

2016-2017

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Electoral Legislation Amendment
(Electoral Funding and Disclosure
Reform) Bill 2017**

No. , 2017

(Finance)

**A Bill for an Act to amend the *Commonwealth
Electoral Act 1918*, and for related purposes**

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1 **A Bill for an Act to amend the *Commonwealth***
2 ***Electoral Act 1918*, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Electoral Legislation Amendment (Electoral*
6 *Funding and Disclosure Reform) Act 2017*.

7 **2 Commencement**

- 8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	The earlier of: (a) the first 1 July that occurs on or after the day on which this Act receives the Royal Assent; and (b) 28 days after this Act receives the Royal Assent.	
3. Schedule 1, Part 2	The first 1 July that occurs on or after the day on which this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

7 **3 Schedules**

8 Legislation that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

1 **Schedule 1—Electoral funding and disclosure**
2 **reform**

3 **Part 1—Registration of political campaigners, third**
4 **party campaigners and associated entities**

5 **Division 1—Amendments**

6 ***Commonwealth Electoral Act 1918***

7 **1 Subsection 4(1)**

8 Insert:

9 *civil penalty order* has the meaning given by subsection 82(4) of
10 the Regulatory Powers Act.

11 **2 Subsection 287(1)**

12 Insert:

13 *allowable amount* of a person or entity for a financial year means
14 any amount received by the person or entity, or to which the person
15 or entity has access, during the financial year except:

- 16 (a) any gifts received from another person or entity that is not an
17 allowable donor; and
18 (b) any loan to which the person or entity has access.

19 Note: Certain gifts may be taken to be made by allowable donors (see
20 subsection (9)).

21 *allowable donor* has the meaning given by section 287AA.

22 **3 Subsection 287(1) (definition of *associated entity*)**

23 Repeal the definition, substitute:

24 *associated entity* means an entity that is registered as an associated
25 entity under section 287L.

26 Note: See section 287H for when an entity is required to be registered as an
27 associated entity.

1 **4 Subsection 287(1)**

2 Insert:

3 *Australian resident* means a person who holds a permanent visa
4 under the *Migration Act 1958*.

5 *credit card* means:

- 6 (a) any article of a kind commonly known as a credit card; or
7 (b) any similar article intended for use in obtaining cash, goods
8 or services on credit;

9 and includes any article of a kind that persons carrying on business
10 commonly issue to their customers or prospective customers for
11 use in obtaining goods or services from those persons on credit.

12 *disclosure threshold* means \$13,500.

13 Note: This amount is indexed under section 321A.

14 *foreign public enterprise* has the meaning given by section 70.1 of
15 the *Criminal Code*.

16 **5 Subsection 287(1) (definition of gift)**

17 Omit “otherwise than by will,”.

18 **6 Subsection 287(1) (at the end of the definition of gift)**

19 Add:

20 ; or (c) any visit, experience or activity provided for the purposes of
21 a political exchange program.

22 **7 Subsection 287(1)**

23 Insert:

24 *head office* of an entity means the place of business where central
25 management and control of the entity are exercised.

26 *loan* means any of the following:

- 27 (a) an advance of money;
28 (b) a provision of credit or any other form of financial
29 accommodation;

- 1 (c) a payment of an amount for, on account of, on behalf of or at
2 the request of, a person or entity, if there is an express or
3 implied obligation to repay the amount;
4 (d) a transaction (whatever its terms or form) which in substance
5 effects a loan of money.

6 Note: For loans on credit cards, see subsection (10).

7 ***political campaigner*** means a person or entity that is registered as
8 a political campaigner under section 287L.

9 Note 1: See also subsection (8) and section 287C (political campaigners and
10 third party campaigners that have branches or are not incorporated).

11 Note 2: See section 287F for when a person or entity is required to be
12 registered as a political campaigner.

13 ***political entity*** means any of the following:

- 14 (a) a registered political party;
15 (b) a State branch of a registered political party;
16 (c) a candidate in an election (including a by-election);
17 (d) a member of a group.

18 ***political expenditure*** means expenditure incurred for one or more
19 political purposes.

20 Note: A person or entity might be taken to have incurred political
21 expenditure in a financial year if the person or entity was required to
22 be registered as a political campaigner or third party campaigner in a
23 previous financial year but was not so registered (see section 287J).

24 ***political purpose*** means any of the following purposes:

- 25 (a) the public expression by any means of views on a political
26 party, a candidate in an election or a member of the House of
27 Representatives or the Senate;
28 (b) the public expression by any means of views on an issue that
29 is, or is likely to be, before electors in an election (whether or
30 not a writ has been issued for the election);
31 (c) the communicating of any electoral matter (not being matter
32 referred to in paragraph (a) or (b)) for which particulars are
33 required to be notified under section 321D;
34 (d) the broadcast of political matter (not being matter referred to
35 in paragraph (c)) in relation to which particulars are required

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- 1 to be announced under subclause 4(2) of Schedule 2 to the
2 *Broadcasting Services Act 1992*;
- 3 (e) the carrying out of an opinion poll, or other research, relating
4 to an election or the voting intentions of electors;
- 5 except if:
- 6 (f) the sole or predominant purpose of the expression of the
7 views, or the communication, broadcast or research, is the
8 reporting of news, the presenting of current affairs or any
9 editorial content in news media; or
- 10 (g) the expression of the views, or the communication, broadcast
11 or research, is solely for genuine satirical, academic or
12 artistic purposes.

13 ***Register of Associated Entities*** means the Register of that name
14 established and maintained under section 287N.

15 ***Register of Political Campaigners*** means the Register of that name
16 established and maintained under section 287N.

17 ***Register of Third Party Campaigners*** means the Register of that
18 name established and maintained under section 287N.

19 ***senior staff*** of a person or entity means:

- 20 (a) for a person or entity with directors—the directors of the
21 person or entity; or
- 22 (b) otherwise—any person who makes or participates in making
23 decisions that affect the whole or a substantial part of the
24 operations of the person or entity.

25 ***third party campaigner*** means a person or entity that is registered
26 as a third party campaigner under section 287L.

27 Note 1: See also subsection (8) and section 287C (political campaigners and
28 third party campaigners that have branches or are not incorporated).

