

## ELECTORAL FUNDING AMENDMENT BILL 2024

### STATEMENT OF PUBLIC INTEREST

#### **Need: Why is the policy needed based on factual evidence and stakeholder input?**

The Bill addresses concerns raised by independent Members of the Legislative Assembly regarding claims for payment from the Administration Fund and the operation of the electoral allowance.

The Bill clarifies the operation of section 84(1)(b)(ii) of the *Electoral Funding Act 2018* (**Act**) by providing that administrative expenditure that can be claimed from the Administration Fund does not exclude expenditure for which the electoral allowance is payable under Part 3 of the *Parliamentary Remuneration Act 1989*. The Bill intends to provide certainty for stakeholders as to what administrative and operating expenses can and cannot be claimed from the Administration Fund.

The Bill also inserts a positive regulation-making power into section 84(1)(a) of the Act which enables the regulations to specify categories of expenditure which can be claimed from the Administration Fund. The Act already includes a regulation-making power at section 84(1)(b)(iv) to specify categories expenditure which cannot be claimed from the Administration Fund.

#### **Objectives: What is the policy's objective couched in terms of the public interest?**

It is in the public interest that the Act clearly sets out expenditure which can and cannot be claimed as administrative expenditure from the Administration Fund.

The annual determination made by the Parliamentary Review Tribunal (**PRT**), effective 1 July 2023, specifies that the electoral allowance is intended to be used by Members of Parliament to pay for expenses incurred in the performance of their parliamentary duties and includes a non-exhaustive list of the types of expenses which may be met by the electoral allowance.

The Bill provides that the parliamentary allowance exclusion in section 84(1)(b)(ii) does not include expenditure for which the electoral allowance is payable. This provision applies with retrospective effect from 1 April 2023 which aligns with the date of the PRT's determination and the financial year.

The regulation making power also enables the regulations to prescribe administrative expenditure which can be claimed from the Administration Fund, with effect from 1 April 2023.

#### **Options: What alternative policies and mechanisms were considered in advance of the bill?**

Legislative amendment is required to achieve the objects of the Bill. The Government proposes that the Bill commence in time for the 2024-2025 financial year.

#### **Analysis: What were the pros/cons and benefits/costs of each option considered?**

The Government considers that the proposals are best implemented by legislative amendment. The amendments are not able to be progressed by way of regulation. The Bill provides certainty for stakeholders that administrative expenditure which may be met from a Member's electoral allowance is not excluded under section 84(1)(b)(ii).



**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

Once assented to, the Electoral Funding Amendment Act 2024 is taken to have commenced on 1 April 2023. A regulation made under section 84(1)(a)(xi) for the period before 1 July 2024 may take effect on or from 1 April 2023.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

Independent members of Parliament were consulted on the draft Bill. Officers of the New South Wales Electoral Commission Staff Agency were advised of the proposed policy and their views sought on the draft Bill, including operational impacts.