for special returns relating to large gifts to political parties or associated entities (s. 266 QEA).

Timeframes for lodgement and public release of disclosure returns

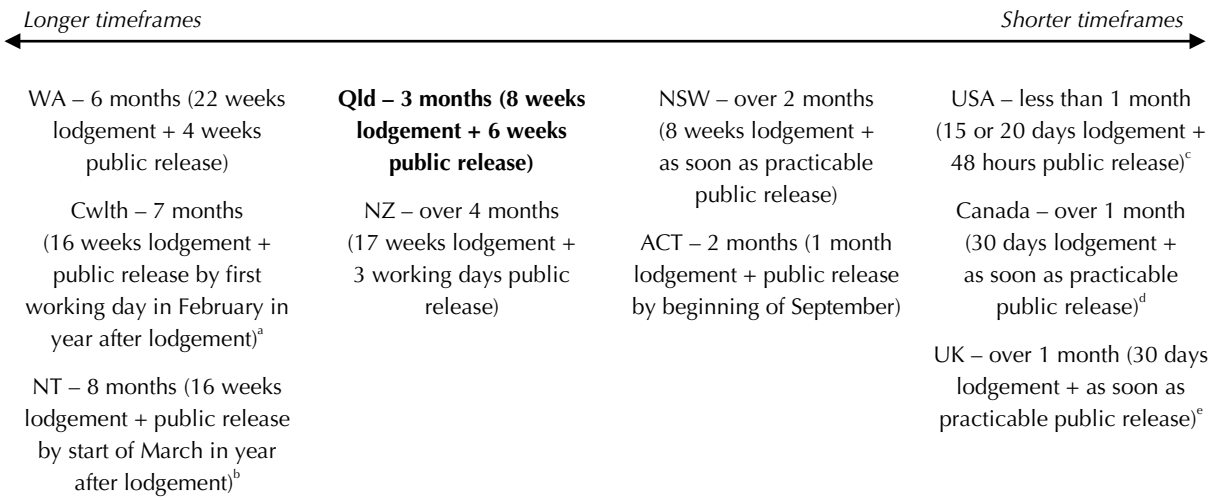
Periodic reporting

In Queensland, all disclosing individuals and entities who are required to submit six-monthly disclosure returns under the QEA (that is, political parties, associated entities and donors to political parties) must do so within eight weeks of the end of the reporting period. The ECQ then has six weeks to publish these returns on its website (s. 316 QEA). The total timeframe allowed for lodgement and public release of six-monthly disclosure returns is therefore 14 weeks (around three months).

This timeframe is substantially shorter than the timeframes in WA (six months) and the NT (eight months), for instance, but substantially longer than the timeframes in the UK, the USA and Canada, where returns are made available to the public around one month after the end of the reporting period (see Figure 16).

27 For candidate disclosure returns, relevant details must be provided for electoral donations regardless of the threshold (s. 261 QEA), and for loans that reach the threshold (s. 262 QEA). Associated entities do not have to provide identifying details of donors of electoral donations as a separate item to amounts received (s. 294 QEA).

Figure 16: Approximate timeframes for lodgement and public release of periodic disclosure returns



Notes:
Public release includes both the formal publication of returns and making returns available to the public for inspection.

SA and Tas do not have disclosure schemes. In Vic, there are no publication requirements.

[a] The lodgement timeframe for donors to political parties is 20 weeks.

[b] Applies to political parties and associated entities. The lodgement timeframe for returns by donors to political parties is 20 weeks.

[c] The timeframe for lodgement is 15 days for quarterly reports and 20 days for monthly reports. Returns must be published within 48 hours if they are filed electronically.

[d] Applies to quarterly returns for political parties. The lodgement timeframe for annual returns by registered associations is five months.

[e] Applies to quarterly returns for political parties. Weekly election reports have a seven day lodgement timeframe. Information is published by way of a register of donations.

As noted on page 25, Queensland MLAs have separate periodic (annual) reporting obligations under the PQA. MLAs have one month from 30 June each year, to confirm their correct particulars with the registrar, who is then required to publish an updated Register of Members' Interests on the parliament's website as soon as practicable, but no longer than a week since the last update. The total timeframe allowed for lodgement and public release of annual reports by MLAs is therefore around five weeks. This is the shortest timeframe of all jurisdictions reviewed with periodic disclosure obligations for MLAs — other jurisdictions take from around nine weeks (the ACT) to around 24 weeks (the USA) to make this information available to the public.

Post-election reporting

All disclosing individuals and entities in Queensland who are required to submit post-election returns under the QEA (that is, candidates, third parties and donors to candidates) must do so within 15 weeks after polling day. There is no specific requirement for the ECQ to publish these returns on its website, although a perusal of its website shows that it does. There is no timeframe within which they must be released to the public, although they cannot be made available until at least 24 weeks after polling day (s. 317 QEA). It therefore takes a minimum of 24 weeks (five to six months) for post-election returns to be available to the public.

Within Australia, only WA releases returns more quickly (19 weeks), but returns are made available to the public much more quickly in NZ (14 weeks) and the USA (four weeks) (see Figure 17).

Figure 17: Approximate timeframes for lodgement and public release of post-election disclosure returns

Longer timeframes ← → *Shorter timeframes*

ACT – up to 52 weeks (60 days lodgement + public release at the beginning of February in the year after polling day) Canada – up to 52 weeks (4 months lodgement + public release within 1 year after issue of writ for election)[a]	**Qld – 24 weeks (15 weeks lodgement + public release not before 24 weeks after polling day)** Cwlth – 24 weeks (15 weeks lodgement + public release 24 weeks after polling day) NT – 24 weeks (15 weeks lodgement + public release from start of 25 weeks after polling day)	WA – 19 weeks (15 weeks lodgement + 4 weeks public release) NZ – over 14 weeks (70 working days lodgement + 3 working days public release) UK – 13–26 weeks (6 months lodgement where expenditure over £250 000, 3 months in other cases + public release as soon as practicable)	USA – 4 weeks (30 days lodgement + 48 hours public release)[b]

Notes:
Public release includes both the formal publication of returns, and making returns available to the public for inspection.

NSW and Vic do not have post-election reporting requirements in their disclosure schemes, and SA and Tas do not have disclosure schemes.

[a] A summary report is published as soon as practicable.

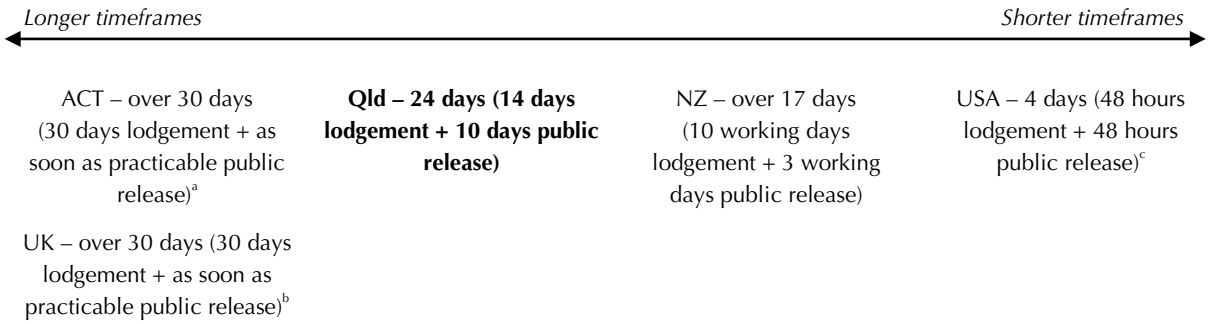
[b] The lodgement timeframe applies to post-election general election reports. Returns must be published within 48 hours if they are filed electronically.

As noted on page 25, Queensland MLAs have separate post-election reporting obligations under the PQA. After taking their seat, MLAs have one month to submit their initial statement of interests to the registrar, who is required to publish an updated Register of Members' Interests on the parliament's website as soon as practicable, but no longer than one week after the last update. It therefore takes around five weeks for this information to become public. This is a similar timeframe to the Commonwealth, the ACT, the NT and the UK (four weeks for lodgement plus time for public release), and a substantially shorter timeframe than the USA (around nine weeks), NSW (16 weeks) and NZ (30 weeks).

Special reporting

Queensland political parties, associated entities and donors have 14 days from each time the threshold is reached to fulfil their special reporting obligations under the QEA. The ECQ must then publish these returns within 10 days (s. 316 QEA). Donations captured by special reporting provisions are therefore made public within 24 days of them occurring. Of all jurisdictions reviewed with special reporting requirements, only NZ and the USA make returns available to the public more quickly (see Figure 18).

Figure 18: Approximate timeframes for lodgement and public release of special disclosure returns



Notes:
Public release includes both the formal publication of returns, and making returns available to the public for inspection.

The Commonwealth, NSW, the NT, WA, Vic and Canada do not have special reporting requirements in their disclosure schemes, and SA and Tas do not have disclosure schemes.

[a] During a specified election period, special reports must be made within seven days rather than the usual 30. The returns (not summary information) are published at the beginning of February in the year after polling day.

[b] Special reporting applies to 'regulated donees' (see page 22). Information is published by way of a register of donations.

[c] Returns must be published within 48 hours if they are filed electronically.

As noted on page 25, Queensland MLAs have separate special reporting obligations under the PQA. MLAs have one month to notify the registrar when they receive gifts from the same donor above $500. The registrar is then enquired to publish an updated Register of Members' Interests on the parliament's website as soon as practicable, but no longer than a week after the last update. The total time taken for special reports by MLAs to be made publicly available is therefore around five weeks. This is the shortest specified timeframe of all jurisdictions reviewed with special disclosure obligations for MLAs:

- The Commonwealth, the ACT, the NT and the UK all require lodgement within four weeks, but do not clearly specify the period within which the information must be made public (but this may seemingly take up to six months in the ACT to be published on the website).
- Special reporting in NSW is at the discretion of the MLA, and so no timeframe for lodgement is specified (but tabling of the report must occur within three weeks of receipt).
- Public release takes at least nine weeks in Canada (nine weeks for lodgement, plus an unspecified time for publication).

Initiatives in other jurisdictions

Extending special reporting obligations to other participants in the political process

As outlined above, Queensland legislation only imposes special reporting obligations on political parties, associated entities and donors. In contrast, in the ACT and the UK, special reporting obligations extend to a wider group of participants, including candidates and MLAs.

Disclosing impermissible or returned gifts and donations

In Queensland, a political party must disclose a foreign gift it was given, regardless of whether the gift was returned as required by the legislation. Other impermissible gifts that were returned to the donor do not have to be disclosed unless the amount of the gift was included in the return [s. 289 QEA].

