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FAD / **FUNDING AND
DISCLOSURE
REFORM**

Electoral Expenditure Caps Guideline

for Independent House of
Representatives Candidates
or Members



AEC

Australian Electoral Commission

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Purpose

The *Electoral Expenditure Caps Guideline for Independent House of Representatives Candidates or Members* (the guideline) provides information to support Independent House of Representatives (Independent House) candidates or members to understand their electoral expenditure cap obligations under the *Commonwealth Electoral Act 1918* (Electoral Act). Independent House of Representatives candidates and members are responsible for monitoring their electoral expenditure to ensure they do not exceed the relevant caps.

Important information

The guideline uses text boxes to highlight important information. Each text box is prefaced with a symbol. For example:



WARNING. A warning symbol indicates information about a legal obligation under the Electoral Act.



USEFUL TIP. An information symbol indicates a useful tip



DUE DATE. A clock symbol indicates a due date.

Legislation

Legislative provisions referenced in the guideline are from the Electoral Act as amended by the *Electoral Legislation Amendment (Electoral Reform) Act 2025*.



These guidelines are for the funding and disclosure scheme that commences on 1 January 2027. For information on the current scheme see the [Financial Disclosure](#) page.

Commonwealth Electoral Act 1918

Part XX	
Division 1	Preliminary
Division 3AB	Requirements relating to electoral expenditure
Division 5	Annual disclosure of donations and electoral expenditure etc.
Division 5C	Compliance and enforcement powers
Division 6	Miscellaneous
<i>Section 321AB</i>	Indexation of amounts relating to electoral expenditure

Disclaimer

The information in this publication is intended to provide general guidance only. It does not constitute legal, financial, or other professional advice. Persons and entities should seek their own professional advice to find out how the Electoral Act applies to their particular circumstances. The AEC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency, or completeness of that information. Parties who wish to re-publish or otherwise use the information in this publication must check this information for currency and accuracy prior to publication.

Please refer to www.aec.gov.au to access the AEC's current publications.

Introduction

Division 3AB of Part XX of the Electoral Act limits the electoral expenditure that registered political parties (RPPs), State branches of RPPs, candidates, members of the House of Representatives, Senators, significant third parties, associated entities, nominated entities and third parties can incur in a calendar year (annual cap).

Additionally, within the annual cap, specific electoral expenditure caps apply to expenditure that is targeted to a Division, State or Territory.

Electoral expenditure does not count towards the entity's annual caps if it is incurred:

- during an election period for a by-election or Senate-only election, and
- for the purposes of that by-election or Senate-only election.

The electoral expenditure cap values are determined by the entity type.

All entities are required to disclose their electoral expenditure in their annual disclosure return.

Electoral expenditure caps

What are expenditure caps?

Electoral expenditure caps limit the amount of electoral expenditure that political participants can incur each calendar year.

For Independent House candidates and members, there is an overall annual cap on electoral expenditure (Independent House of Representatives cap). There is also a cap that applies to by-elections (Independent House of Representatives by-election cap).

The electoral expenditure cap is different for each person or entity type.

What is electoral expenditure and electoral matter?

Electoral expenditure is expenditure incurred for the dominant purpose of creating or communicating electoral matter. Electoral matter is matter communicated or intended to be communicated for the dominant purpose of influencing how electors vote in an election.

Expenditure may be considered electoral expenditure if it is incurred for the dominant purpose of creating or communicating specific electoral matter or is electoral matter generally.

For an RPP, a state branch of an RPP, a candidate or a member of a Senate group, a member of the House of Representatives or a Senator, or a person or entity that is (or must be) registered as a significant third party, an associated entity, or a nominated entity, electoral expenditure is generally any expenditure incurred with its authority in relation to an election.