29 Note 2: See section 287G for when a person or entity is required to be
30 registered as a third party campaigner.

31 **8 At the end of section 287**

32 Add:

1 *Branches of political campaigners and third party campaigners*

2 (8) A political campaigner or third party campaigner that has branches
3 is, for the purposes of this Part, to be treated as a single political
4 campaigner or third party campaigner.

5 Note: See also section 287C (political campaigners and third party
6 campaigners that are not incorporated).

7 *Certain gifts taken to be made by allowable donors*

8 (9) For the purposes of this Part, in working out a person or entity's
9 allowable amount for a financial year, a gift is taken to have been
10 made by an allowable donor to the person or entity during the
11 financial year if:

12 (a) all of the following apply:

13 (i) the gift was made to the person or entity during the
14 financial year by a donor who is not an allowable donor;

15 (ii) the person or entity obtained appropriate donor
16 information in accordance with section 302P
17 establishing that the donor was an allowable donor;

18 (iii) the person did not, at any time during the period of 6
19 weeks after receiving the gift, know, or have reasonable
20 grounds to believe, that the donor was not an allowable
21 donor; or

22 (b) the amount or value of the gift, and of all other gifts
23 previously made by the donor to the person or entity during
24 the financial year, is less than \$250.

25 *Loans on credit cards*

26 (10) For the purposes of this Part, if credit is provided on a credit card
27 in respect of card transactions, the credit is to be treated as a
28 separate loan for each transaction.

29 **9 After section 287**

30 Insert:

31 **287AA Meaning of *allowable donor***

32 (1) A person or entity is an *allowable donor* if:

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- 1 (a) for an individual who makes a gift—the individual:
2 (i) is an elector; or
3 (ii) is an Australian citizen; or
4 (iii) is an Australian resident, unless a determination is in
5 force under subsection (2) determining that Australian
6 residents are not allowable donors; or
7 (b) for an entity that makes a gift:
8 (i) the entity is incorporated in Australia; or
9 (ii) for an entity that is not incorporated—the entity’s head
10 office or principal place of activity is in Australia; or
11 (c) for a person or entity that is a trustee of an unincorporated
12 trust fund or unincorporated foundation, out of which a gift is
13 made—the person or entity is an allowable donor within the
14 meaning of paragraph (a), (b) or (d); or
15 (d) the person or entity is in a class of persons or entities
16 prescribed by the regulations for the purposes of this
17 paragraph.

18 *Australian residents*

- 19 (2) For the purposes of subparagraph (1)(a)(iii), the Minister may, by
20 legislative instrument, determine that Australian residents are not
21 allowable donors.

22 *Foreign political entities*

- 23 (3) Despite subsection (1), an entity is not an **allowable donor** if the
24 entity is:
25 (a) a body politic of a foreign country; or
26 (b) a body politic of a part of a foreign country; or
27 (c) a part of a body politic mentioned in paragraph (a) or (b); or
28 (d) a foreign public enterprise.

29 **10 At the end of Division 1 of Part XX**

30 Add:

1 **287C Political campaigners and third party campaigners that are**
2 **not incorporated**

3 For the purposes of this Act and the Regulatory Powers Act:

4 (a) expenditure is taken to be incurred by or with the authority of
5 an entity that is not a legal person if the expenditure is
6 incurred by or with the authority of any member, agent or
7 officer (however described) of the entity who, acting in his or
8 her actual or apparent authority, incurred the expenditure;
9 and

10 (b) a contravention of this Part that would otherwise have been
11 committed by a political campaigner or a third party
12 campaigner that is not a legal person is taken to have been
13 committed by the financial controller of the campaigner.

14 Note: See also subsection 287(8) (political campaigners and third party
15 campaigners that have branches).

16 **11 After Division 1 of Part XX**

17 Insert:

18 **Division 1A—Registration of political campaigners, third**
19 **party campaigners and associated entities**

20 **Subdivision A—Simplified outline of this Division**

21 **287D Simplified outline of this Division**

22 A political campaigner, third party campaigner or associated entity
23 must be registered as such under this Division. A person may be
24 liable to a civil penalty if the person incurs political expenditure
25 without being appropriately registered.

26 Whether a person or entity is a political campaigner or third party
27 campaigner depends on the amount of political expenditure that the
28 campaigner incurs (which generally must be at least more than the
29 disclosure threshold in a particular financial year).

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1 Associated entities are entities that have some kind of connection
2 with registered political parties (such as being controlled by or
3 operating for the benefit of a registered political party).

4 The Electoral Commissioner maintains the Register of Political
5 Campaigners, the Register of Third Party Campaigners and the
6 Register of Associated Entities under this Division.

7 **287E Object of this Division**

8 The object of this Division is to provide for the registration of
9 certain persons or entities that are not registered political parties or
10 candidates in elections in order to support the transparency of:

- 11 (a) the scheme established by Division 3A relating to donations;
12 and
13 (b) the schemes established by Divisions 4, 5 and 5A relating to
14 the disclosure of donations or electoral expenditure, and
15 annual returns; and
16 (c) the scheme established by Part XXA in relation to the
17 authorisation of electoral matter.

18 **Subdivision B—Requirement to register as a political**
19 **campaigner, third party campaigner or associated**
20 **entity**

21 **287F Requirement to register as a political campaigner**

- 22 (1) A person or entity (except a political entity or a member of the
23 House of Representatives or the Senate) must be registered for a
24 financial year as a political campaigner, in accordance with
25 subsection (2), if:
26 (a) the amount of political expenditure incurred by or with the
27 authority of the person or entity during that or any one of the
28 previous 3 financial years is \$100,000 or more; or
29 (b) the amount of political expenditure incurred by or with the
30 authority of the person or entity:
31 (i) during that financial year is \$50,000 or more; and

1 (ii) during the previous financial year was at least 50% of
2 the person or entity's allowable amount for that year.

3 Note: A person or entity might be taken to have incurred political
4 expenditure in a financial year if the person or entity was required to
5 be registered as a political campaigner or third party campaigner for a
6 previous financial year but was not so registered (see section 287J).

7 (2) The person or entity must be registered before the end of 28 days
8 after becoming required to be registered.

9 (3) A person or entity that is required to be registered under
10 subsection (1) for a financial year must not incur further political
11 expenditure in that financial year if the person or entity is not
12 registered as a political campaigner.