In some overseas jurisdictions, there are stricter disclosure requirements for impermissible or returned gifts. In the UK, a donation report requires every donation from an impermissible donor [s. 54(1)(a) PPER] or anonymous donor [s. 54(1)(b) PPER] to be disclosed. Similarly in Canada, a financial transaction return must contain a statement of contributions received but returned [s. 424(2) EA (Can)].

Increased disclosure obligations during election periods

Several jurisdictions have increased reporting obligations during election periods. In the UK, political parties are required to submit weekly donation reports during a defined election period. Reporting obligations are even stricter in the USA, with campaign committees required to report within 48 hours of receiving any contribution of $1000 or more in a specified period before the election [s. 434.3(6) FECA].[28] In contrast to post-election reporting, this kind of pre-election reporting helps to enhance the transparency of the funding process and ensures voters are informed of the sources of campaign funding before an election.

The ACT has also implemented stricter reporting obligations in the lead-up to elections by increasing the frequency of special reporting — during a specified election period, special reports must be made within seven days, rather than the usual 30 days [s. 216A EA (ACT)].[29]

Contemporaneous disclosure

The USA's pre-election reporting scheme is the closest any of the reviewed jurisdictions get to contemporaneous disclosure, although other jurisdictions have examined the possibility of contemporaneous disclosure as a way of increasing the transparency and integrity of the political funding process. In 2011, the Joint Standing Committee on Electoral Matters (JSCEM) recommended that the Australian Electoral Commission (AEC) investigate the feasibility of implementing and administering a system of contemporaneous disclosure, and report back to the Special Minister of State by 31 March 2012 (Parliament of Australia 2011, p. 67). Our enquiries indicate that this report has not been finalised. The AEC states it has done preliminary work in this area, including some analysis of international approaches (Parliament of Australia 2012, p. 83).

Lodging disclosure returns online

Any delay in making disclosure information available to the public reduces the transparency of the disclosure scheme and the donations it captures. This is particularly so in election years where voters would ideally be informed of funding sources for parties and candidates before voting.

Online reporting is one strategy that some jurisdictions have implemented, or are considering, to improve the timeliness of disclosure information being released:

- In the USA, the Federal Election Commission is required to make regulations to provide for online reporting, and to support the development of software to allow the contemporaneous reporting and publishing of return information [s. 434a(11)(12) FECA].
- In 2011, the ACT Standing Committee on Justice and Community Safety recommended that the Electoral Commission establish an online reporting system for parties and candidates to report donations and donors (Legislative Assembly for the ACT 2011, p. 52). The committee considered that an online system would streamline disclosure and increase transparency, although acknowledged that this would require an increase in resources (Legislative Assembly for the ACT 2011, p. 51). The ACT Government indicated that implementing the recommendation was dependent on budget considerations (ACT Government 2012, p. 19).

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28 This period is less than 20 days, but more than 48 hours, before an election.

29 The relevant period is the 'capped expenditure period', which is from the first of January in an election year to polling day.

CHAPTER 5: COMPLIANCE AND ENFORCEMENT

Key findings

In Queensland, compliance and enforcement are primarily achieved by establishing offences and penalties, and by giving the ECQ a wide range of investigatory powers to enforce the QEA. In relation to other Australian and international jurisdictions, Queensland is positioned as follows:

- *Audited disclosure returns* — Queensland is one of only four jurisdictions reviewed that require returns to be audited at the time of disclosure.
- *Penalties related to prohibited donations* — Penalties for receiving prohibited donations in Queensland are higher than, or consistent with, those in many other jurisdictions reviewed. However, some other jurisdictions require the recipient to pay a fine in addition to the amount of the unlawful donation, or provide for a term of imprisonment.
- *Penalties related to donation caps* — Penalties for receiving or making payments in excess of the donations cap in Queensland are similar to those in other Australian jurisdictions, but lower than those in Canada and the USA, which provide for a term of imprisonment up to five years.
- *Penalties related to disclosure offences* — Various jurisdictions have significantly higher monetary penalties for disclosure offences than Queensland. Imprisonment is also provided for specific disclosure offences in some jurisdictions, including the NT, the ACT and the overseas jurisdictions.
- *The ECQ* — The powers of the ECQ are similar to those of the regulating authorities in other jurisdictions. However, some of these authorities have wider powers, including the power to require a person to attend and answer questions (the ACT, NSW and the USA), and the power to obtain information and documents for ascertaining compliance (the Commonwealth).
- *Administrative sanctions* — Canada and the USA use administrative sanctions to encourage compliance with regulatory requirements. While these sanctions are not a feature of any Australian jurisdiction, the AEC has called for their introduction.

The rationale for compliance and enforcement mechanisms

Compliance and enforcement mechanisms aim to enhance the transparency and integrity of political financing schemes. In the event that participants do not comply with the regulations, a system of offences and penalties, together with an entity responsible for enforcement, is necessary to monitor and enforce compliance (Australian Government 2008, p. 69).

Queensland's compliance and enforcement scheme

Queensland's compliance and enforcement scheme includes the following mechanisms:

- audited returns
- offences and penalties relating to:
  - the prohibited donations and donation caps discussed in Chapter 3
  - the disclosure obligations under electoral legislation discussed in Chapter 4
  - the register of interests for MLAs discussed in Chapter 4
- the ECQ — the regulatory body responsible for enforcing Queensland's political donation and disclosure laws.

The following sections compare these mechanisms with those in the other jurisdictions we reviewed.

Audited disclosure returns

Generally, Queensland's enforcement and compliance scheme seeks to 'punish non-compliance, rather than compelling compliance at the time relevant actions are being undertaken' (Parliament of Australia 2011, p. 178). One exception to this is the requirement for disclosure returns under the QEA to be audited, which is designed to encourage compliance at the time of disclosure. The QEA requires that all returns, other than special returns and those from donors be accompanied by an audit certificate stating that the auditor: [30]

- was given full and free access to the relevant accounts
- examined the relevant accounts and documents
- received all further information required
- has no reason to think any statement in the return is not correct (s. 310 QEA).

As shown in Table 4, Queensland is one of only four reviewed jurisdictions that require disclosure returns to be audited. Notably, NSW's audit requirements are similar to Queensland's in that they also do not apply to returns from donors.

Table 4: Audit requirements for disclosure returns

No requirement for disclosure returns to be audited	Disclosure returns required to be audited
Cwlth	**Qld**[b]
ACT[a]	NSW[c]
NT	NZ[d]
WA	Canada[d]
UK	
USA	

Notes:
SA and Tas do not have disclosure schemes. In Vic, only political parties that are federally registered lodge returns, and these are not subject to audit requirements.

[a] Political parties and MLAs can submit audited annual accounts in lieu of periodic returns.

[b] Applies to periodic returns for political parties and associated entities, and post-election returns for candidates and third parties.

[c] Applies to periodic returns from political parties, third party campaigners, candidates and elected members only (returns from major political donors are excluded).

[d] Applies to all returns.

Offences and penalties

In Queensland, there are offences and penalties in place for breaches related to both prohibited donations and donation caps, and disclosure obligations under the QEA. In relation to both of these:

- the provisions impose greater sanctions where the conduct is fraudulent, or where the conduct is that of an agent of a political party or candidate
- there are provisions to excuse conduct that would otherwise be an offence where the relevant person did not have the requisite knowledge (for example, where the person did not know of the circumstance that would make receipt of the donation unlawful) [s. 307(13) QEA].

30 Broadcasters and publishers are also required to submit audited returns in Queensland (ss. 284-285 QEA).

There are also offences and penalties related to the register of interests for Queensland MLAs.

Offences and penalties related to prohibited donations and donation caps

As discussed in Chapter 3, it is an offence in Queensland for a candidate or political party to:

- accept an anonymous gift of $200 or more (s. 271 QEA)
- receive a loan of $1000 or more from an entity other than a financial institution unless the prescribed records are kept (s. 272 QEA)
- accept a gift of foreign property (s. 270 QEA).

It is also an offence for a candidate or political party to receive a donation that breaches the relevant donations cap, and for a person (including corporations and unincorporated associations) to make a payment in excess of the donations cap.

In each case, the amount by which the gift is unlawful is payable to the state and can be recovered as a debt to the state. There are also criminal sanctions. These vary across the different offences, as outlined below.

Receiving unlawful donations

In Queensland, receiving anonymous gifts over $200, prohibited informal loans, and donations above the cap are included in a general offence of 'receiving unlawful donations'. This carries a maximum penalty of either twice the amount of the donation or $22 000 (200 penalty units),[31] whichever is greater (s. 318 QEA).

Figure 19 shows that the penalties in Queensland are higher than, or consistent with, those in many jurisdictions reviewed. Most jurisdictions, including all Australian jurisdictions, require either one or two times the amount of the donation to be paid to the state. In contrast to Queensland, NSW and NZ may impose higher penalties in some cases by also requiring the recipient to pay an additional fine of between $10 000 and $40 000. The USA also provides for a term of imprisonment (up to five years); it is the only jurisdiction to do so.

31 The current value of a penalty unit is $110.

Figure 19: Maximum penalties for offences similar to 'receiving unlawful donations'

Lower penalties ◄——————————————————————► *Higher penalties*

Cwlth – the amount of the donation[a]

NT – the amount of the donation[a]

WA – the amount of the donation[b]

ACT – the amount of the donation (for informal loans and anonymous donations)

Vic – for excessive donations from gaming licensees, the amount of the donation in excess

Qld – twice the amount of the donation or $22 000

ACT – twice the amount of the donation (for donations from people not on the electoral roll)[c]

Canada – $1000 and/or 3 months imprisonment[d]

NSW – the amount of the donation (double if the recipient knew the donation was unlawful), and $11 000 ($22 000 for a party) (where recipient knows unlawful)

NZ – the amount of the donation in excess and $10 000 (candidate) or $40 000 (party secretary)

USA – $5000–$10 000 or up to twice the amount of the donation, and/or 1–5 years imprisonment[e]

UK – Summary conviction $5000 or 6 months imprisonment; indictable conviction fine or 1 year imprisonment[f]

Notes:
Prohibitions against receiving these types of donations do not exist in SA or Tas.

[a] Applies to prohibited anonymous donations and informal loans.

[b] Applies to prohibited anonymous donations.

[c] Where reasonable steps are taken to return the gift, only an amount equal to the donation is payable.

[d] Applies to agents of parties and agents of candidates.