Expenses that may be associated with electoral expenditure in relation to an election may include, but are not limited to:

- **Advertising and promotional material:** costs for TV, radio, print, and digital advertisements intended to influence voting behaviour.
- **Social media campaigns:** paid content or boosted posts on platforms like Facebook, Instagram, or X (Twitter) promoting or opposing candidates or parties.
- **Direct mail and leaflets:** printing and distributing brochures, flyers, or letters to electors.
- **Market research and polling:** surveys or focus groups conducted to shape electoral messaging.
- **Website and digital content:** development and hosting of websites or online platforms used for electoral communication.
- **Campaign staff and office accommodation:** employing campaign staff and providing office accommodation for campaign staff or candidates.
- **Campaign travel and accommodation:** travel and accommodation for candidates and campaign staff engaged in an election campaign.

Further information can be found in the **Fact sheet: Electoral Expenditure** available on the AEC website.



Electoral expenditure is **incurred** when a definitive liability to make a payment accrues.

In a general sense, this is when the relevant goods or services are supplied or provided to the relevant entity, regardless of when they are invoiced or paid.

For example, the cost of a television advertisement is incurred when it is first provided and the cost of producing and distributing campaign materials like flyers is incurred when those materials are first provided.

Example – dominant purpose of expenditure

An independent candidate prepares a television advertisement and tests it with a focus group. The advertisement is never used, as it tests poorly with the focus group. Test advertisements are a key part of the independent candidate's process for creating an effective campaign, because they help the candidate to develop and select the best series of advertisements for dissemination.

As the advertisement was prepared by an independent candidate, it is likely to be electoral matter. As the advertisement was intended to be shown to the public, it is also likely to be electoral matter.

This is the case even if the advertisement is not shown. The dominant purpose of creating the advertisements was to influence voting at an election, so the advertisements are electoral matter and any expenditure creating the advertisement is electoral expenditure.



Section 287AB of the Electoral Act defines electoral expenditure.

Section 4AA of the Electoral Act defines electoral matter.

Who do expenditure caps apply to?

Electoral expenditure caps apply to:

- RPPs
- State branches of RPPs
- candidates
- members of the House of Representatives
- Senators
- significant third parties
- associated entities
- nominated entities
- third parties.

The expenditure cap amounts are explored in detail in this guideline.

Independent House candidate or member

The Electoral Act defines an Independent House candidate or member as a person who is:

- a candidate for election to the House of Representatives for a Division; or
- a member of the House of Representative for a Division

who is not endorsed by, or a member of, an RPP.

Note: A person that is not endorsed by an RPP when elected, but after being elected becomes a member of an RPP, ceases to be an Independent House of Representatives candidate or member and becomes a member of the RPP's expenditure group.

When do expenditure caps apply?

Electoral expenditure caps apply from 1 January to 31 December each year.

By-election election expenditure caps apply only in a by-election election period.



Section 302ARC of the Electoral Act provides that if there is more than one general election held in the same calendar year, on the issue of the writs for the subsequent election, the annual electoral expenditure caps reset.



By-election period – starts on the day the writs are issued and ends on polling day for the by-election.

What expenditure caps apply to an Independent House candidate or member?

Independent House of Representatives cap

Each calendar year, an Independent House candidate or member is subject to an Independent House of Representatives cap. This annual expenditure cap includes all electoral expenditure incurred by an Independent House candidate or member.

The Independent House of Representatives cap is the same value as the Divisional cap.

As at 1 January 2027, the **Divisional cap** is **\$800,000** per calendar year.

Independent House of Representatives by-election cap

An Independent House candidate or member is subject to an Independent House of Representatives by-election cap. This cap applies to expenditure for the purposes of the by-election incurred during the by-election period. The by-election period starts on the day the writs are issued and ends on polling day for the by-election.

If a by-election period crosses over two calendar years, the cap does not reset, it remains set at the value from the issue of writ.

Example – Operation of the Independent House of Representatives by-election cap across calendar years

Louise is an Independent House of Representatives candidate running in a by-election for the Division of Gilmore.

The writ for the by-election is issued on 9 December 2026. The polling date for the by-election is fixed for 11 January 2027.

