

Disclosure of Election Gifts Form 4  
(DOEGF4—V1—01/08/07)

**OFFICE USE ONLY**

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<b>LOCAL GOVERNMENT ACT 1993</b>	<b>FORM 4 - Donor Disclosure of Election Gifts Return</b>
<b>Section 431A of Chapter 5 Part 8, Division 3, Subdivision 2A</b>	

(Further information to assist donors to complete this form is attached)

**Details of person furnishing this return**

Name : \_\_\_\_\_

Postal Address: \_\_\_\_\_

Name of organisation on whose behalf the return is completed (if applicable): \_\_\_\_\_

Relevant Local Government: \_\_\_\_\_

**Disclosure period covered by this return (Note 5)**

Contact the candidate or group of candidates to whom the donation / series of donations has been made.

<b>Commencement Date</b> (Refer to Act to calculate commencement date)	/ /
<b>Conclusion Date</b> (30 days after conclusion of the election - the election concludes when the last notice of the result is displayed in the Council's office)	/ /

**Requirements under the *Local Government Act 1993* regarding the completion of this return**

This return must be furnished by a person - the **donor** (Note1) who makes a **gift** (Note 6) or a series of gifts of a total value of \$200 or more to a:

- candidate (Note 2) or
- group of candidates (Note 3)

for an election during the disclosure period (Note 5) in relation to an election.

**Section A – Donor’s Certification**

*Whichever is applicable*

I certify that to the best of my knowledge and belief, this return contains the information readily available at the time the return is given and it is correct. I do not expect to make any further gifts during the remainder of the disclosure period. However, should I make any further gifts after the giving of this return I will disclose them by submitting a further return;

**OR**

I certify that to the best of my knowledge and belief, the information provided in this return is correct and complete except to the extent identified below:

Deficiency in return (please identify nature and particulars not able to be obtained).

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Reason for deficiency (please identify why the particulars were not able to be obtained).

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Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**Section B – Required Details of gift (Note 10)**

Refer Section 431A of the Act (If more than one page is needed photocopy this page)

GIFT Recipient Details		Gift / Donation Details (Note 6)		
Name of person receiving gift	Address of person receiving gift	Date gift made	Gift description	\$ value of gift (Note 7)
				<b>Total value of gifts donated</b> \$

## General information

- Donors must submit to the Chief Executive Officer (CEO) of the relevant local government, within 15 weeks after the polling day for the election, a final return of gifts made in the *approved form*.
- The return can be given or posted to the CEO at the address of the local government's public office.
- A donor does *not* include a political party, an associated entity, another candidate for the election or a group of candidates.

## Other relevant information

### Amending a Return

Section 432 of the Act allows a person who has submitted a final return to apply to the CEO of the relevant local government at any time to correct an error or omission in the return.

### Required Information

A person who suspects or believes on reasonable grounds that a final return has an error or omission may inform the CEO of their suspicion or belief. The donor making the return will then be advised and must, within 30 days, establish if the return needs to be amended and apply to do so in accordance with section 432 of the Act.

If unable to supply all information to complete a final return, the donor must state in the certification of their return, where and why the return is deficient and who may be able to supply the missing particulars.

Information relevant to such a return that comes to the attention of the donor within *five years* after the conclusion of the election must also be given to the CEO in accordance with section 438 of the Act. It is an offence not to give the CEO of the local government to whom the return was given a written notice of the information or particulars obtained.

### Inspection

Section 433 of the Act provides that the CEO of the relevant local government must keep a register of all electoral gifts. Section 434 of the Act provides that the local government register of electoral gifts is open to inspection by any person.

## Important Note

Penalties apply for failure to lodge returns or if the contents are false or misleading.

Persons completing disclosure of election gifts forms are strongly advised to familiarise themselves with the definitions and provisions of Chapter 5 Part 8 of the *Local Government Act 1993* and the contents of the Department of Local Government, Sport and Recreation's publications on "Disclosure of Election Gifts".

### 3 Definitions

Definitions as they apply to disclosure of election gifts and loans are found in **sections 413A – 441 of the Act**. This information is issued on the understanding that DLGSR is not, through the issuance of this information, engaging in rendering to you any legal or other professional service. Donors are encouraged to seek independent legal advice if they have any concerns about the following information.