[e] There is no specific offence, but there are penalties for knowingly and wilfully committing a breach. The penalties vary according to the amount of the donation. Donations over $25 000 attract a maximum penalty of five years imprisonment and/or a fine of $10 000 or twice the amount of the donation (whichever is greater); donations over $2000 but less than $25 000 attract a maximum penalty of one year imprisonment and/or a fine of $10 000 or twice the amount of the donation (whichever is greater). For all other offences, the maximum penalty is a fine of $5000 or the amount of the donation (whichever is greater).

[f] Applies to impermissible and anonymous donors.

Accepting a gift of foreign property

In Queensland, accepting a gift of foreign property carries a maximum penalty of one year imprisonment or a $26 400 fine [240 penalty units; s. 307(11) QEA]. The value of the prohibited gift is also payable as a debt to the state. As shown in Figure 20, Queensland's penalties are among the highest of all jurisdictions reviewed — only NZ provides for a higher monetary penalty, and only the USA provides for a longer term of imprisonment (up to five years).

Figure 20: Maximum penalties for accepting foreign gifts and similar offences

Lower penalties ⟷ *Higher penalties*

ACT – twice the amount of the donation[a]	Canada – $1000 and/or 3 months imprisonment[b]	UK – £5000 or 6 months to 1 year imprisonment[c]	NSW – the amount of the donation (double if the recipient knew the donation was unlawful) and $11 000 ($22 000 for a party)	**Qld – the amount of the donation and $26 400 or 1 year imprisonment** NZ – the amount of the donation in excess of amount permitted and $40 000 (for a candidate or party secretary) USA – $5000–$10 000 or up to twice the amount of the donation, and/or 1–5 years imprisonment[d]

Notes:
The prohibition against receiving foreign property does not exist in the Cwlth, Vic, SA, WA, Tas or the NT.

[a] Where reasonable steps are taken to return the gift, only an amount equal to the donation is payable.

[b] Applies to agents of parties and agents of candidates.

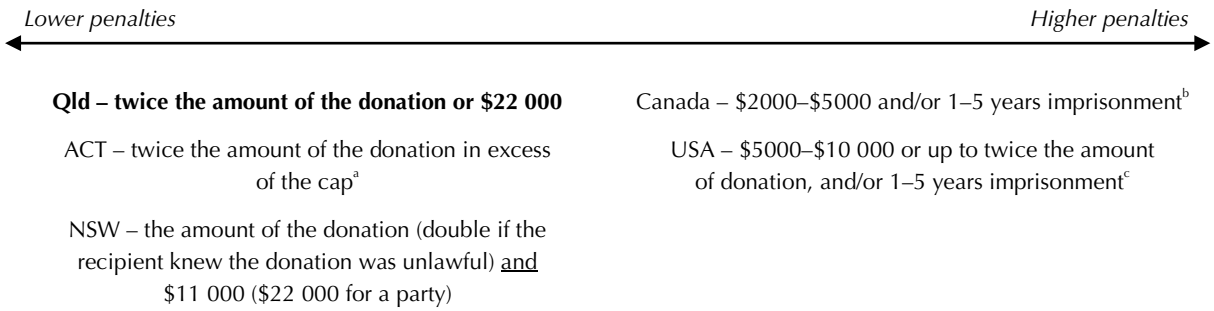
[c] With regard to the length of imprisonment, the sentence at the bottom of the range applies to summary offences; the sentence at the top of the range applies to indictable offences.

[d] There is no specific offence, but there are penalties for knowingly and wilfully committing a breach. See note 'e' to Figure 19 for more details.

Accepting a payment in excess of the donations cap

With regard to accepting payments in excess of the donations caps, the penalties in Queensland are similar to those in NSW and the ACT, and higher than the monetary penalties in Canada and the USA. However, these overseas jurisdictions also provide for a term of imprisonment up to five years (see Figure 21).

Figure 21: Maximum penalties for accepting payments in excess of the donations cap



Notes:
Donation caps do not exist in the Cwlth, Vic, SA, WA, Tas, the NT, NZ or the UK.

[a] Where reasonable steps are taken to return the gift, only an amount equal to the donation is payable.

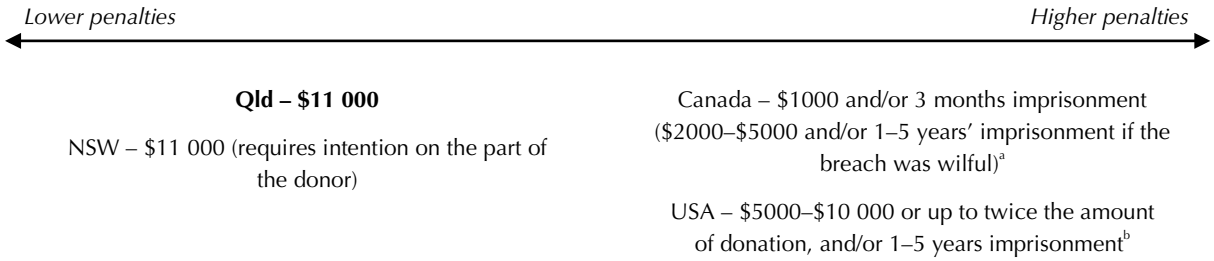
[b] The penalty at the bottom of the range applies to summary offences; the penalty at the top of the range applies to indictable offences.

[c] There is no specific offence, but there are penalties for knowingly and wilfully committing a breach. See note 'e' to Figure 19 for more details.

Making a payment in excess of the donations cap

The maximum penalty for making a payment in excess of the donations cap in Queensland is an $11 000 fine (100 penalty units; ss. 253, 255, 257 QEA). As shown in Figure 22, this is consistent with the penalty in NSW, and higher than the monetary penalties in Canada and the USA. Again, however, these overseas jurisdictions also provide for a term of imprisonment up to five years.

Figure 22: Maximum penalties for making payments in excess of the donations cap



Notes:
Donation caps do not exist in the Cwlth, Vic, SA, WA, Tas, the NT, NZ or the UK. No relevant offence was found for the ACT.

[a] For wilful breaches, the penalty at the bottom of the range applies to summary offences; the penalty at the top of the range applies to indictable offences.

[b] There is no specific offence, but there are penalties for knowingly and wilfully committing a breach. See note 'e' to Figure 19 for more details.

Offences and penalties related to disclosure obligations under the QEA

Section 307 of the QEA sets out the range of breaches associated with disclosure returns. The key breaches are:

- failure to give a donations return within the time required
- giving a return that is incomplete
- giving a return that contains particulars that are, to the knowledge of the agent or person, false or misleading in a material particular
- giving information to another that is, to the knowledge of the provider, false or misleading in a material particular.

Queensland's disclosure return offences are almost identical to those in other Australian and international jurisdictions. However, the maximum penalties attached to the offences differ substantially, as outlined below for each offence type.

Failing to submit a return on time

In Queensland, the maximum penalty for failing to submit a return on time is an $11 000 fine (100 penalty units) for an agent of a registered party, and a $2200 fine (20 penalty units) for others. In addition to imposing a penalty, the court may order the return to be given within a further stated time [s. 307(6) QEA].

Figure 23 shows that Queensland has some of the lowest penalties in this regard. Although the fines in Queensland are higher than those in the Commonwealth, WA and the ACT (for agents), they are considerably lower than those in NSW, NZ and the NT. Furthermore, the NT, the USA and Canada all provide for terms of imprisonment ranging from three months to five years.

Figure 23: Maximum penalties for failing to submit a return on time

Lower penalties ⟷ *Higher penalties*

Cwlth – $1000 ($5000 for an agent) WA – $1500 ($7500 for an agent)	**Qld – $2200 ($11 000 for an agent)** ACT – $2200 ($5500 for an agent)	UK – £5000	NSW – $22 000 NZ – $40 000 (if elected, candidates also have to pay $400 per day until the return is submitted)	NT – $28 200 or 12 months imprisonment for a person; $141 000 for a corporation Canada – $1000 and/or 3 months imprisonment ($2000–$5000 and/or 1–5 years imprisonment if the breach was wilful)[a] USA – $5000–$10 000 and/or 1–5 years imprisonment[b]

Notes:
SA and Tas do not have disclosure schemes. No relevant offence was found for Vic.

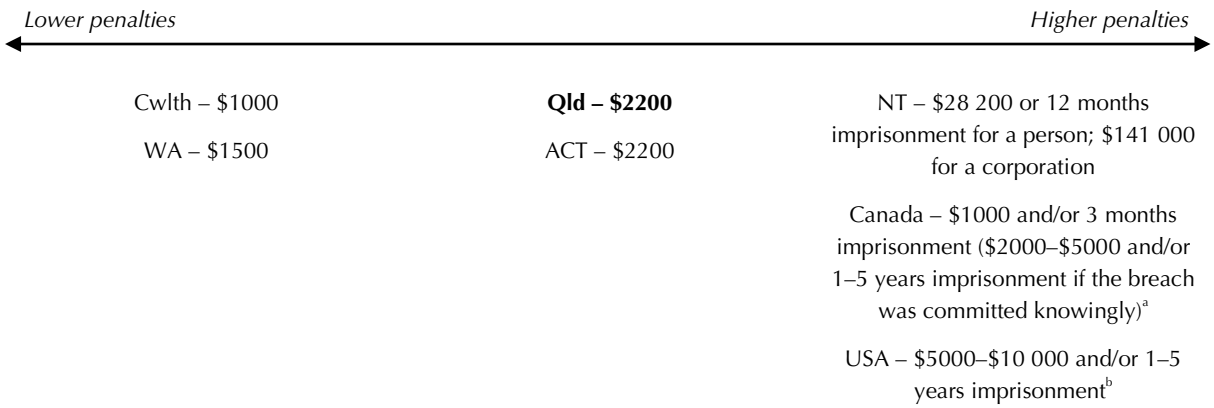
[a] For wilful breaches, the penalty at the bottom of the range applies to summary offences; the penalty at the top of the range applies to indictable offences.

[b] There is no specific offence, but there are penalties for knowingly and wilfully committing a breach. See note 'e' to Figure 19 for more details.

Submitting an incomplete return

The maximum penalty for submitting an incomplete return in Queensland is a $2200 fine (20 penalty units), including for agents. As illustrated in Figure 24, this is a higher penalty than in the Commonwealth and WA, but a significantly lower penalty than in the NT, Canada and the USA — these three jurisdictions all provide for a term of imprisonment and generally higher monetary penalties (particularly in the NT).

Figure 24: Maximum penalties for submitting an incomplete return



Notes:
SA and Tas do not have disclosure schemes. No relevant offence was found for NSW, Vic, NZ or the UK.

[a] For breaches committed knowingly, the penalty at the bottom of the range applies to summary offences; the penalty at the top of the range applies to indictable offences.