13 Note: The financial controller of an entity may contravene this subsection if
14 the entity is not a legal person (see section 287C).

15 Civil penalty: 240 penalty units.

16 (4) The person or entity commits a separate contravention of
17 subsection (3) in respect of each day in the period:
18 (a) beginning on the day the person or entity first contravenes
19 the subsection; and
20 (b) ending on the day the person or entity ceases to contravene
21 the subsection (including the day a civil penalty order is
22 made in relation to any of the contraventions or any later
23 day).

24 **287G Requirement to register as a third party campaigner**

25 (1) A person or entity (except a political entity or a member of the
26 House of Representatives or the Senate) must be registered for a
27 financial year as a third party campaigner, in accordance with
28 subsection (2), if:
29 (a) the amount of political expenditure incurred by or with the
30 authority of the person or entity during that financial year is
31 more than the disclosure threshold; and
32 (b) the person or entity is not required to be registered as a
33 political campaigner under section 287F for that financial
34 year; and

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1 (c) the person or entity is not registered as a political
2 campaigner.

3 Note: A person or entity might be taken to have incurred political
4 expenditure in a financial year if the person or entity was required to
5 be registered as a political campaigner or third party campaigner for a
6 previous financial year but was not so registered (see section 287J).

7 (2) The person or entity must be registered before the end of 28 days
8 after becoming required to be registered.

9 (3) A person or entity that is required to be registered under
10 subsection (1) for a financial year must not incur further political
11 expenditure in that financial year if the person or entity is not
12 registered as a third party campaigner.

13 Note: The financial controller of an entity may contravene this subsection if
14 the entity is not a legal person (see section 287C).

15 Civil penalty: 120 penalty units.

16 (4) The person or entity commits a separate contravention of
17 subsection (3) in respect of each day in the period:

18 (a) beginning on the day the person or entity first contravenes
19 the subsection; and

20 (b) ending on the day the person or entity ceases to contravene
21 the subsection (including the day a civil penalty order is
22 made in relation to any of the contraventions or any later
23 day).

24 **287H Requirement to register as an associated entity**

25 (1) An entity (except a registered political party or a State branch of a
26 registered political party) must be registered for a financial year as
27 an associated entity, in accordance with subsection (2), if any of
28 the following apply in that year:

29 (a) the entity is controlled by one or more registered political
30 parties;

31 (b) the entity operates wholly, or to a significant extent, for the
32 benefit of one or more registered political parties (see also
33 subsection (5));

34 (c) the entity is a financial member of a registered political party;

- 1 (d) another person is a financial member of a registered political
2 party on behalf of the entity;
3 (e) the entity has voting rights in a registered political party;
4 (f) another person has voting rights in a registered political party
5 on behalf of the entity.

6 (2) The entity must be registered before the end of 28 days after
7 becoming required to be registered.

8 (3) An entity that is required to be registered under subsection (1) for a
9 financial year must not incur any political expenditure in that
10 financial year, after becoming required to be so registered, if the
11 entity is not registered as an associated entity.

12 Note: The financial controller of the entity may contravene this subsection if
13 the entity is not a legal person (see section 287C).

14 Civil penalty: 240 penalty units.

15 (4) The entity commits a separate contravention of subsection (3) in
16 respect of each day in the period:

- 17 (a) beginning on the day the entity first contravenes the
18 subsection; and
19 (b) ending on the day the entity ceases to contravene the
20 subsection (including the day a civil penalty order is made in
21 relation to any of the contraventions or any later day).

22 *Entities that operate wholly, or to a significant extent, for the*
23 *benefit of registered political parties*

24 (5) Without limiting paragraph (1)(b), an entity is, for the purposes of
25 this Part, taken to be an entity that operates wholly, or to a
26 significant extent, for the benefit of one or more registered political
27 parties if:

- 28 (a) the entity, or an officer of the entity acting in his or her actual
29 or apparent authority, has stated (in any form and whether
30 publicly or privately) that the entity is to operate:
31 (i) for the benefit of one or more registered political
32 parties; or
33 (ii) to the detriment of one or more registered political
34 parties in a way that benefits one or more other
35 registered political parties; or
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- 1 (iii) for the benefit of a candidate in an election who is
2 endorsed by a registered political party; or
3 (iv) to the detriment of a candidate in an election in a way
4 that benefits one or more registered political parties; or
5 (b) the expenditure incurred by or with the authority of the entity
6 during the relevant financial year is wholly or predominantly
7 political expenditure, and that political expenditure is used
8 wholly or predominantly:
9 (i) to promote one or more registered political parties, or
10 the policies of one or more registered political parties;
11 or
12 (ii) to oppose one or more registered political parties, or the
13 policies of one or more registered political parties, in a
14 way that benefits one or more other registered political
15 parties; or
16 (iii) to promote a candidate in an election who is endorsed
17 by a registered political party; or
18 (iv) to oppose a candidate in an election in a way that
19 benefits one or more registered political parties.

20 **287J Expenditure incurred by persons and entities that are not**
21 **registered when required to be so**

- 22 (1) For the purposes of this Act, a person or entity is taken to have
23 incurred an amount of political expenditure in a financial year (the
24 *current financial year*) if:
25 (a) the person or entity incurred that amount of political
26 expenditure in a previous financial year; and
27 (b) as a result of incurring that political expenditure, the person
28 or entity was required to be registered as a political
29 campaigner or third party campaigner in the previous
30 financial year; and
31 (c) the person or entity was not so registered:
32 (i) in the previous financial year; or
33 (ii) if the person or entity was required to be registered
34 under section 287F or 287G and the 28-day period in
35 which the person was required to be registered ended
36 after the end of the previous financial year—by the end
37 of that period.
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- 1 (2) This section ceases to apply, at the end of the current financial
2 year, in relation to the amount of political expenditure if the person
3 or entity is registered as required as a political campaigner or third
4 party campaigner in the current financial year.

5 **287K Application for registration**

- 6 (1) A person or entity may apply to the Electoral Commissioner to be
7 registered as:
8 (a) a political campaigner; or
9 (b) a third party campaigner; or
10 (c) an associated entity.
- 11 (2) The application must:
12 (a) be in an approved form; and
13 (b) without limiting paragraph (a):
14 (i) state the financial controller nominated for the person or
15 entity; and
16 (ii) for an application to be registered as an associated
17 entity—identify any registered political party with
18 which the entity is associated.

