

Green groups and charities could be collateral damage in government's foreign donation ban

Written by Samantha Hepburn, Director of the Centre for Energy and Natural Resources Law, Deakin Law School, Deakin University

The federal government is seeking to introduce sweeping new laws that would outlaw foreign donations to political parties and compel lobbyists for foreign powers to register themselves.

The new rules would also significantly impede some mainstream charities and environment groups that receive overseas funding – if their work is deemed to be political in nature.

The [proposed amendment](#) to the existing Commonwealth Electoral Act will see to prohibit foreign-sourced donations of more than A\$1000 to a political party or campaign group.

Controversially, the government is [expected](#) to expand an already broad definition of “political party” which is likely include interest and advocacy groups that spend significant amounts of money in seeking to influence voters.

Political campaigners targeted

The new laws have been justified in response to public concerns about large foreign donations on Australian political parties and candidates, and to bring Australia into line with international best practice.

They follow a [2016 Parliamentary Commission Report](#) , which noted that 68% of OECD countries have banned donations from foreign interests to political parties.

Read more: [Turnbull government must find a way to rid Australia of foreign donations](#)

The report argued that the public needs to be confident that electoral donations are regulated effectively, through timely and accessible disclosure of donations and visible compliance by

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political actors.

Furthermore, the existing Electoral Act fails to distinguish between Australian and foreign donors, and fails to provide any requirement for the donor to state whether they are an Australian citizen.

In contrast, the [US Foreign Agents Registration Act](#), implemented in 1938, requires people acting as agents of foreign principals in either a political or quasi-political capacity to disclose their relationship with the foreign principal. They must also declare their activities, receipts and spending. The penalty for a breach ranges from US\$5,000 to five years in jail.

In [outlining](#) the proposed laws, the Attorney-General George Brandis noted that political donations will be banned from foreign bank accounts, non-citizens and foreign entities. Acting covertly on behalf of a foreign actor in a manner that harms Australia's national security or that seeks to influence a government decision or a political process will be criminalised.

From this perspective, one of the primary rationales for the implementation of the new law is to prevent inappropriate foreign interference in Australia's democratic process. As [outlined by Finance Minister Mathias Cormann](#), the new laws mean that only Australian organisations and businesses can influence elections in Australia through donations.

Green groups “devastated”

However, one potential knock-on effect of the proposed laws is the indirect impact they are likely to have on environmental and charitable organisations. Many of these groups will come within the expanded definition of political campaigners, given their advocacy for social and environmental causes.

But many of these groups have a global, as well as domestic, focus. For example, the mandate of Australian environment groups necessarily includes encouraging Australia to meet its international climate commitments.

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It is not unusual for donations to Australian environmental groups to come from international philanthropic sources, given the fact that climate change is a profound global concern. This crucial funding would be illegal under the proposed laws.

Read more: [Why are we still pursuing the Adani Carmichael mine?](#)

As such, international donations that help Australian environmental groups to challenge development and progression of projects such as the [Adani Carmichael Coalmine](#) would potentially be illegal. This will make it much harder for environmental groups to continue their valuable public benefit activities.

The government has stated that environmental organisations will be exempted from the foreign donation ban, but only in cases where the donations are for non-political activities. This excludes many important social and environmental activities these groups were established to pursue.

Environmental and charitable organisations are reportedly [devastated](#) at the potential implications.

[Communities Council for Australia](#) chief executive David Crosbie said that similar laws in the UK and Canada have had a “chilling effect” on the capacity of charitable organisations to act on behalf of communities.

The [Australian Council for International Development](#) (Acfid), the peak body of Australia’s international development and aid charities, recently passed a [unanimous motion](#) calling upon the government to exempt charities from the foreign donation ban.

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In a [submission paper](#) issued in August this year, Acfid argued that all charities should be entitled to receive international philanthropic aid. They argued this based on the sectors vital importance to high public value charitable work in diverse fields including indigenous advancement, marine conservation, education and poverty alleviation.

Environmental and charity work transcends domestic borders

The work of environmental groups and charities is clearly in the public interest. Australians both want and expect these groups to have the financial capacity to continue this advocacy in order to represent those who do not have the capacity to influence policies.

This mandate is crucial in a robust democracy. It is also vital for the global community, as issues such as climate change transcend strict domestic perspectives.

The government is acting opportunistically by using the regulation of foreign electoral donations, a matter of national significance, to effectively nobble the funding sources and activities of vital Australian environmental and charitable organisations.

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