[b] There is no specific offence, but there are penalties for knowingly and wilfully committing a breach. See note 'e' to Figure 19 for more details.

Knowingly submitting a false or misleading return

In Queensland, the maximum penalty for knowingly submitting a return containing false or misleading particulars is a $22 000 fine (200 penalty units) for a party's agent, an $11 000 fine (100 penalty units) for a candidate's agent, or a $5500 fine (50 penalty units) for others. These increased penalties for offences committed by agents are in line with many of the other jurisdictions reviewed. In addition to a penalty, the court can order the person to refund to the state the amount of any wrongfully obtained payment [s. 307(7) QEA].

As shown in Figure 25, the penalties in Queensland are among the lowest of all jurisdictions reviewed. Although Queensland's penalties are similar to those in the Commonwealth, WA and Victoria, other jurisdictions provide for generally higher monetary penalties, and terms of imprisonment ranging from six months to five years.

Figure 25: Maximum penalties for knowingly submitting a false or misleading return

Lower penalties ◄——————————————————► *Higher penalties*

Qld – $5500 ($11 000 for a candidate's agent and $22 000 for a party's agent)	ACT – $5500 and/or 6 months imprisonment	NSW – $22 000 and/or 12 months imprisonment
Cwlth – $5000 ($10 000 for an agent)	UK – £5000 or 6 months to 1 year imprisonment[a]	NT – $28 200 or 12 months imprisonment for a person; $141 000 for a corporation
WA – $7500 ($15 000 for a party's agent)	Canada – $2000–$5000 and/or 1–5 years imprisonment[b]	NZ – $100 000 or 2 years imprisonment ($40 000 fine if the offence was unintentional or reasonable steps were taken to ensure information was accurate)[c]
Vic – $8450.40 for a candidate($16 900.80 for an officer of a party)		USA – $5000–$10 000 and/or 1–5 years imprisonment[d]

Notes:
SA and Tas do not have disclosure schemes.

[a] With regard to the length of imprisonment, the sentence at the bottom of the range applies to summary offences; the sentence at the top of the range applies to indictable offences.

[b] Applies to agents of candidates and agents of parties. The penalties at the bottom of the range apply to summary offences; the penalties at the top of the range apply to indictable offences.

[c] Applies to candidates and party secretaries.

[d] There is no specific offence, but there are penalties for knowingly and wilfully committing a breach. See note 'e' to Figure 19 for more details.

Knowingly giving false or misleading information to another

In Queensland, the maximum penalty for knowingly giving false or misleading information to a person who is required to give a return is a $2200 fine (20 penalty units).

Figure 26 shows that, in comparison to other jurisdictions, this penalty is fairly low — NSW, the ACT, the NT, the UK and the USA all provide for significantly higher monetary penalties and, with the exception of NSW, also provide for terms of imprisonment ranging in length from six months to five years.

Figure 26: Maximum penalties for knowingly giving false or misleading information to another

Lower penalties ← → *Higher penalties*

Cwlth – $1000 WA – $1500 Vic – $1408.40	**Qld – $2200**	ACT – $5500 and/or 6 months imprisonment UK – £5000 or 6 months to 1 year imprisonment[a]	NSW – $22 000[b] NT – $28 200 or 12 months imprisonment for a person; $141 000 for a corporation USA – $5000–$10 000 and/or 1–5 years imprisonment[c]

Notes:
SA and Tas do not have disclosure schemes. No relevant offence was found for NZ or Canada.

[a] Refers to 'knowingly giving treasurer false information about donations' [s. 61(2)(a) PPER]. Note that with regard to the length of imprisonment, the sentence at the bottom of the range applies to summary offences; the sentence at the top of the range applies to indictable offences.

[b] Refers to 'giving or withholding information knowing it will result in the making of a false statement' [s. 96H(3) EFEDA].

[c] There is no specific offence, but there are penalties for knowingly and wilfully committing a breach. See note 'e' to Figure 19 for more details.

Offences and penalties related to the register of interests for MLAs

In Queensland, there is no specific offence for failing to submit a return for the Register of Members' Interests, or for knowingly providing false and misleading information in such a return. However, contravention of these obligations, contained in s. 69B of the PQA, amounts to a contempt of parliament.

In relation to dealing with contempt, the Queensland Parliament has all the powers that the UK House of Commons possessed as at 1901, with the power to fine expressly included (s. 39 PQA). Accordingly, the full range of penalties for contempt of parliament is available for MLAs who do not fulfil their reporting obligations. The maximum fine that can be given is $2000, and imprisonment can be ordered if the fine is not paid [s. 277 Standing Rules and Orders of the Legislative Assembly of Queensland 2004]. In those jurisdictions that prescribe a fine for contempt, with the exception of WA (up to $100, or 14 days imprisonment in default), the fines are substantially higher than in Queensland (up to a $5000 fine, as in the Commonwealth and the NT). Some jurisdictions also prescribe a term of imprisonment (up to six months, as in the Commonwealth and the NT).

In contrast to Queensland, some other jurisdictions have specific offences for failing to submit a return or for providing false or misleading information:

- In NSW, wilfully contravening the disclosure regulations may lead to the member's seat being declared vacant.
- In SA, wilfully contravening or failing to comply with the disclosure provisions attracts a maximum penalty of a $5000 fine.
- In the USA, knowingly failing to file a report or falsifying a disclosure report attracts a civil penalty of up to $10 000.

Similarly, in both Victoria and Tasmania, members who fail to comply with their disclosure obligations may face penalties in addition to any punishment given for contempt — in Victoria, a fine of up to $2000 and loss of seat in default; in Tasmania, admonishment, a fine of up to $10 000 or suspension. In the ACT, the Legislative Assembly has no power to fine or imprison for contempt.

The ECQ

The primary functions of the ECQ in enforcing Queensland's political donation and disclosure laws include ensuring compliance with the regulatory framework, and taking enforcement action when a breach has occurred.

The ECQ, through its authorised officers, has investigative powers typical of a law enforcement agency to enforce the QEA provisions (ss. 360–4). These include powers to:

- enter in prescribed conditions without a warrant
- enter under warrant
- search, examine documents, take copies and seize evidence from a place lawfully entered
- require personal details
- require production of documents
- require information
- enter into a compliance agreement with a defaulting party (ss. 319–48 QEA).

There are various penalties for non-compliance with a requirement from an authorised officer.

The powers of the ECQ are generally the same as those of regulating authorities in other jurisdictions. However, there are some additional or wider powers and provisions in other jurisdictions, including:

- the power, similar to a hearings power, to require a person to attend and answer questions at the regulatory body. This would usually be done under oath. The regulatory bodies in the ACT [s. 237(4) EA (ACT)], NSW (s. 110A EFEDA) and the USA (s. 437d FECA) have this power
- a provision that requires information to be given under oath or affirmation. This helps to increase the integrity of the process, and provides a remedy should the information given be false. These provisions exist in both WA [s. 175W(5) *Electoral Act 1907*] and the Commonwealth [s. 316(4) *Commonwealth Electoral Act 1918* (CEA)]
- provisions enabling the power to obtain information and documents to be exercised for the purpose of finding out whether there has been compliance, as in the Commonwealth [s. 316(2A) CEA]. The AEC undertakes compliance reviews of federally registered parties, their state branches and associated entities, usually once in a parliamentary cycle. This is in contrast to Queensland, where exercise of the power is subject to the authorised officer having a reasonable belief that an offence has been committed.

Initiatives in other jurisdictions

Administrative sanctions

In addition to criminal offences, Canada and the USA have a range of administrative sanctions to encourage compliance with regulatory requirements or respond to breaches of the donation and disclosure laws.

Canada, for example, has modified its enforcement regime based on the proposition that most participants in the electoral process want to comply with the law, and will correct their behaviour to ensure conformity (Australian Government 2008, p. 70). The Canadian framework therefore includes a range of 'administrative incentives' to encourage regulatory compliance. These include the power to:

- withhold election funding where reporting requirements are not met;
- suspend registered political parties that fail to provide an annual return;
- seek an injunction during an election period to prevent any person from doing any act that is prohibited by Canadian electoral legislation or to do any act required by that legislation (Australian Government 2008, p. 70).

In the USA, there is an Administrative Fine Program, whereby committees that file disclosure reports late or fail to file reports are subject to civil monetary penalties, which are often arrived at through a conciliation process (Federal Election Commission 2011, p. 82).

Administrative penalties have also recently been advocated in Australia's Commonwealth jurisdiction. The AEC, in its submission to the JSCEM, supported a shift to administrative penalties for 'straightforward' offences because:

> the addition of administrative penalties would assist the AEC to enforce compliance requirements without the necessity of referring all matters to the CDPP [Commonwealth Director of Public Prosecutions]. It is expected that these types of administrative penalties would result in more timely compliance with disclosure provisions without creating additional burden on the CDPP resources (Parliament of Australia 2011, p. 180).

The committee made a recommendation accordingly (Parliament of Australia 2011, p. 186).

Part 3

Regulation of donations and gifts at local government level

CHAPTER 6: PROHIBITIONS AND RESTRICTIONS ON DONATIONS

Key findings

Queensland's regulatory framework for prohibiting and restricting donations is positioned as follows in relation to other Australian jurisdictions:

- *Anonymous gifts* — With regards to anonymous gifts to local government candidates, Queensland is one of the most regulated jurisdictions in Australia.
- *Informal loans* — Queensland is one of the few jurisdictions in Australia with a restriction on informal loans to local government candidates, with most jurisdictions having no such prohibitions.
- *Other prohibitions* — Unlike NSW, Queensland's overall scheme of prohibitions and restrictions does not prohibit donations from donors such as corporate donors, foreign donors, children and property developers.
- *Donation caps* — As with all jurisdictions reviewed, no donation caps apply to local government elections in Queensland. This is in contrast to Queensland's state regulatory framework.

The rationale for prohibitions and restrictions on donations

Prohibitions and restrictions on the source or size of political donations are included in political financing schemes to:

- minimise the influence, or the perception of influence, of donors on the political process (integrity)
- support a 'level playing field' between the key participants in the political process (equity).

However, regulators have to balance these aims against the freedom to participate in the political process.