Note	Definition / Example
<b>Note 1</b>	<p><b>Donor</b> A donor is a person, other than</p> <ul style="list-style-type: none"> <li>• a political party</li> <li>• an associated entity</li> <li>• another candidate for the election</li> <li>• or a group of candidates for the election</li> </ul> <p>who makes a gift in relation to the election to a candidate; or a group of candidates for the election of which the candidate is a member.</p>
<b>Note 2</b>	<p><b>Candidate</b> A candidate for an election is a reference to a person who, at noon on the nomination day for the election, is properly nominated for the election.</p>
<b>Note 3</b>	<p><b>Group of Candidates</b> A group of candidates is defined as a group of individuals, each of whom is a candidate for the election, if the group was formed:</p> <ol style="list-style-type: none"> <li>(a) to promote the election of the candidates; or</li> <li>(b) to share the benefits of fundraising for the purposes of promoting the election of the candidates; or</li> <li>(c) for both (a) and (b).</li> </ol> <p>A group of candidates does not however include a political party or an associated entity.</p>
<b>Note 4</b>	<p><b>Advising donors of their obligations to submit a gift return</b> When an individual candidate receives a gift, the candidate must inform the donor that the donor has an obligation to lodge a return in the <i>approved form</i>. In the case of a group of candidates who receive a gift, the group's registered agent must advise the donor that the donor has an obligation to lodge a return in the <i>approved form</i>.</p>
<b>Note 5</b>	<p><b>Disclosure period</b> The disclosure period refers to the period – before and after an election, when all candidates and groups of candidates are required to record for later reporting, all gifts and loans for the election campaign.</p> <p>The disclosure period varies according to the particular circumstances of the individual candidate or group of candidates. Donors should contact the candidate or group of candidates to whom they have made a donation / series of donations to establish the relevant disclosure period for that candidate / group of candidates.</p> <p><b>NOTE:</b> A detailed explanation of the various disclosure periods can be found in the separate publication "Disclosure of Election Gifts for Candidates and Groups of Candidates".</p>
<b>Note 6</b>	<p><b>Gifts</b> The Act uses the term <i>gift</i> rather than the term 'donations', or 'political donations' or 'election donations'. For simplicity, where this publication uses the term donation or political donation or election donation, the reference includes <i>gift</i>, sections 413 – 441 of the Act.</p> <p>Section 414 in the Act defines a <i>gift</i> as the disposition of property or the provision of a service, without consideration or for a consideration less than the full consideration, but does not include:</p> <ol style="list-style-type: none"> <li>(a) transmission of property under a will; or</li> <li>(b) provision of a service by volunteer labour.</li> </ol> <p><b>EXAMPLES</b> of gifts include but are not limited to:</p> <ul style="list-style-type: none"> <li>• cash</li> <li>• provision, free or at a discounted rate, of services normally charged for by a person</li> <li>• rent-free use of commercial premises or where rent charged is less than the normal commercial rate</li> <li>• work undertaken for a candidate by an employee during normal working hours where the employer continues to pay salary or wages (but not if the employee takes paid leave to undertake work for the candidate)</li> <li>• free use of a motor vehicle (unless associated with volunteer labour)</li> <li>• provision of free time or time charged for at less than the normal commercial rate by a broadcaster, except the Australian Broadcasting Corporation (ABC) or Special Broadcasting Service (SBS)</li> <li>• advertising space provided free or at a charge less than the normal commercial rate by a publisher of a journal; and</li> <li>• printing undertaken for no charge or at a cost less than normally charged.</li> </ul> <p>A monetary value must be assigned to a gift since a return must show the total number of donors and total value of all gifts received (whether above or below the prescribed amount). The return must also show:</p> <ul style="list-style-type: none"> <li>• the name and address of a person who made a gift to the value of \$200 or more to a candidate.</li> <li>• the value of a gift that is property is the market value of the property unless a regulation prescribes</li> </ul>