19 **287L Determining an application for registration**

- 20 (1) After receiving a person or entity's application under section 287K,
21 the Electoral Commissioner must, subject to subsection (4),
22 register the person or entity within a reasonable period in
23 accordance with the application:
24 (a) if the application complies with subsection 287K(2); and
25 (b) for an application to be registered as a third party
26 campaigner—unless the Electoral Commissioner knows that
27 the person or entity is a political campaigner.
- 28 (2) To avoid doubt, the Electoral Commissioner may (subject to
29 paragraph (1)(b)) register a person or entity in accordance with the
30 person or entity's application whether or not the person or entity is
31 required to be registered under any of sections 287F to 287H.

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1 *Persons or entities that are already on other Registers*

- 2 (3) The Electoral Commissioner must remove a person or entity from
3 the Register of Third Party Campaigners if:
4 (a) the person or entity is on that Register; and
5 (b) the Electoral Commissioner registers the person or entity as a
6 political campaigner under subsection (1);
7 and vice versa.

8 *Refusing registration*

- 9 (4) The Electoral Commissioner must refuse to register a person or
10 entity in accordance with the person or entity's application under
11 section 287K if the Electoral Commissioner would be required to
12 refuse registration under subsection 129(1) (except under
13 paragraph 129(1)(a)) because of the name of the political
14 campaigner, the third party campaigner or the associated entity
15 assuming that:
16 (a) the person or entity were applying to be registered as a
17 political party; and
18 (b) references in that subsection to a "recognised political party",
19 "political party" or "the party" included references to a
20 "political campaigner", "third party campaigner" or
21 "associated entity"; and
22 (c) references in that subsection to a "registered party" included
23 references to a "political campaigner", "third party
24 campaigner" or "associated entity".
- 25 (5) Section 131 (variation of application) applies as if references to an
26 application for the registration of a political party included
27 references to an application for registration under this section.

28 *Review of decisions*

- 29 (6) Section 141 (review of certain decisions) applies as if:
30 (a) a decision under this section to refuse to register a person or
31 entity in accordance with the person or entity's application
32 under section 287K were a reviewable decision; and
33 (b) references to a person included references to a political
34 campaigner, third party campaigner or associated entity.
-

1 **287M Applications for deregistration**

- 2 (1) A person or entity that is registered as a political campaigner, a
3 third party campaigner or an associated entity may apply to the
4 Electoral Commissioner to be deregistered.
- 5 (2) The application must be in an approved form.
- 6 (3) On receiving the application, the Electoral Commissioner must
7 deregister the person or entity as a political campaigner, a third
8 party campaigner or an associated entity (as the case requires).

9 **Subdivision C—Register of Political Campaigners, Register of**
10 **Third Party Campaigners and Register of Associated**
11 **Entities**

12 **287N Register of Political Campaigners, Register of Third Party**
13 **Campaigners and Register of Associated Entities**

- 14 (1) The Electoral Commissioner must establish and maintain each of
15 the following:
16 (a) a Register of Political Campaigners;
17 (b) a Register of Third Party Campaigners;
18 (c) a Register of Associated Entities.

19 *Content of Registers*

- 20 (2) The Register of Political Campaigners must include:
21 (a) the name of each person or entity registered as a political
22 campaigner under section 287L; and
23 (b) the name of the financial controller of the person or entity;
24 and
25 (c) for any entity that is also on the Register of Associated
26 Entities:
27 (i) a statement that the entity is also on the Register of
28 Associated Entities; and
29 (ii) the names of any registered political parties with which
30 the entity is associated.
- 31 (3) The Register of Third Party Campaigners must include:

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- 1 (a) the name of each person or entity registered as a third party
2 campaigner under section 287L; and
3 (b) the name of the financial controller of the person or entity;
4 and
5 (c) for any entity that is also on the Register of Associated
6 Entities:
7 (i) a statement that the entity is also on the Register of
8 Associated Entities; and
9 (ii) the names of any registered political parties with which
10 the entity is associated.

- 11 (4) The Register of Associated Entities must include:
12 (a) the name of each entity registered as an associated entity
13 under section 287L; and
14 (b) the name of the financial controller of the entity; and
15 (c) the names of any registered political parties with which the
16 entity is associated; and
17 (d) for any entity that is also on the Register of Political
18 Campaigners or the Register of Third Party Campaigners—a
19 statement that the entity is also on that Register.

20 *Determination of additional information*

- 21 (5) Each of the Registers may include any other information
22 determined by the Electoral Commissioner under subsection (6).
23 (6) The Electoral Commissioner may, by legislative instrument,
24 determine information that may or must be included in each or any
25 specified Register.
26 (7) Before making a determination under subsection (6), the Electoral
27 Commissioner must consult the Information Commissioner in
28 relation to matters that relate to the privacy functions (within the
29 meaning of the *Australian Information Commissioner Act 2010*)
30 and have regard to any submissions made by the Information
31 Commissioner because of that consultation.

1 **287P Obligation to notify Electoral Commissioner of changes to**
2 **information on register**

- 3 (1) A person or entity that is registered as a political campaigner, third
4 party campaigner or associated entity must notify the Electoral
5 Commissioner, in an approved form, if information on the relevant
6 Register relating to the person or entity ceases to be correct or
7 complete.
- 8 (2) The person or entity must notify the Electoral Commissioner under
9 subsection (1) within 28 days of the information ceasing to be
10 correct or complete.

11 Note: A contravention of this civil penalty provision may be a continuing
12 contravention (see section 93 of the Regulatory Powers Act).

13 Civil penalty: 60 penalty units.

14 **287Q Registers to be made public etc.**

- 15 (1) The Register of Political Campaigners, the Register of Third Party
16 Campaigners and the Register of Associated Entities may be
17 maintained by electronic means.
- 18 (2) Each of the Registers is to be made available to the public.

19 **287R Entry in Registers prima facie evidence of information**

20 An entry in the Register of Political Campaigners, the Register of
21 Third Party Campaigners or the Register of Associated Entities is
22 prima facie evidence of the information contained in the entry.