Queensland's prohibitions and restrictions

Prohibited donations

To achieve these aims, Queensland's local government regulatory framework prohibits certain donations based on their source. Queensland, similar to most other jurisdictions, has fewer prohibitions on donations in local government than in state government. NSW is an exception, where the same legislative provisions apply to both state and local government elections.[32]

In Queensland, candidates and groups of candidates in local government are not permitted to receive:

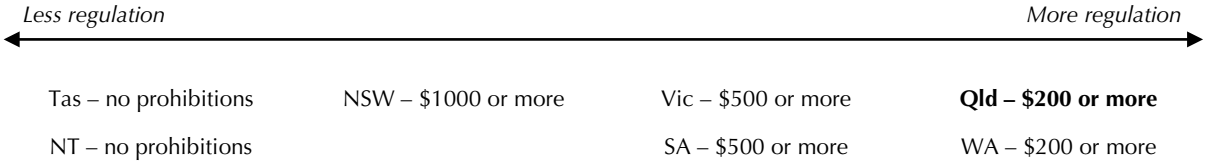
- anonymous gifts of $200 or more (s. 119 LGEA)
- informal loans of $200 or more (s. 120 LGEA).

32 The only provisions of the EFEDA that do not apply to local government elections are Part 6 Division 2A *Caps on Political Donations for state elections* and Division 2B *Caps on electoral communication expenditure for state election campaigns.*

A councillor who renominates will be bound by the prohibitions for candidates, because the disclosure period for candidates who are councillors commences the day that they were most recently elected or appointed (s. 113 LGEA).

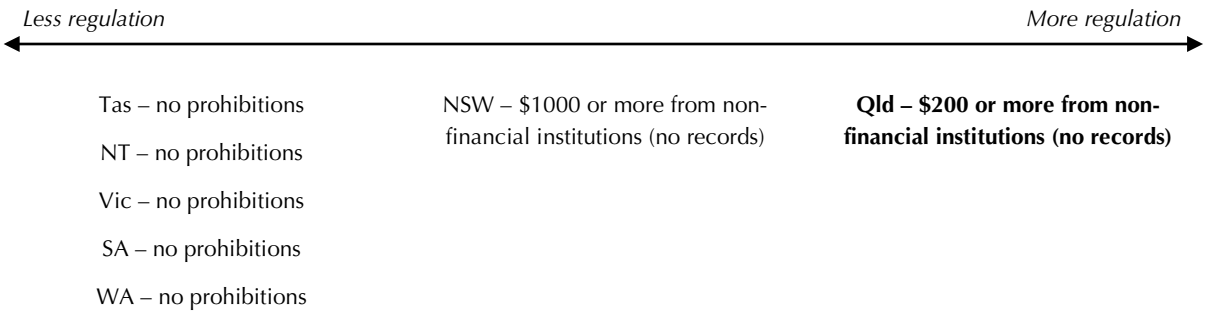
As seen in Figures 27 and 28, Queensland has the lowest thresholds and therefore the most regulation of all Australian jurisdictions for both of these donation types.

Figure 27: Thresholds for prohibitions against anonymous gifts



Note: The ACT does not have local government.

Figure 28: Thresholds for prohibitions against informal loans



Note: The ACT does not have local government.

As well as these prohibitions for candidates and groups of candidates, Queensland political parties at the local government level are subject to the prohibitions discussed in Chapter 3.

Capped donations

In contrast to the state regulatory scheme, there are no caps on electoral donations for local government elections in Queensland. This is the same as in all other Australian jurisdictions, including NSW, which has donations caps at the state election level only.

Initiatives in other jurisdictions

Prohibitions on donations to councillors

Queensland does not currently have any prohibitions on gifts to councillors. This is in contrast to NSW, Victoria and SA, which all prohibit councillors from receiving certain types of donations.

Prohibitions on donations from other sources

There are currently no prohibitions on donations from categories of donors in Queensland. NSW, in contrast, prohibits donations to local government participants from various other sources, including corporations, foreign donors, minors and other people not on the electoral roll; property developers; and the gambling, liquor and tobacco industries.

CHAPTER 7: DISCLOSURE OF DONATIONS

Key findings

Queensland's requirements for the disclosure and publication of donations at local government level are positioned as follows in relation to other Australian jurisdictions:

- *Disclosure thresholds* — Queensland's threshold for reporting by candidates is one of the lowest in Australia, and therefore provides more regulation than most other jurisdictions. On the other hand, Queensland's threshold for reporting by councillors is similar to several other jurisdictions, but higher and therefore providing less regulation than in WA.
- *Disclosure by candidates* — Queensland's reporting obligations for candidates are similar to most other Australian jurisdictions in that they require post-election returns only. In WA, however, candidates are required to disclose gifts contemporaneously.
- *Disclosure by councillors* — Councillors in Queensland have the highest reporting obligations in Australia. This is because there is an ongoing requirement for them to disclose gifts above the threshold within 30 days of them becoming aware of the gift.
- *Disclosure by third parties* — Queensland is one of only two jurisdictions to impose disclosure obligations on third parties. NSW requires third parties to submit annual disclosure returns, whereas only post-election returns are required in Queensland.
- *Particulars to be disclosed* — The particulars that need to be disclosed in returns in Queensland are largely the same as in other jurisdictions. The requirement for particulars in Queensland extends to unincorporated associations, trust funds and professional trust accounts.
- *Lodgement and public release of returns* — Compared to other jurisdictions in Australia, post-election disclosure returns in Queensland take significantly longer to be lodged and made available to the public. The timeframe for the public release of special disclosure returns is also longer in Queensland than in WA (the only other jurisdiction with special reporting obligations).

The rationale for disclosure

The requirement to disclose political donations:

- enables voters to make informed decisions at the ballot box (transparency)
- ensures voters have information about the financial arrangements of participants in the political process at critical times (integrity)
- enables the regulatory authority to monitor compliance with the political donation caps and thresholds (accountability).

Queensland's disclosure requirements

The regulation of disclosure at the local government level in Queensland comes from three sources:

1. the LGEA, which requires candidates, groups of candidates and third parties to disclose donations
2. the QEA, which requires political parties, associated entities and donors to political parties to disclose donations
3. registers of interests or gifts for councillors, which are maintained by most local governments, and impose obligations on councillors to notify the chief executive officer (CEO) of gifts they receive during their term of office (Local Government (Operations) Regulation 2010 (LGOR)).

We discuss below all disclosure obligations on local government participants in Queensland under each piece of legislation.

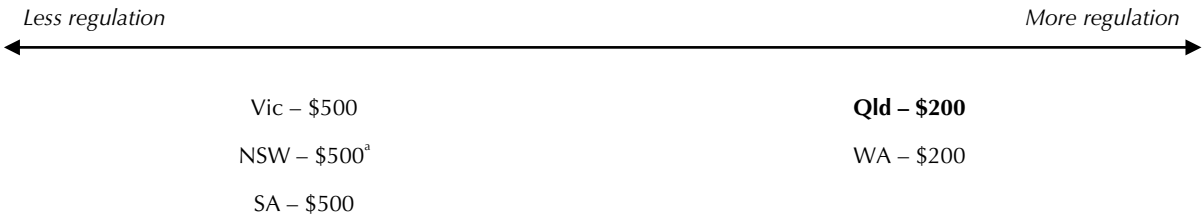
Disclosure thresholds

In Queensland, the disclosure threshold at the local government level varies for different disclosing individuals and entities.

For candidates and groups of candidates, the disclosure threshold is $200. Although candidates and groups of candidates must submit post-election returns to the ECQ in all cases, the name and address of the donor must also be included for all gifts above the threshold [ss. 117(2), 118(3) LGEA].

Figure 29 shows that Queensland's threshold for candidates is, along with WA's, the lowest in Australia, and therefore provides the most regulation.

Figure 29: Disclosure thresholds for reporting by candidates



Notes:
The ACT does not have local government, and Tas and the NT do not have disclosure schemes.

The thresholds in Vic, SA and WA apply to candidates only (not also groups of candidates, as in NSW and Queensland).

[a] Regulation 184 Local Government (General) Regulation 2005 (NSW) [LGGR (NSW)]. Political donations of $1000 or more must be disclosed under the EFEDA.

For councillors, the disclosure threshold is $500 [Sch. 4 s. 11 LGOR]. Figure 30 shows that this is similar to the thresholds in NSW and Victoria, but higher, and therefore provides less regulation, than the threshold for councillors in WA.

Figure 30: Disclosure thresholds for reporting by councillors

Notes:
The ACT does not have local government, and Tas and the NT do not have disclosure schemes.

[a] Political donations of $1000 or more must be disclosed under the EFEDA.

For third parties, the disclosure threshold is $1000 [s. 125(1) LGEA]. This is the same as the threshold in NSW, which is the only other reviewed jurisdiction that imposes disclosure obligations on third parties.

In calculating thresholds under the LGEA (that is, those for candidates, groups of candidates and third parties):

- campaign committees (other than where it forms part of a political party) are treated as the candidate for the purposes of receiving gifts (s. 111 LGEA)
- related corporations are treated as one entity (s. 112 LGEA)
- two or more gifts made by the one donor to the same candidate, group of candidates or third party are treated as one gift [s. 119(4), 125(4) LGEA].

These provisions aim to prevent donation restrictions and disclosure obligations from being circumvented — for example, by a donor making multiple small gifts, or by donations coming from separate corporations but, in effect, the same source.

For political parties and associated entities, and donors to political parties, the same disclosure thresholds as discussed in Chapter 4 ($1000) apply.

Frequency of disclosure for disclosing individuals and entities

Political parties and associated entities

In Queensland, political parties and associated entities involved in local government are subject to the same periodic and special reporting obligations discussed in Chapter 4 (pp. 22–4) for state government regulation.

Candidates

After a local government election in Queensland, candidates and groups of candidates are required to provide details of the gifts and loans they received during the disclosure period (ss. 117, 118, 120 LGEA).[33, 34]

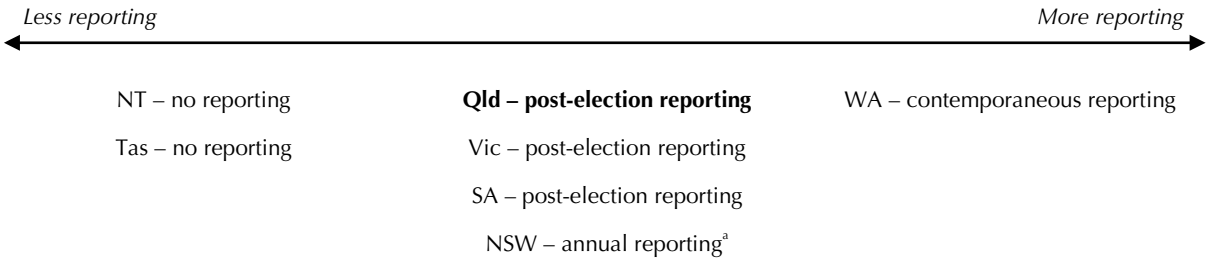
Figure 31 shows that Queensland is similar to Victoria, SA and NSW in this regard. However, WA operates a contemporaneous disclosure scheme, where candidates must disclose within three days of the receipt or promise of the gift [r. 30D Local Government (Elections) Regulations 1997 (LGER (WA))].[35]

33 The disclosure period for new candidates starts on the day of their announcement to be a candidate or their nomination, whichever is the earlier; for existing councillors, it starts on the day they were most recently appointed; and for groups of councillors, it starts 30 days after the previous four-yearly election (ss. 113, 115, 116 LGEA).