Note	Definition / Example
	<p>principles under which the value is to be determined.</p> <ul style="list-style-type: none"> <li>the value to be given to a gift that is the provision of a service is the normal commercial rate unless a Regulation prescribes other principles for determining the value.</li> </ul> <p>Valuations placed on gifts will generally be accepted provided there is a sufficient description shown on the return of the property or services donated.</p> <p><b>EXAMPLE:</b> A gift of the free use of a car for campaigning purposes should be valued on the basis of commercial car hire rates.</p>
<b>Note 7</b>	<p><b>Valuation of gift</b> Under the Act, when completing a disclosure of election gift return, the <i>value</i> for a gift, means:</p> <ol style="list-style-type: none"> <li>if the gift is money – the amount of money; or</li> <li>if the gift is property other than money – the market value of the property; or if a Regulation prescribes principles under which the value of the property is to be determined – the value determined under the principles; or</li> <li>if the gift is the provision of a service – the amount that would reasonably be charged for providing the service if the service were provided on a commercial basis; or if a Regulation prescribes principles under which the amount that would reasonably be charged for providing the service is to be determined – the amount determined under the principles.</li> </ol>
<b>Note 8</b>	<p><b>Disposition of property</b> disposition of property means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes:</p> <ol style="list-style-type: none"> <li>the allotment of shares in a corporation; and</li> <li>the creation of a trust in property; and</li> <li>the grant or creation of a lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and</li> <li>the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in property; and</li> <li>the exercise by a person of a general power of appointment of property in favour of someone else; and</li> <li>a transaction by a person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of someone else's property; and</li> <li>payment for attendance at or participation in a fundraising activity.</li> </ol> <p><b>EXAMPLE:</b> A payment made for admission to a social function, as the highest bidder for an item at an auction or for buying a ticket in a raffle.</p>
<b>Note 9</b>	<p><b>Prescribed amount</b> In section 431A a prescribed amount means an amount prescribed under a Regulation but, until a Regulation is made, for candidates or groups of candidates and donors, a gift or loan of \$200 or more.</p> <p>The donor need not give a return if the total amount or value of all gifts made was less than the prescribed amount.</p>
<b>Note 10</b>	<p><b>Required details</b> Required details of a gift are its amount, or value, the date on which it was made and:</p> <ol style="list-style-type: none"> <li>if the gift was made to an unincorporated association: <ol style="list-style-type: none"> <li>the association's name; and</li> <li>unless the association is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association; or</li> </ol> </li> <li>if the gift was made to a trust fund or paid into the funds of a foundation— <ol style="list-style-type: none"> <li>the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and</li> <li>the title or other description of the trust fund or the name of the foundation; or</li> </ol> </li> <li>in any other case—the name and residential or business address of the person to whom the gift was given.</li> </ol>
<b>Note 11</b>	<p><b>Gift exclusions – Items that do NOT need to be disclosed:</b></p> <p><b>Volunteer labour</b> Volunteer labour is any service provided free of charge by a person so long as it is not a service that is normally sold or otherwise charged for by that person or for which the person normally receives payment.</p> <p><b>EXAMPLE:</b> The service provided by a practising lawyer helping with letterbox deliveries is volunteer labour, but if the lawyer gives free legal advice, the advice is a gift.</p> <p><b>Personal gifts</b> A gift that is made to a candidate in a private capacity does not need to be disclosed in the return provided the gift is not used solely or substantially for the purpose of an election.</p> <p><b>EXAMPLE:</b> If Christmas falls during the disclosure period and the candidate is given a case of wine to be</p>

Note	Definition / Example
	<p>consumed at home, this gift would not need to be disclosed. If however, the case of wine were used as a prize in a raffle to raise funds (and the value of the wine exceeded \$200) the gift would have to be disclosed.</p> <p><b>Other items</b> Other items that do not need to be disclosed in the return include:</p> <ul style="list-style-type: none"> <li>(d) an offer by a broadcaster to interview a candidate on a current affairs or news program or any other topical program;</li> <li>(e) time provided by the ABC or SBS for political broadcasts; and</li> <li>(f) interviews and news items relating to a candidate published in a journal.</li> </ul>
<b>Note 12</b>	<p><b>Relevant record</b> A relevant record for an election, is a document or other thing that is or includes a record about a matter required to be stated in a return or evidence that the giver of gift had an intention that a gift was to be used by the receiver to enable the receiver to incur expenditure for a political purpose or to reimburse the receiver for incurring expenditure for a political purpose. The record must be kept for 5 years after the conclusion of the election.</p>