The Independent House of Representatives by-election cap applies to all electoral expenditure incurred by Louise in relation to that by-election, in the by-election period between 9 December 2026 and 11 January 2027.

Unlike annual caps, the value of the cap for that by-election does not reset on 1 January 2027.

The **Independent House of Representatives by-election cap** is **120%** of the **Divisional cap** that applies on the day the writ is issued for the by-election.

As at 1 January 2027, the Independent House of Representatives by-election cap is therefore $120\% \times \$800,000 = \text{\textbf{\$960,000}}$.



Section 302ALD of the Electoral Act deals with what electoral expenditure is applied to the by-election caps.



Expenditure caps are indexed on 1 January each year under section 321AB of the Electoral Act and are published on the AEC website.

Application of caps

If during the calendar year, a person changes status from an Independent House candidate to an elected Independent sitting member, there is no change to their expenditure cap for the year.

To avoid doubt, electoral expenditure incurred in a calendar year by an Independent House candidate or member is only counted once, even if the person is both a candidate and sitting member at the same time in a year and even if the person changes from being a candidate to being a sitting member.



Section 302ANC of the Electoral Act deals with the application of caps.

Who is responsible for monitoring expenditure caps?

Certain persons are subject to civil penalties if a relevant electoral expenditure cap is exceeded in a calendar year.

The Independent House candidate or member is the **liable person**.

Compliance considerations

An authorised officer of the AEC has the power to issue a notice to a person to obtain information, produce documents or to appear and answer questions to ensure compliance with Part XX of the Electoral Act.

The penalties for non-compliance with electoral caps is proportionate to the expenditure cap values to ensure that the value is sufficiently high to act as a deterrent to breaching the caps and ensure integrity of the electoral process.

The civil penalty provisions for the contravention of electoral expenditure caps is the higher of the following:

- 1,000 penalty units; or
- 3 times the excess amount of the particular expenditure.

The Electoral Act provides that general non-compliance with Part XX (other than Division 3AB) in relation to an election does not invalidate that election (s 319). This exemption does not apply to non-compliance with the expenditure cap obligations under Division 3AB.

Part XXII of the Electoral Act outlines the powers of the Court of Disputed Returns. These powers include the power to declare an election void. Generally, the Court can only declare an election void where they are satisfied that the result of the election was likely affected (s 362). Section 319 means that the Court of Disputed Returns would have the power to void an election in the event a political actor is found to be non-compliant with the expenditure cap obligations if satisfied that the result of the election was likely affected.



Section 314AN of the Electoral Act empowers an authorised officer of the AEC to undertake compliance reviews under Division 5C of the Electoral Act.

Section 319(1) of the Electoral Act carves out the general exemption for non-compliance with Division 3AB.

Anti-avoidance

The Electoral Act contains civil penalties for avoiding electoral expenditure cap obligations under Part XX.

The anti-avoidance provisions prohibit schemes that are established to avoid the operation of the electoral expenditure caps and other provisions.

The Electoral Commissioner can issue a written notice requiring the person not to enter, begin or continue (as the case may be) a scheme.



It is an offence under s 314AS of the Electoral Act to establish schemes to avoid electoral expenditure cap obligations and other provisions.

Exceeding expenditure caps for Independent House candidates and members

Independent House of Representatives cap

An Independent House of Representative cap is exceeded if an Independent House candidate or member incurs particular electoral expenditure, that when combined with the total electoral expenditure incurred by the Independent House candidate or member in the calendar year, is more than the Independent House of Representatives cap.

Note: There are instances where expenditure does not count towards the Independent House of Representatives cap and an exception for acceptable expenditure action is available. This is covered in the section on Exceptions.

The excess amount of the particular expenditure is:

- the amount of the particular expenditure itself; or
- the portion of the amount that is above the Independent House of Representatives cap.

The Independent House candidate or member may face civil penalties if the Independent House of Representatives cap is exceeded.

