

Serial 155  
Electoral Amendment Bill 2016  
Mr Wood

A Bill for an Act to amend the *Electoral Act*



**NORTHERN TERRITORY OF AUSTRALIA**

**ELECTORAL AMENDMENT ACT 2016**

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**Act No. [ ] of 2016**

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**Table of provisions**

1	Short title .....	1
2	Act amended .....	1
3	Section 3 amended.....	1
4	Part 10, Division 3A inserted .....	2
	Division 3A            Prohibited donations	
	198A    Definitions	
	198B    No donations by prohibited donors	
	198C    Determination that person not prohibited donor	
5	Expiry of Act .....	5





# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2016

An Act to amend the *Electoral Act*

[Assented to [ ] 2016]  
[Second reading [ ] 2016]

The Legislative Assembly of the Northern Territory enacts as follows:

## 1 Short title

This Act may be cited as the *Electoral Amendment Act 2016*.

## 2 Act amended

This Act amends the *Electoral Act*.

## 3 Section 3 amended

Section 3

*insert (in alphabetical order)*

**close associate**, for Part 10, Division 3A, see section 198A.

**donation**, for Part 10, Division 3A, see section 198A.

**liquor or gambling industry business entity**, for Part 10, Division 3A, see section 198A.

**prohibited donor**, for Part 10, Division 3A, see section 198A.

**property developer**, for Part 10, Division 3A, see section 198A.

**tobacco industry business entity**, for Part 10, Division 3A, see section 198A.

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**tobacco product**, , for Part 10, Division 3A, see section 198A.

**4 Part 10, Division 3A inserted**

After section 198

*insert*

**Division 3A Prohibited donations**

**198A Definitions**

In this Division:

**close associate**, of a corporation, means:

- (a) a director or secretary of the corporation, or a spouse or de facto partner of the director or secretary; or
- (b) a corporation that is a related body corporate to the corporation, within the meaning of the Corporations Act 2001; or
- (c) a director or secretary of such a related body corporate; or
- (d) another corporation (the **second corporation**), if:
  - (i) the ability or capacity to control or procure the composition of the board of directors of the second corporation is held by not less than 50% of the persons comprising, or having the ability or capacity to control or procure, the composition of the board of directors of the corporation; or
  - (ii) the ability or capacity to cast, or control or procure the casting of, not less than 50% of the maximum number of votes that may be cast at a general meeting of the second corporation is held by persons having the ability or capacity to control, or procure the control of, not less than 50% of the maximum number of votes that may be cast at a general meeting of the corporation; or
  - (iii) the holding of legal title to, or of a beneficial interest, direct or indirect, whether by medium of interposed corporations or trusts or otherwise in, not less than 50% of the shares in the second corporation carrying voting rights in respect of one or more subject matters capable of resolution at a general meeting of the second corporation, is held by persons holding legal title to, or a beneficial interest, direct or indirect, whether by medium

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of interposed corporations or trusts or otherwise, in not less than 50% of the shares in the corporation carrying voting rights of the same kind.

**donation** means a donation that is a gift or loan mentioned in Division 3.

**liquor or gambling industry business entity** means:

- (a) a corporation that engages in a business that includes, for the purpose of making a profit, one or both of the following:
  - (i) the manufacture or sale of liquor as defined in section 4(1) of the *Liquor Act*;
  - (ii) gambling, including the manufacture of machines used primarily for gambling; or
- (b) a close associate of a corporation mentioned in paragraph (a).

**prohibited donor** means a property developer, a tobacco industry business entity or a liquor or gambling industry business entity and includes any other corporation the majority of members of which are prohibited donors.

**property developer** means a corporation that engages in a business that regularly involves the making of development applications under the *Planning Act* with the ultimate purpose of the sale or lease of land, or a close associate of the corporation.

**tobacco industry business entity** means a corporation that engages in the business of the manufacture or sale of a tobacco product, or a close associate of the corporation.

**tobacco product**, see section 6 of the *Tobacco Control Act*.

## **198B No donations by prohibited donors**

- (1) A prohibited donor must not make a donation.
- (2) A person must not make a donation on behalf of a prohibited donor.
- (3) A person must not accept a donation that is wholly or partly made by a prohibited donor or by a person on behalf of a prohibited donor.
- (4) A prohibited donor must not solicit another person to make a donation.

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- (5) A person must not solicit another person on behalf of a prohibited donor to make a donation.
  - (6) A person who contravenes any of subsections (1) to (5) commits an offence.

Maximum penalty: 200 penalty units.

### **198C Determination that person not prohibited donor**

- (1) A person (the **applicant**) may apply to the Commissioner for a determination that the applicant is not a prohibited donor.
- (2) The application must be made in the approved form and contain information as to why the person does not consider that they are a prohibited donor.
- (3) The Commissioner must consider the application and, not later than 60 days after the application is made, do one of the following:
  - (a) make a determination in writing as to whether the person is not a prohibited donor;
  - (b) refuse to make such a determination.
- (4) The determination remains in force for 12 months after it is made but the Commissioner may revoke the determination at any time by notice in writing to the applicant.
- (5) A determination, while in force, has the following effects:
  - (a) it creates an irrebuttable presumption that the applicant is not a prohibited donor, as regards a person who makes or accepts a donation;
  - (b) it does not create a presumption in favour of a person who knows that any of the information contained in the application was false or misleading in a material particular.
- (6) The Commissioner must keep a public register of the determinations that the Commissioner makes under this section and publish it in the manner that the Commissioner considers appropriate.
- (7) An applicant must not make an application under this section that the applicant knows contains information that is false or misleading in a material particular.

Maximum penalty: 200 penalty units.



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**5 Expiry of Act**

This Act expires on the day after it commences.