23 **12 Section 314AA (definition of amount)**

24 Omit “, loan or bequest”, substitute “or loan”.

25 **Division 2—Application and transitional provisions**

26 **13 Application and transitional provisions**

- 27 (1) The amendments of the *Commonwealth Electoral Act 1918* made by
28 this Part apply (subject to this item) on and after the commencement of
29 this item.

Schedule 1 Electoral funding and disclosure reform

Part 1 Registration of political campaigners, third party campaigners and associated entities

- 1 (2) The following amendments apply on and after the first 1 July that
2 occurs on or after the day this Act receives the Royal Assent:
- 3 (a) the amendments of the definition of *gift* in subsection 287(1),
4 and the definition of *amount* in section 314AA, of the
5 *Commonwealth Electoral Act 1918* made by this Part;
- 6 (b) sections 287F to 287H of that Act, as inserted by this Part.
- 7 Note: The effect of paragraph (2)(b) is that an entity that is required to be registered on the
8 first 1 July that occurs on or after the day this Act receives the Royal Assent has 28 days
9 from that day to become registered (see subsections 287F(2), 287G(2) and 287H(2) of
10 the *Commonwealth Electoral Act 1918*).
- 11 (3) If this Part commences before Schedule 1 to the *Electoral and Other*
12 *Legislation Amendment Act 2017*, paragraph (c) of the definition of
13 *political purpose* in subsection 287(1) of the *Commonwealth Electoral*
14 *Act 1918*, as inserted by this Part, applies until that commencement as if
15 that paragraph referred instead to “the printing, production, publication
16 or distribution of any material (not being material referred to in
17 subparagraph 314AEB(1)(a)(i) or (ii)) that is required under
18 section 328, 328A or 328B to include a name, address or place of
19 business”.

1 **Part 2—Other amendments**

2 **Division 1—Amendments**

3 ***Commonwealth Electoral Act 1918***

4 **14 Subsection 17A(1)**

5 Omit “an offence that has, or may have been, committed against
6 section 315”, substitute “a contravention or potential contravention of a
7 civil penalty provision in this Act”.

8 **15 Before section 287**

9 Insert:

10 **286A Simplified outline of this Part**

11 This Part deals with the funding of registered political parties,
12 candidates and groups. It also deals with gifts and other financial
13 matters relating to parties, candidates, groups, political
14 campaigners, third party campaigners and associated entities.

15 Registered political parties, candidates and groups must have
16 agents. Political campaigners, third party campaigners and
17 associated entities must have financial controllers. Many of the
18 obligations in this Part are imposed on those agents and financial
19 controllers.

20 Registered political parties, candidates and groups may be entitled
21 to election funding. The election funding is payable in relation to
22 any candidate who received more than 4% of the total first
23 preference votes cast in the election.

24 Generally, gifts of over \$250 to political entities (who are
25 registered political parties, candidates and Senate groups), and
26 most political campaigners, must be made by allowable donors
27 (who, broadly, have a connection to Australia). Similarly, only
28 allowable donors may make gifts of more than \$250 in a financial
29 year to a single political entity or political campaigner.

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Gifts to third party campaigners, and to political campaigners that are registered charities or registered organisations, from non-allowable donors must not be made or used for political purposes. Gifts to such charities and organisations from non-allowable donors must be kept in a separate account.

Generally, gifts must also be paid from bank accounts in Australia. Specified particulars must be provided for gifts over \$250.

There are obligations to disclose certain gifts made to:

- (a) candidates and members of groups during an election period; and
- (b) registered political parties, State branches and political campaigners.

Certain expenditure incurred by or with the authority of candidates and groups during an election period must also be disclosed.

Each financial year, registered political parties, political campaigners, third party campaigners and associated entities are required to disclose details relating to amounts received or paid or incurred by the parties, campaigners or entities during the year.

19 **16 Subsection 287(1)**

20 Insert:

21 *electoral expenditure* has the meaning given by subsection 308(1).

22 **17 Subsection 287(1) (definition of *financial controller*)**

23 Omit “an entity, means”, substitute “a person or entity, means (subject
24 to section 292F)”.

25 **18 Subsection 287(1) (paragraphs (a), (b) and (c) of the
26 definition of *financial controller*)**

27 Omit “the entity”, substitute “the person or entity”.

28 **19 Division 2 of Part XX (heading)**

29 Repeal the heading, substitute:

1 **Division 2—Agents and financial controllers**

2 **20 Before section 288**

3 Insert:

4 **Subdivision A—Simplified outline of this Division**

5 **287V Simplified outline of this Division**

6 Political parties, candidates and groups must have an agent.
7 Political campaigners, third party campaigners and associated
8 entities must nominate a financial controller.

9 The Electoral Commissioner keeps a Register of Party Agents.
10 Information about financial controllers for political campaigners,
11 third party campaigners and associated entities are kept in the
12 Registers under Division 1A.

13 The agents are responsible for making claims for election funding
14 under Division 3, and agents and financial controllers are
15 responsible for complying with Division 3A, and providing returns
16 under Divisions 4 to 5A.

17 **Subdivision B—Appointment of agents**

18 **21 Sections 288A to 290**

19 Repeal the sections, substitute:

20 **289 Appointment of agents by candidates and groups**

21 *Agents of candidates*

22 (1) A candidate in an election (including a member of a group of
23 candidates) may appoint a person to be the agent of the candidate
24 in relation to the election.

25 Note: A group of candidates has an agent who is separate from the
26 candidates' agents (see subsections (3) and (4)).

- 1 (2) If the candidate does not appoint an agent, the candidate is taken to
2 be his or her own agent in relation to the election.

3 *Agents of members of groups*

- 4 (3) The members of a group of candidates in an election may appoint a
5 person to be the agent of the group in relation to the election.

- 6 (4) If the members of a group of candidates do not appoint an agent:
7 (a) if all the members have been endorsed by the same registered
8 political party—the agent of the State branch of the party
9 organised on the basis of the State or Territory in which the
10 election is to be held is taken to be the agent of the group in
11 relation to the election; and
12 (b) otherwise—the candidate whose name appears first in the
13 group in the ballot papers (or if that candidate dies, the
14 candidate whose name appears next highest in the ballot
15 papers) is taken to be the agent of the group in relation to the
16 election.