Independent House of Representatives by-election cap

An Independent House of Representatives by-election cap is exceeded if the Independent House candidate or member incurs electoral expenditure for the purpose of the by-election and the total amount of the particular expenditure incurred in the by-election period for the purpose of the by-election is more than the Independent House of Representatives by-election cap.

Note: There are instances where expenditure does not count towards the Independent House of Representatives by-election cap and an exception for acceptable expenditure action is available. This is covered in the section on Exceptions.

The excess amount of the particular expenditure is:

- the amount of the particular expenditure; or
- the portion of the amount that is above the Independent House of Representatives by-election cap.

The Independent House of Representatives by-election cap is separate from, and additional to, the Independent House of Representatives cap.

The Independent House candidate or member may face civil penalties if the Independent House of Representatives by-election cap is exceeded.



Sections 302ANA and 302ANB of the Electoral Act deals with exceeding expenditure caps for Independent House candidates and members.

Exceptions

The Electoral Act has several provisions for instances where expenditure does not count towards the expenditure cap for Independent House candidates and members and an exception to civil penalty provisions where acceptable expenditure action is taken.



A person who wishes to rely on any of the exceptions under the Electoral Act bears an evidential burden. This means that if a person wants to rely on the exception, they must provide sufficient evidence to support their position.

Exception – acceptable expenditure action

A civil penalty provision does not apply if:

- at the time the excess electoral expenditure was incurred, the person did not know, and could not reasonably have been expected to know, that the total expenditure exceeded the cap; and
- within 6 weeks of becoming aware that the total electoral expenditure exceeded the cap, the person took **acceptable expenditure action** in relation to the excess amount.



Section 302AQA of the Electoral Act provides an exception to a civil penalty provision if acceptable expenditure action is taken.

Acceptable expenditure action

Acceptable expenditure action is taken in relation to an amount of electoral expenditure if:

- the expenditure is cancelled or reversed; or
- the recipient of the expenditure repays an equivalent amount to the person or entity that incurred the expenditure; or
- the person or entity that incurred the expenditure transfers an equivalent amount to the Commonwealth.

Effect of acceptable expenditure action on total expenditure

For clarity, Division 3AB does not prevent a person, or entity from taking acceptable expenditure action in relation to an amount that does not exceed a cap.

However, the Electoral Act states that once a cap has been exceeded, even if acceptable expenditure action is taken, there is no way to subsequently reduce the total electoral expenditure to an amount that is below the relevant expenditure cap.

Example – Acceptable expenditure action taken by an Independent House candidate

The campaign manager for John, the Independent House candidate for the Division of Bass decides to purchase advertising space billboards across the Division of Nicholls costing \$120,000 to boost John's profile. This expenditure meets the definition of electoral expenditure. John's Independent House of Representative cap for the Division of Bass is \$800,000.

Prior to incurring this expenditure, the total amount of electoral expenditure already incurred by John was \$700,000. The campaign manager did not know (and could not reasonably have been expected to know) that in purchasing the billboard space the Independent House of Representatives cap will be breached, and they purchase the space.

One week later John the Independent House candidate receives the invoice and becomes aware that the campaign manager has caused him to exceed the Independent House of Representatives cap by \$20,000.

John contacts the campaign manager to discuss. John then takes acceptable expenditure action in relation to the excess expenditure (\$20,000) by cancelling \$20,000 worth of the billboard advertising (which is permitted under the terms of the agreement the campaign manager has with the advertiser).

Acceptable expenditure action has been taken in relation to the excess amount of electoral expenditure. The exception of acceptable expenditure action is available as an exception to the civil penalty (section 302AQA).

No further electoral expenditure can be incurred by John.



Section 302ALE of the Electoral Act defines acceptable expenditure action.

Exception – expenditure covered by the Independent House of Representative by-election cap

Electoral expenditure that counts towards the Independent House of Representatives cap is separate to the electoral expenditure that counts towards the Independent House of Representatives by-election cap. A civil penalty provision that applies in relation to a calendar year does not apply to expenditure covered by the Independent House of Representatives by-election cap.