34 Of the other jurisdictions reviewed, only NSW also requires candidates to disclose loans they receive.

35 The disclosure period starts six months before the relevant election day.

Figure 31: Disclosure obligations on candidates



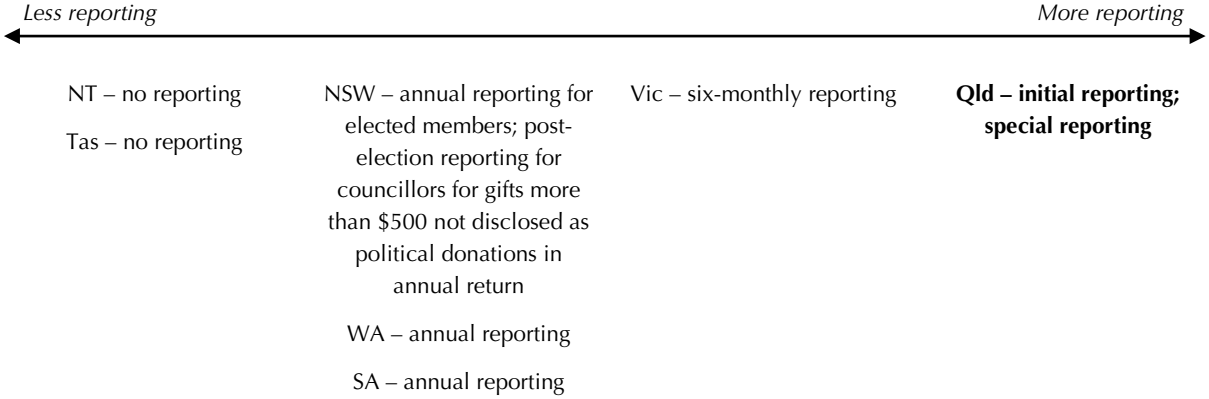
Notes:
The ACT does not have local government.

[a] The disclosure period for a candidate is each 12 month period ending on 30 June. A candidate who was not registered at the last election must disclose all political donations they received 12 months prior to the day on which they nominated.

Councillors

In Queensland, councillors are subject to special reporting requirements in that, on receiving a gift or gifts that reach the threshold, they must give details of the gift to the CEO within 30 days of the councillor becoming aware of the gift [r. 107(2) LGOR]. Councillors must also disclose loans [Sch. 4 s. 11(4)(b) LGOR].[36] These are the highest reporting requirements for councillors in all jurisdictions reviewed (see Figure 32).

Figure 32: Disclosure obligations on councillors



Note: The ACT does not have local government.

Third parties

A third party at the local government level in Queensland must submit a post-election return where it receives a gift of $1000 or more that enables it to incur expenditure for a political activity during the disclosure period.[37]

The only other Australian jurisdiction where third parties are required to disclose is NSW, where disclosure occurs annually.

36 Of the other jurisdictions reviewed, only NSW and WA also require councillors to disclose loans they receive.

37 Expenditure for political activity includes gifts to political parties and candidates [s.106 LGEA].

Donors

Donors to political parties (which may include third parties) are required to submit six-monthly, post-election and special disclosure returns as explained in Chapter 4 (pp. 26–7).

Donors are also required to submit post-election returns where their total expenditure on political activity (which includes donations to political parties and candidates) during an election disclosure period is $200 or more.[38] In WA, donors must also disclose gifts they make to candidates [r. 30CA(1) LGER (WA)], and in NSW disclosure obligations extend to those who donate to candidates, groups of candidates, councillors and third party campaigners [s. 88 EFEDA].

Who is disclosure made to at the local government level?

In Queensland, candidates, groups of candidates and third parties are required to submit their post-election returns to the ECQ. Queensland is similar to other Australian jurisdictions reviewed in this regard, with those returns also being given to the regulatory body. The ECQ must also give a copy of the successful candidates' and groups of candidates' returns to the CEO of the local government for which the election was held [ss. 117(4), 118(5) LGEA].

As discussed in Chapter 4, political parties, associated entities and donors with disclosure obligations must also submit their returns to the ECQ. Donors at the local government level in WA are required to submit their returns to the CEO.

Councillors in Queensland are required to submit their register of interest notifications to the CEO of the relevant local government. This is the same as in Victoria, SA and WA. In NSW, councillors are required to submit their annual returns for donations of $1000 or more to the regulatory body, and their post-election returns and annual returns for gifts over $500 (that have not been previously disclosed) to the general manager of the council [r. 184 LGGR (NSW) and s. 449(3) *Local Government Act 1993* (LGA (NSW))].

Particulars to be disclosed

At the local government level in Queensland, the details that must be disclosed about donations differ, depending on whether the disclosure is being made by a candidate, councillor or third party. In all cases, the particulars required in Queensland are substantially the same as those in other local government jurisdictions reviewed.

- Candidates (and agents for groups of candidates) must disclose whether they received any gifts during the disclosure period for the election and, if so, include in their return:
  - the total value of all the gifts
  - the number of people who made the gifts
  - the relevant details[39] for each gift made by a person to the candidate or group of candidates, if the total value of all gifts made by the person to the candidate or group during the disclosure period is $200 or more [ss. 117(2), s. 118(3) LGEA].[40]

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38 The election disclosure period starts on the next day after the returning officer publishes the election notice in the newspaper [s. 124(5) LGEA].

39 'Relevant details' for a person means their name and residential address; for an unincorporated association, it means the association's name and the names and addresses of members of the executive committee; for trusts and foundations, it means the name of the fund and names and addresses of trustees; and for a trust account of a lawyer or an accountant, it means the name and address of the person instructing the payment (s. 109 LGEA).

40 The agent of a group of candidates must also disclose the name of each candidate forming the group, and the name of the group.

Candidates (and agents for groups of candidates) must also disclose the total value of loans they received, and the number of people who made the loans. For each loan of $200 or more, the return must also include:
    - the date on which the loan was made
    - the name and address of the person who made the loan
    - the terms of the loan (s. 120 LGEA).
- Councillors who receive political donations over the threshold must disclose the donor's name and the amount or value of each gift [Sch. 4 s. 11(1) LGOR].
- Third parties must disclose the relevant details of donors who made gifts over $1000 that were then used by the third party to incur expenditure for political activity, such as making a donation to a political party (s. 125 LGEA). This provision helps in identifying the real source of the donation.
- Donors who incur $200 or more on political activity (which includes donations) must disclose the total value of the expenditure and its particular purpose [s. 124 LGEA].
- Political parties, associated entities and donors to political parties who have disclosure obligations under the QEA must provide the particulars outlined in Chapter 4 (page 28).

Timeframes for lodgement and public release of disclosure returns

Periodic reporting

As explained in Chapter 4 (page 28), the total timeframe allowed for the lodgement and public release of six-monthly disclosure returns from political parties, associated entities and donors to political parties is 14 weeks (around three months). Further discussion of Queensland's timeframe and how it compares with other jurisdictions is given on pp. 28–9.

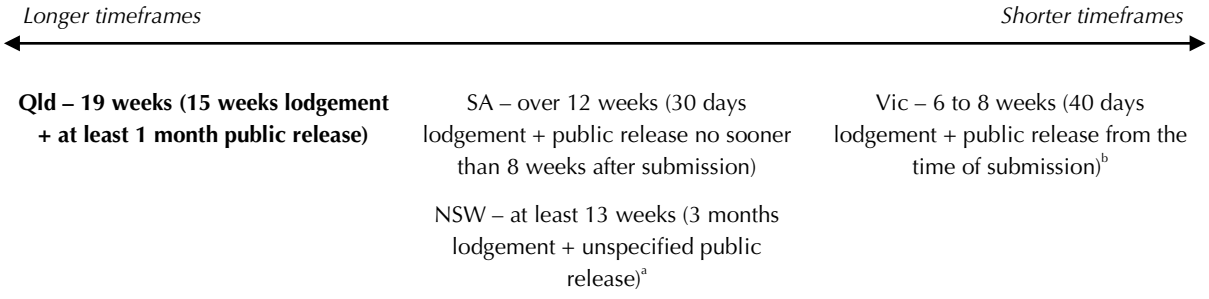
Post-election reporting

In Queensland, all disclosing individuals and entities at the local government level that are required to submit post-election returns (that is, candidates, groups of candidates and third parties) must do so within 15 weeks after an election.

The ECQ is required to keep a register of gifts for local government elections that includes copies of these post-election returns (s. 128 LGEA). The ECQ must ensure that the register is accessible at its office and on its website (s. 129 LGEA). There is no set timeframe for publication, although the ECQ website states that the returns are published progressively after they are received, and advises to 'allow one month for processing' (ECQ website, 6 November 2012). It therefore takes a minimum of around 19 weeks (4 months) for post-election returns to be made available to the public.

Compared with the other Australian jurisdictions with post-election reporting requirements, returns in Queensland take a significantly longer time (at least six weeks) to be made available to the public (see Figure 33). Returns are available especially quickly in Victoria.

Figure 33: Approximate timeframes for lodgement and public release of post-election disclosure returns



Notes:
Public release includes both the formal publication of returns, and making returns available to the public for inspection.

The ACT does not have local government, Tas and the NT do not have disclosure schemes, and WA does not have any post-election reporting.

[a] No timeframe for public release is specified, but the general manager is required to maintain a register of returns and table them at the first meeting after lodgement [s. 450A LGA (NSW)].

[b] The full return is available for inspection at the office from the time it has been submitted. A summary of the return is available on the council website 14 days after it has been submitted.

Contemporaneous and special reporting

In Queensland, councillors have 30 days to notify the CEO each time they receive a gift or gifts from the one donor totalling more than $500 [r. 107(2) LGOR]. The required particulars are then entered into a register of interests maintained by the CEO [r. 105(1) LGOR].

Although there is no specified timeframe for the public release of this information, the local government must ensure that a copy of the register of interests can be inspected by members of the public at its public office or on its website [r. 110(1) LGOR]. Any notified change to the register must be included in the copy of the register within five business days of the notification [r. 110(2) LGOR].