17 **22 Paragraphs 292(2)(b) and (3)(b)**

18 Omit “subsection 290(1)”, substitute “subsection 292F(1)”.

19 **23 Paragraph 292B(a)**

20 After “Division”, insert “3A,”.

21 **24 Subsection 292(4)**

22 Omit “subsection 290(1)”, substitute “subsection 292F(1)”.

23 **25 Section 292D**

24 Repeal the section, substitute:

25 **292D Notice of death or resignation of agent of candidate or group**

26 *Death*

- 27 (1) If the agent of a candidate or group dies, the candidate or a member
28 of the group must, without delay, give to the Electoral Commission
29 notice in writing of the death.

1 *Resignation*

- 2 (2) If the agent of a candidate or group resigns, the agent must, without
3 delay, give to the Electoral Commission notice in writing of the
4 resignation.

5 **26 At the end of Division 2 of Part XX**

6 Add:

7 **Subdivision C—Nomination of financial controllers**

8 **292E Financial controllers of political campaigners, third party**
9 **campaigners and associated entities**

- 10 (1) Each political campaigner, third party campaigner and associated
11 entity must nominate a financial controller.

12 Note: See the definition of *financial controller* in subsection 287(1).

- 13 (2) If the political campaigner, third party campaigner or associated
14 entity is an individual, he or she may nominate himself or herself
15 as the financial controller.

- 16 (3) If the political campaigner, third party campaigner or associated
17 entity (the *campaigner or entity*) is not a legal person, an
18 individual acting on behalf of the campaigner or entity must
19 nominate the financial controller.

20 **Subdivision D—Requirements for appointment or nomination**

21 **292F Requirements for appointment or nomination**

- 22 (1) An appointment of an agent under section 288 or 289, or a
23 nomination of a financial controller under section 292E, must meet
24 the following conditions (subject to subsection (2)):
25 (a) the person appointed or nominated is an individual who is at
26 least 18 years old;
27 (b) written notice of the appointment or nomination is given to
28 the Electoral Commission:
29 (i) for an appointment made by a political party or a State
30 branch of a political party—by the party or branch; and

- 1 (ii) for any other appointment—by the candidate, or each
2 member of the group, making the appointment; and
3 (iii) for a nomination of a financial controller of a political
4 campaigner, third party campaigner or associated
5 entity—by the campaigner or entity nominating the
6 financial controller;
7 (c) the name and full street address and suburb or locality of the
8 person appointed or nominated are set out in the notice;
9 (d) the person appointed or nominated:
10 (i) has signed a form of consent to the appointment or
11 nomination; and
12 (ii) has signed a declaration that he or she is eligible for
13 appointment or nomination;
14 (e) for a nomination under section 292E—the person nominated
15 meets the definition of *financial controller* in
16 subsection 287(1).
- 17 (2) Subsection (1) does not apply in relation to a person who is taken
18 to be an agent under subsection 289(2) or (4).
- 19 (3) A consent or declaration under subsection (1) may be incorporated
20 in, or written on the same paper as, a notice under that subsection.
- 21 (4) A person is not eligible to be:
22 (a) appointed as an agent of a political party, candidate or group;
23 or
24 (b) nominated as a financial controller of a political campaigner,
25 third party campaigner or associated entity;
26 if the person is convicted of an offence against this Part.

27 Sections 294 and 297

28 Repeal the sections, substitute:

29 Subdivision A—Simplified outline of this Division

30 292G Simplified outline of this Division

31 Election funding may be payable in relation to registered political
32 parties, candidates and groups under this Division. The election

1 funding is payable in relation to any candidate who received more
2 than 4% of the total first preference votes cast in the election.
3 However, a claim must be made for election funding to be paid.

4 The amount of the election funding is worked out by reference to
5 the number of formal first preference votes received by the
6 candidate. However, the amount is capped at the amount of actual
7 expenditure incurred by the candidate or the registered political
8 party endorsing the candidate.

9 **Subdivision B—Election funding**

10 **293 Election funding for registered political parties**

- 11 (1) Election funding is payable in relation to a registered political party
12 under this section for an election if either of the following applies:
13 (a) in respect of a candidate whom the party endorses in a House
14 of Representatives election, or in a Senate election and who
15 is not a member of a group—the total number of formal first
16 preference votes given for the candidate is at least 4% of the
17 total number of formal first preference votes cast in the
18 election;
19 (b) in respect of candidates whom the party endorses in a Senate
20 election and who are members of a group—the total number
21 of formal first preference group votes given for the
22 candidates is at least 4% of the total number of formal first
23 preference votes cast in the election.

24 Note: A claim must be made for the election funding to be paid (see
25 section 297).

- 26 (2) The amount of election funding that is payable in relation to the
27 party is the lesser of:
28 (a) the total of the following:
29 (i) \$2.70479 for each formal first preference vote given for
30 a candidate in relation to whom paragraph (1)(a) is
31 satisfied;
32 (ii) \$2.70479 for each formal first preference group vote in
33 respect of a group in relation to which paragraph (1)(b)
34 is satisfied;

- 1 based on formal first preference votes and formal first
2 preference group votes counted as at the day a determination
3 on the party's interim claim or final claim (as the case
4 requires) for election funding is made by the Electoral
5 Commission; and
6 (b) the amount of electoral expenditure:
7 (i) claimed in respect of the registered political party for all
8 elections held that day; and
9 (ii) accepted by the Electoral Commission under
10 section 298C.

11 Note: The amounts in subparagraphs (2)(a)(i) and (ii) are indexed under
12 section 321.

13 **294 Election funding for unendorsed candidates**

- 14 (1) Election funding is payable in relation to a candidate under this
15 section if:
16 (a) the candidate is neither:
17 (i) endorsed by a registered political party; nor
18 (ii) in the case of a Senate election—a member of a group;
19 and
20 (b) the total number of formal first preference votes given for the
21 candidate in the election is at least 4% of the total number of
22 formal first preference votes cast in the election.

23 Note: A claim must be made for the election funding to be paid (see
24 section 297).

- 25 (2) The amount of election funding that is payable in relation to the
26 candidate is the lesser of:
27 (a) \$2.70479 for each formal first preference vote given for the
28 candidate in the election, based on formal first preference
29 votes counted as at the day a determination on the
30 candidate's interim claim or final claim (as the case requires)
31 for election funding is made by the Electoral Commission;
32 and
33 (b) the amount of electoral expenditure:
34 (i) claimed in respect of the candidate for the election; and
35 (ii) accepted by the Electoral Commission under
36 section 298C.