Section 302AQB of the Electoral Act provides an exception to a civil penalty provision for expenditure covered by the by-election cap.

Exception – travel and translation expenses

Electoral expenditure incurred by a person who is a candidate, for the dominant purpose of the candidate's campaign for the purposes listed below, does not count toward the expenditure caps:

- travel by the candidate
- travel by the candidate's staff
- travel related accommodation for the candidate or staff
- translation or interpretation services.

A candidate's staff includes any volunteers.

This exception does not apply to expenditure incurred in connection with a vessel, aircraft or vehicle which displays advertising or electoral matter for a candidate or registered political party.

Example – exception for travel for dominant purpose of a candidate's campaign

Katherine is an unendorsed candidate for the Division of Lingiari in a general election.

Katherine spends \$1,000 on a hire car to travel with her staff to attend community events for the purpose of campaigning for Katherine's candidacy.

This expenditure is exempt from Katherine's Independent House of Representatives cap.

Example – exception for translation and interpretation services for the dominant purpose of a candidate's campaign

Francesca is running as an unendorsed candidate for the House of Representatives. As part of her campaign, she spends the following amounts:

- \$10,000 on the design and printing of a leaflet outlining Francesca's policy platform as a candidate
 - This expenditure is **not exempt** under this exception provision.
- \$1,000 for engaging a translation service to translate the content of the pamphlet into Mandarin and Arabic
 - This expenditure **is exempt** under this exception provision.



Section 302AQC of the Electoral Act provides an exception to a civil penalty provision for expenditure related to certain travel and translation expenses.

Exception – salaries and allowances

Electoral expenditure on salaries or allowances paid to members of Parliament (MPs) or their staff does not count toward to the expenditure caps.

This includes salaries, remuneration, allowances or expenses payable under any of the following:

- the Constitution
- the *Parliamentary Business Resources Act 2017*
- an agreement for employment or engagement referred to in the *Members of Parliament (Staff) Act 1984*.



Section 302AQD of the Electoral Act provides an exception to a civil penalty provision for expenditure related to salaries and allowances paid to members of Parliament or their staff.

Exception – campaign office accommodation

Electoral expenditure incurred by the Independent House candidate or member on their campaign office does not count towards their expenditure caps. The exception applies to a maximum of \$20,000.



Section 302AQE(3) of the Electoral Act provides an exception to a civil penalty provision for expenditure related to campaign office accommodation.

Exception – design and printing costs for certain how-to-vote cards

Electoral expenditure incurred by an Independent House candidate or member on the design and printing costs for how-to-vote cards to the value of \$20,000 does not apply to their expenditure caps.



Section 302AQF of the Electoral Act provides an exception to a civil penalty provision for expenditure related to design and printing costs for certain how-to-vote cards.

Notification if expenditure reaches a cap

A person who is an Independent House candidate or member is required to advise the AEC if the total electoral expenditure has reached the relevant cap for the period. The notice must be in the approved form and must be provided as soon as practicable after the person becomes aware that the total expenditure has reached the cap.

Civil penalties apply for failing to provide a written notice.



Section 302ARA of the Electoral Act provides that the Independent House candidate or member must notify the AEC when total electoral expenditure reaches a cap.

Publication of cap amounts and periods

The AEC will publish the indexed expenditure caps for each entity type and the exception amounts on its website as soon as practicable:

- after the start of the new calendar year; or
- after the writs are issued for a by-election or Senate-only election.



Section 302ARB of the Electoral Act provides for the publication of indexed expenditure caps and relevant periods.

Resetting of certain expenditure caps for multiple elections in a calendar year

Section 302ARC of the Electoral Act provides that if there is more than one general election held in the same calendar year, on the issuing of writs for the subsequent election, the annual electoral expenditure caps reset.



Section 302ARC of the Electoral Act sets out when expenditure caps reset.