The only other jurisdiction with similar contemporaneous reporting (albeit for candidates and donors rather than councillors) is WA. As discussed on page 50, disclosures must be made within three days of receipt or promise of the gift. This is a much shorter timeframe than in Queensland, although the obligation in WA only lasts for the election period, while the obligation in Queensland is ongoing. Similar to Queensland, there is no specified timeframe for the public release of returns in WA, but they are available on receipt at the local government office.

Timeframes for the lodgement and public release of special returns by political parties are discussed in Chapter 4 (pp. 30–1).

Initiatives in other jurisdictions

Disclosure report summaries available on council websites

Recent amendments to the *Local Government Act 1989* in Victoria [LGA (Vic)] require the CEO to make a summary of each return (as compared to the actual return) available on the council's website within 14 days of receipt (where it is received within the prescribed time) (s. 62A). A summary of the election campaign return must include the name of the candidate and, if a gift is included, the name of the person who made the gift and the total value of the gift received from that person [s. 62A(2B) LGA (Vic)]. This should reduce the time it takes for relevant information to be made available to the public.

CHAPTER 8: COMPLIANCE AND ENFORCEMENT

Key findings

In Queensland, compliance and enforcement are primarily achieved by establishing offences and penalties, and by giving the ECQ and local government authorities a range of investigatory powers to enforce the QEA and LGEA respectively. In relation to other Australian and international jurisdictions, Queensland is positioned as follows:

- *Audited disclosure returns* — Queensland does not require disclosure returns at the local government level to be audited (except for political parties and associated entities under the QEA). This is in contrast to NSW.
- *Penalties related to prohibited donations* — Penalties for candidates who receive prohibited donations in Queensland are similar to those in SA and WA, but lower than those in NSW and Victoria, where up to twice the amount of the donation is payable to the state.
- *Penalties related to disclosure offences* — For most disclosure offences, Queensland's penalties are the lowest of all Australian jurisdictions. The highest penalties are in NSW, which provides for higher monetary penalties than Queensland, and is the only jurisdiction to provide for a term of imprisonment.
- *Offences and penalties related to registers of interests for councillors* — Penalties for offences related to registers of interests for councillors in Queensland are comparable to most reviewed jurisdictions. Only WA has a higher maximum penalty, as the only jurisdiction to provide for a term of imprisonment.
- *The ECQ* — The powers of the ECQ are similar to those of the regulating authorities in other jurisdictions. However, some of these authorities have wider powers, including the power to require a person to attend and answer questions on oath (the ACT and NSW).

The rationale for compliance and enforcement mechanisms

Compliance and enforcement mechanisms at the local government level in Queensland aim to enhance transparency and integrity of the political process.

Queensland's compliance and enforcement scheme

The following compliance and enforcement mechanisms are currently used in Queensland generally:

- audited returns
- offences and penalties relating to:
  - the prohibited donations discussed in Chapter 6
  - the disclosure obligations under electoral legislation discussed in Chapter 7
  - the registers of interests for councillors discussed in Chapter 7
- the ECQ — responsible for enforcing Queensland's political donation and disclosure laws
- the relevant local government authority — responsible for maintaining registers of councillors' interests.

Each of these is discussed below.

Audited disclosure returns

As discussed in Chapter 5, disclosure returns submitted by political parties and associated entities under the QEA must be accompanied by an audit certificate (see page 34 for more details).

However, returns at the local government level by candidates, groups of candidates and third parties are not required to be audited. This is in contrast to NSW, where an audit certificate is required from councillors, candidates and third party campaigners (s. 96K EFEDA).

Offences and penalties related to prohibited donations

As discussed on page 46, it is an offence in Queensland for a candidate or group of candidates at the local government level to receive certain anonymous gifts and informal loans.

Figure 34 shows that Queensland's penalties are similar to those in SA and WA, but lower than those in NSW and Victoria where up to twice the amount of the donation is payable to the state.

Figure 34: Maximum penalties for offences similar to 'receiving unlawful donations'

Lower penalties ◄——► *Higher penalties*

Qld – the amount of the donation[a]

SA – the amount of the donation[b]

WA – $5000[b]

NSW – the amount of the donation (double if the recipient knew the donation was unlawful) and $11 000 (where the recipient knew the facts that would make the donation unlawful)[a]

Vic – twice the amount of the donation[b]

Notes:
The ACT does not have local government, and Tas and the NT do not have any prohibitions against receiving these types of donations.

[a] Applies to receiving prohibited anonymous gifts and prohibited informal loans.

[b] Applies to receiving prohibited anonymous gifts only.

Additional offences and penalties for political parties who receive prohibited donations under the QEA are discussed in Chapter 5 (pp. 34–6).

Offences and penalties related to disclosure obligations under the LGEA

Section 195 of the LGEA sets out the range of offences in Queensland associated with disclosure returns for candidates, groups of candidates and third parties.[41] The primary ones are:

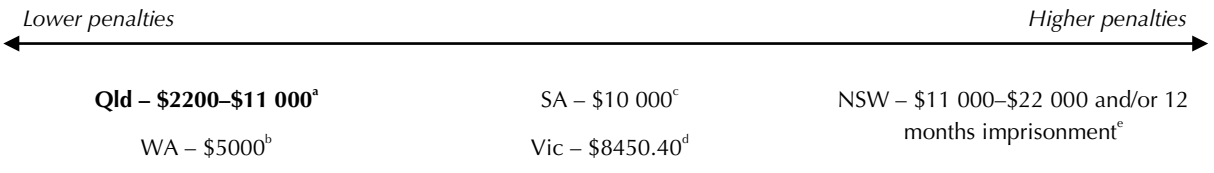
- failure to give a donations return within the time required
- giving a return that contains particulars that are, to the knowledge of the person, false or misleading in a material particular
- giving information to another that is, to the knowledge of the provider, false or misleading in a material particular.

41 A councillor who renominates will be bound by the disclosure requirements for candidates, as the disclosure period for candidates who are councillors commences the day that the councillor was most recently elected or appointed (s. 113 LGEA).

In Queensland, the maximum penalty for these offences is a $2200 fine (20 penalty units), with the exception of knowingly submitting a false or misleading return, where the maximum penalty is a $11 000 fine (100 penalty units) for candidates and a $5500 fine (50 penalty units) for others [s. 195(2) LGEA]. Further, in relation to the offence of knowingly submitting a false and misleading return, the court can order that the value of any gift not lawfully disclosed be paid to the state [s. 195(7) LGEA]. The court may also order the return be submitted within a stated time [s. 195(6) LGEA].

Figure 35 shows that, for most disclosure offences, Queensland's penalties are the lowest of all Australian jurisdictions. The highest penalties are in NSW, which is the only jurisdiction to provide for a term of imprisonment.

Figure 35: Typical maximum penalties for disclosure offences



Notes:
The ACT does not have local government, and Tas and the NT do not have disclosure schemes.

a Applies to failing to submit a return on time, knowingly giving false or misleading information to another, failing to retain records in relation to a return for the specified number of years, and failing to obtain further information for an incomplete return. The maximum penalty for knowingly submitting a false or misleading return is $11 000 for candidates and $5500 for others.

[b] Applies to failing to submit a return on time and knowingly submitting a false or misleading return. Donors who fail to make a contemporaneous disclosure face a maximum penalty of a $5000 fine.

[c] Applies to failing to submit a return on time, knowingly submitting a false or misleading return, and knowingly giving false or misleading information to another. The maximum penalty for failing to retain records in relation to a return for the specific number of years is $5000.

[d] Applies to failing to submit a return on time, knowingly submitting a false or misleading return, and knowingly giving false or misleading information to another.

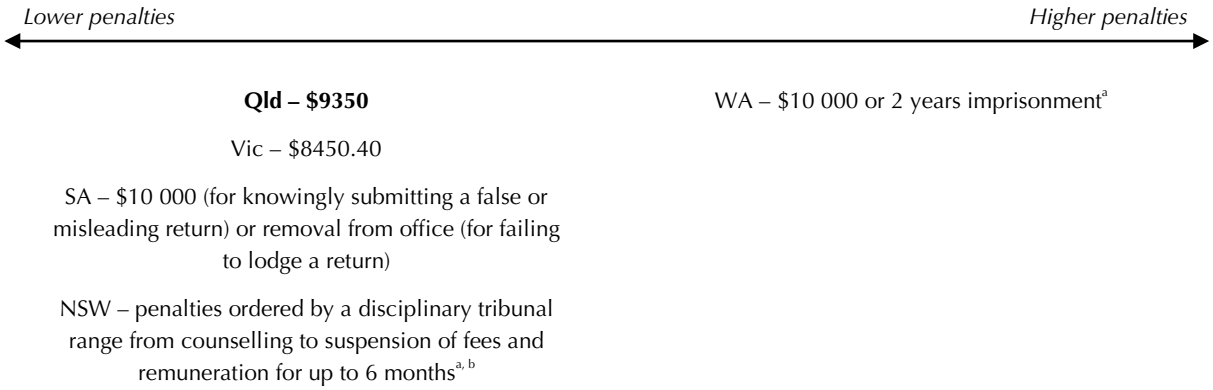
[e] The maximum penalty is $11 000 for failing to retain records in relation to a return for the specific number of years; $22 000 for failing to submit a return on time or knowingly giving false or misleading information to another; and $22 000 and/or 12 months imprisonment for knowingly submitting a false or misleading return.

Disclosure-related offences for political parties, associated entities and donors to political parties under the QEA are explained in Chapter 5 (pp. 39–42).

Offences and penalties related to registers of interests for councillors

It is an offence under regulation 107 of the LGOR for councillors to fail to inform the CEO, within 30 days of knowledge of receipt of the gift, when they receive gifts totalling $500. The penalty for the offence is a $9350 fine (85 penalty units). As seen in Figure 36, this penalty is comparable to most reviewed jurisdictions. WA is the only jurisdiction that provides for a term of imprisonment.

Figure 36: Maximum penalties for offences related to failing to lodge returns for registers of interests



Notes:
The ACT does not have local government, and Tas and the NT do not have disclosure schemes.

[a] Applies to both failing to lodge a return and knowingly submitting a false or misleading return.

[b] Councillors also have disclosure obligations as candidates, with penalties up to $11 000 as above.

The ECQ

As at the state level, the ECQ is responsible for ensuring local government participants comply with the regulatory framework for donations, and for taking enforcement action when breaches occur. The enforcement powers of the ECQ under the QEA therefore apply to the same extent at the local government level as at the state level. These powers are discussed in Chapter 5 (page 43).