1 Note: The amount in paragraph (2)(a) is indexed under section 321.

2 **295 Election funding for unendorsed groups**

- 3 (1) Election funding is payable in relation to a group in a Senate
4 election under this section if:
5 (a) none of the group's members is a candidate endorsed by a
6 registered political party; and
7 (b) the total number of formal first preference group votes is at
8 least 4% of the total number of formal first preference votes
9 cast in the Senate election.

10 Note: A claim must be made for the election funding to be paid (see
11 section 297).

- 12 (2) The amount of election funding that is payable in relation to the
13 group is the lesser of:
14 (a) \$2.70479 for each formal first preference group vote in the
15 Senate election, based on formal first preference votes and
16 formal first preference group votes counted as at the day a
17 determination on the group's interim claim or final claim (as
18 the case requires) for election funding is made by the
19 Electoral Commission; and
20 (b) the amount of electoral expenditure:
21 (i) claimed in respect of the group for the Senate election;
22 and
23 (ii) accepted by the Electoral Commission under
24 section 298C.

25 Note: The amount in paragraph (2)(a) is indexed under section 321.

26 **Subdivision C—Claims for election funding**

27 **297 Need for a claim**

- 28 (1) For an amount of election funding to be paid, a claim must be
29 made by:
30 (a) the agent of a registered political party; or
31 (b) the agent of a candidate or group.
32 (2) The agent may make:
33 (a) an interim claim; or
-

- 1 (b) both an interim claim and a final claim; or
2 (c) a final claim.

3 Note: If an interim claim only is made, see subsections 298C(3) and (4).

- 4 (3) A final claim must specify all electoral expenditure for which
5 election funding is sought, even if some or all of the electoral
6 expenditure has been specified in an interim claim.
- 7 (4) A final claim may specify electoral expenditure already specified
8 in an interim claim by making reference to the interim claim.
- 9 (5) Only one interim claim and one final claim may be made.

10 **298 Electoral expenditure incurred**

- 11 (1) A claim made by the agent of a registered political party must
12 specify electoral expenditure:
- 13 (a) incurred by the party, or by candidates endorsed by the party,
14 in relation to all elections held on the same day; and
15 (b) for which election funding is sought.
- 16 (2) A claim made by the agent of a candidate in an election who is not
17 endorsed by a registered political party must specify electoral
18 expenditure:
- 19 (a) incurred by the candidate in relation to the election; and
20 (b) for which election funding is sought.
- 21 (3) A claim made by the agent of a group in a Senate election must
22 specify electoral expenditure:
- 23 (a) incurred by the group, or by candidates who are members of
24 the group, in relation to the election; and
25 (b) for which election funding is sought.

26 **298A Form of claim**

- 27 A claim must:
- 28 (a) specify whether the claim is an interim claim or final claim;
29 and
30 (b) be in an approved form; and

- 1 (c) specify the person or persons to whom the election funding is
2 payable; and
3 (d) if the election funding is payable to more than one person—
4 specify the percentages in which the election funding is
5 payable to each person; and
6 (e) provide all the information, and be accompanied by any
7 documents, required by the form.

8 **298B Lodging of claim**

- 9 (1) A claim must be lodged with the Electoral Commission during the
10 period:
11 (a) beginning 20 days after the polling day for the election or
12 elections; and
13 (b) ending 6 months after that polling day.
14 (2) A claim is taken not to have been made if it is not lodged within
15 that period.

16 **298C Determination of claim**

- 17 (1) The Electoral Commission must, within 20 days of the Electoral
18 Commission receiving a claim:
19 (a) decide whether to accept or refuse the claim, in whole or in
20 part; and
21 (b) to the extent that the Electoral Commission accepts the
22 claim—pay the amount required by section 298D or 298E.
23 (2) In deciding whether to accept or refuse a claim, in whole or in part,
24 the Electoral Commission must only consider:
25 (a) whether expenditure claimed is electoral expenditure; and
26 (b) if expenditure claimed is electoral expenditure—both:
27 (i) whether the electoral expenditure was incurred; and
28 (ii) whether the electoral expenditure has been specified in a
29 claim made by another agent.
30 (3) If an interim claim is accepted, in whole or in part, and a final
31 claim is not lodged:
32 (a) no further election funding is payable; and
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- 1 (b) the interim claim is taken to be a final claim accepted, in
2 whole or in part, by the Electoral Commission for the
3 purposes of subsection 301(1); and
4 (c) if the interim claim is accepted only in part—the interim
5 claim is taken to be a final claim refused in part by the
6 Electoral Commission for the purposes of sections 298F,
7 298G and 298H.
- 8 (4) If:
9 (a) an interim claim is refused; and
10 (b) a final claim is not lodged;
11 the interim claim is taken to be a final claim refused by the
12 Electoral Commission for the purposes of sections 298F, 298G and
13 298H.
- 14 (5) To avoid doubt, subsection (3) does not require the Electoral
15 Commission to determine the amount of election funding that is
16 payable based on formal first preference votes and formal first
17 preference group votes counted as at the day the interim claim is
18 taken to be a final claim.

19 **298D Payment to be made following acceptance of an interim claim**

- 20 (1) This section applies if the Electoral Commission accepts, in whole
21 or in part, an interim claim made by the agent of a registered
22 political party, candidate or group in relation to an election or
23 elections.
- 24 (2) The Electoral Commission must, within 20 days of the Electoral
25 Commission receiving the claim, pay 95% of the amount that is
26 payable in relation to the party, candidate or group under
27 subsection 293(2), 294(2) or 295(2), in accordance with paragraphs
28 298A(c) and (d).
- 29 Note 1: Under paragraphs 298A(c) and (d), a claim may specify the person or
30 persons to whom, and percentages in which, election funding is
31 payable.
- 32 Note 2: See also section 299A if the amount is payable to the agent of a
33 registered political party.

1 **298E Payment to be made following acceptance of a final claim**

2 (1) This section applies if the Electoral Commission accepts, in whole
3 or in part, a final claim made by the agent of a registered political
4 party, candidate or group in relation to an election or elections.