The relevant local government authority

In Queensland, the local government authority's role in regulating donations is limited to ensuring that a register of interests — which details gifts to councillors and councillors' other interests — is maintained. Given the limited role of local authorities in Queensland, we have not analysed their powers in any detail. Generally, however, authorised officers have broad powers to investigate breaches of the *Local Government Act 2009* (for example, the CEO can require a person to provide a document or information under s. 148D).

Initiatives in other jurisdictions

Uniform provisions for state and local government

NSW has the same donor prohibitions and disclosure provisions for both state and local government. This may help to reduce any confusion about inconsistencies between the two schemes, and ensure that no reportable gifts fall through gaps caused by the differing obligations on different participants at each level.[42]

42 This issue was considered by the Law, Justice and Safety Committee, in its report *A new Local Government Electoral Act: review of the local government electoral system (excluding BCC)* (Queensland Parliament 2010, p. 41).

APPENDIX 1:
Legislative reforms to political donation regulations in Queensland, 2008–2012

Year	Key change
2011	The *Local Government Electoral Act 2011* (LGEA) came into effect on 15 September 2011. The LGEA was a part of the Local Government Reform program, which commenced in 2007. The legislation implemented a number of recommendations from the 2010 report *A new Local Government Electoral Act: review of the local government electoral system (excluding BCC)* (Queensland Parliament 2010). Provisions from multiple pieces of legislation (including the *Local Government Act 2009*) were consolidated into this stand alone piece of legislation. Importantly, the LGEA made the Electoral Commission Queensland (ECQ) responsible, for the first time, for administering the financial disclosure requirements for participants at local government elections. The key provisions contained in the LGEA are: • Prohibitions on accepting anonymous gifts • Prohibitions on receiving loans without prescribed records • Disclosure requirements for candidates, groups of candidates and third parties • Disclosure return offences for candidates, groups of candidates and third parties

2011	The *Electoral Reform and Accountability Amendment Act 2011*, which commenced 19 May 2011, implemented key reforms announced by the Queensland Government in *Reforming Queensland's electoral system* (2010 Green Paper) (Queensland Government 2010):
	• Caps on electoral donations and expenditure for:
	  o political parties and associated entities
	  o candidates
	  o third parties
	• A third party intending to incur electoral expenditure may apply for registration
	• A registered political party and a registered third party must have an agent
	• A candidate may appoint an agent. If no appointment, is taken to be his or her own agent
	• Electoral donations cannot be anonymous
	• An associated entity and a political party are treated as one for electoral donations
	• Related corporations are treated as the one person

2010	The Queensland Government released the 2010 Green Paper indicating key reforms: • Intention to introduce a cap on electoral donations • Intention to regulate third parties • Ensure that the ECQ is empowered to monitor and enforce new rules
2009	The Queensland Government committed to integrity and accountability reforms. This included a commitment that if the Commonwealth Government did not act to reform electoral donations by July 2010, the Queensland Government would introduce a cap on electoral donations.

2008 The *Electoral Amendment Act 2008* introduced the following changes:

- Electoral donation threshold for disclosure was reduced from $1500 to $1000
- Gifts of $100 000 or more (large gifts) to be reported within 14 days
- Prohibition of gifts of foreign property
- Disclosure timeframes for political parties and associated entities were reduced from 12 months to 6 months
- Lodgement timeframes were reduced from:
    - 20 weeks to 8 weeks (donor)
    - 16 weeks to 8 weeks (political parties and associated entities)
- The ECQ must publish online within 6 weeks returns relating to:
    - donors
    - political parties
    - associated entities
- The ECQ must publish online returns of political donations of large gifts within 10 days

Note:
Political donations in Queensland are defined as gifts made during the 'capped expenditure period' and intended by the donor to be used for election purposes. In this report we refer to these gifts as 'electoral donations'.

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CMC — *see* Crime and Misconduct Commission

Crime and Misconduct Commission 2006, *Independence, influence and integrity in local government - a CMC inquiry into the 2004 Gold Coast City Council election*, Brisbane, <www.cmc.qld.gov.au/research-and-publications/browse-by-topic-1/browse-by-topic/research-and-publications/browse-by-topic-1/local-government>.

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LEGISLATION

The following list sets out the legislation that was used by researchers for preparing the different Parts of this report as they relate to the various participants.

Part 1 and Part 2

Political parties, associated entities, candidates, third parties, donors — Australia

Commonwealth Electoral Act 1918 (Cwlth)

Election Funding, Expenditure and Disclosures Act 1981 (NSW)*

Election Funding, Expenditure and Disclosures Regulation 2009 (NSW)*

Electoral Act 1907 (WA)

Electoral Act 1985 (SA)

Electoral Act 1992 (ACT)

Electoral Act 1992 (Qld)

Electoral Act 2002 (Vic)

Electoral Act 2004 (NT)

Electoral Act 2004 (Tas)

Electoral Amendment Act 2008 (Qld)

Political parties, associated entities, candidates, third parties, donors — Overseas

Canada Elections Act 2000 (Can)

Electoral Act 1993 (NZ)

Federal Election Campaign Act 1971 (USA)[43]

Political Parties, Elections and Referendums Act 2000 (UK)

Elected members of Parliament — Australia

Australian Capital Territory (Self-Government) Act 1988 (Cwlth)

Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory (ACT)

Constitution (Disclosure by Members) Regulation 1983 (NSW)

Legislative Assembly (Disclosure of Interests) Act 2008 (NT)

Legislative Assembly (Powers and Privileges) Act 1992 (NT)

Members of Parliament (Financial Interests) Act 1992 (WA)

Members of Parliament (Register of Interests) Act 1978 (Vic)

Members of Parliament (Register of Interests) Act 1983 (SA)

Members of Parliament (Register of Interests) Regulations 2003 (Vic)

Parliament of Queensland Act 2001 (Qld)

Parliamentary (Disclosure of Interests) Act 1996 (Tas)

Parliamentary Privileges Act 1987 (Cwlth)

43 Contained in Federal Election Campaign Laws (amended up to 2008).

Standing and Sessional Orders of the House of Representatives (Cwlth) (as at October 2010)

Standing Orders of the Legislative Assembly for the Australian Capital Territory (ACT) (2012)

Standing Rules and Orders of the Legislative Assembly of Queensland 2004 (Qld)

Elected members of Parliament — Overseas

Code of Conduct together with the Guide to the Rules Relating to the Conduct of Members (UK) (2012)

Ethics in Government Act 1978 (USA)

Standing Orders of the House of Commons, including the Conflict of Interest Code for Members (Can) (2011)

Standing Orders of the House of Representatives 2011 (NZ)

Part 3

Candidates, groups of candidates, third parties, donors — Australia

Election Funding, Expenditure and Disclosures Act 1981 (NSW)*

Election Funding, Expenditure and Disclosures Regulation 2009 (NSW)*

Local Government Act 1989 (Vic)*

Local Government (Elections) Act 1999 (SA)

Local Government (Elections) Regulations 1997 (WA)

Local Government Electoral Act 2011 (Qld)

Local Government (Electoral) Regulations 2005 (Vic)

Councillors — Australia

Local Government Act 1989 (Vic)*

Local Government Act 1993 (NSW)

Local Government Act 1995 (WA)

Local Government Act 1999 (SA)

Local Government Act 2009 (Qld)

Local Government (Administration) Regulations 1996 (WA)

Local Government (General) Regulation 2005 (NSW)

Local Government (General) Regulations 1999 (SA)

Local Government (General) Regulations 2004 (Vic)

Local Government (Operations) Regulation 2010 (Qld)

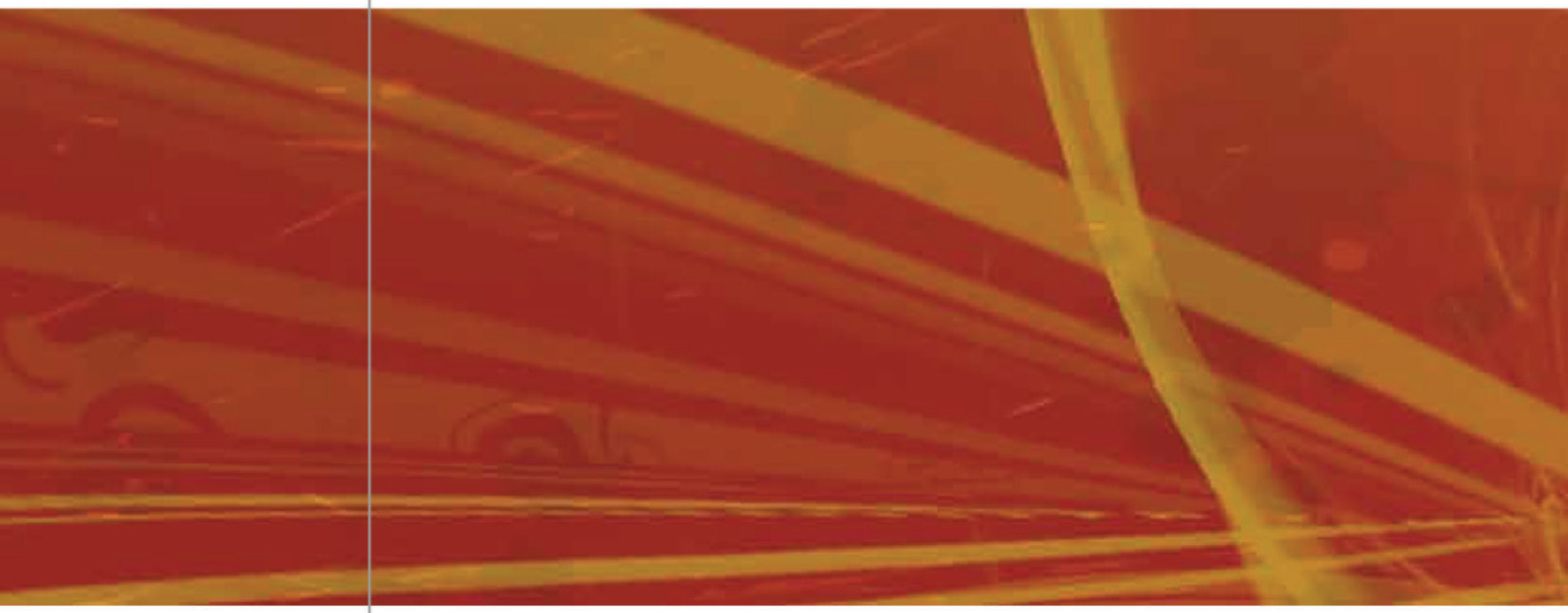
Other

Acts Interpretation Act 1954 (Qld)

Corporations Act 2001 (Cwlth)

Local Government and Other Legislation Amendment Act 2007 (Qld)

*Legislation applies to multiple participants



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