5 (2) The Electoral Commission must, within 20 days of the Electoral
6 Commission receiving the claim, pay the amount that is payable in
7 relation to the party, candidate or group under subsection 293(2),
8 294(2) or 295(2), reduced by any amount that has been paid in
9 accordance with section 298D, in accordance with paragraphs
10 298A(c) and (d).

11 Note 1: Under paragraphs 298A(c) and (d), a claim may specify the person or
12 persons to whom, and percentages in which, election funding is
13 payable.

14 Note 2: See also section 299A if the amount is payable to the agent of a
15 registered political party.

16 **298F Refusing a final claim**

17 If a final claim is refused, in whole or in part, the Electoral
18 Commission must cause to be given to the agent of the registered
19 political party, candidate or group to which the claim relates, a
20 notice that states that the claim has been refused, in whole or in
21 part, and sets out the reasons for the refusal.

22 Note: A notice may be required under this section if an interim claim that is
23 refused, in whole or in part, is taken to be a final claim under
24 paragraph 298C(3)(c) or subsection 298C(4).

25 **298G Application for reconsideration of decision to refuse a final**
26 **claim**

27 (1) If a final claim is refused, in whole or in part, the agent of the
28 registered political party, candidate or group to which the claim
29 relates may apply to the Electoral Commission for the Electoral
30 Commission to reconsider the decision.

31 (2) The application must:
32 (a) be in writing; and
33 (b) set out the reasons for the application.

- 1 (3) The application must be made within:
2 (a) 28 days after the day on which the agent is notified of the
3 refusal; or
4 (b) if, either before or after the end of that period of 28 days, the
5 Electoral Commission extends the period within which the
6 application may be made—the extended period for making
7 the application.

8 **298H Reconsideration by Electoral Commission**

- 9 (1) Upon receiving such an application, the Electoral Commission
10 must:
11 (a) reconsider the decision; and
12 (b) decide to:
13 (i) affirm the decision; or
14 (ii) vary the decision; or
15 (iii) set aside the decision and make another decision.
- 16 (2) The Electoral Commission must give to the relevant agent a notice
17 stating the decision on the reconsideration together with a
18 statement of the reasons for the decision.
- 19 (3) If the Electoral Commission's decision on the reconsideration
20 would require an amount, or an additional amount, of election
21 funding to be paid, the Electoral Commission must pay the amount
22 within 20 days of the day of its decision.
- 23 (4) The Electoral Commission may not delegate its power under
24 subsection (1).
- 25 (5) Subsections 141(5) to (6A) apply in relation to a decision under
26 this section in the same way as those subsections apply to a
27 reviewable decision made by the Electoral Commission under
28 subsection 141(2) or (4).

29 **Subdivision D—Payments of election funding**

30 **28 Section 299**

31 Repeal the section, substitute:

1 **299 Recovery of amounts that are not payable**

2 If:

3 (a) a payment is made under this Division; and

4 (b) the recipient is not entitled to receive the whole or a part of
5 the amount paid;

6 that amount or part may be recovered by the Commonwealth as a
7 debt due to the Commonwealth by action against the person in a
8 court of competent jurisdiction.

9 **29 Subsection 299A(1)**

10 Omit “under section 299 to the agent or principal agent”, substitute
11 “under section 298D or 298E to the agent”.

12 **30 At the end of subsection 299A(1)**

13 Add:

14 Note: An interim claim or final claim must specify the person to whom
15 election funding is payable which may be the agent (see
16 paragraph 298A(c)).

17 **31 Subsection 299A(8)**

18 Omit “or principal agent”.

19 **32 Sections 300 and 301**

20 Repeal the sections, substitute:

21 **Subdivision E—Miscellaneous**

22 **300 Death of candidates or group members**

23 *Death of candidate*

24 (1) If formal first preference votes were given for a candidate in an
25 election, a payment may be made in respect of the candidate even
26 if the candidate dies.

27 (2) If the candidate was neither:

28 (a) endorsed by a registered political party; nor

29 (b) a member of a group;

1 and was his or her own agent for the purposes of this Part, the
2 payment may be made to the candidate's legal personal
3 representative.

4 *Death of member of group*

5 (3) If group votes were given in a Senate election in relation to a group
6 of candidates, a payment may be made for the group even if a
7 candidate who was a member of the group dies.

8 **301 Varying decisions accepting claims**

9 (1) If:

10 (a) the Electoral Commission has made a decision (the *claim*
11 *decision*) under section 298C to accept an amount of
12 electoral expenditure specified in a final claim; and

13 (b) the Electoral Commission becomes satisfied that:

14 (i) the amount of electoral expenditure should not have
15 been accepted; or

16 (ii) only a lesser amount of electoral expenditure should
17 have been accepted;

18 the Electoral Commission may vary the claim decision
19 accordingly.

20 (2) If the Electoral Commission makes a decision (the *variation*
21 *decision*) to vary the claim decision, sections 298F, 298G and
22 298H apply in relation to the variation decision as if it were, to the
23 extent of the variation, a decision of the Commission to refuse the
24 claim.

25 (3) If:

26 (a) the Electoral Commission varies the claim decision; and

27 (b) the total amount of election funding that has been paid to a
28 person in respect of the final claim, and any interim claim,
29 exceeds the amount that, under the claim decision as varied,
30 should have been paid to the person in respect of the final
31 claim;

32 the amount of the excess is an overpayment, and may be recovered
33 by the Commonwealth as a debt due to the Commonwealth by
34 action against the person.

1 **33 After Division 3 of Part XX**

2 Insert:

3 **Division 3A—Requirements relating to donations**

4 **Subdivision A—Interpretation**

5 **302A Simplified outline of this Division**

6 This Division regulates gifts that are made to registered political
7 parties, candidates, groups, political campaigners and third party
8 campaigners.

9 Gifts of over \$250 to political entities (broadly, registered political
10 parties, candidates and Senate groups), and most political
11 campaigners, must be made by allowable donors. Similarly, only
12 allowable donors may make gifts of more than \$250 in a financial
13 year to a single political entity or political campaigner. An
14 allowable donor is a person who has a connection to Australia,
15 such as an Australian citizen or an entity that is incorporated in
16 Australia.

17 Gifts to third party campaigners, and to political campaigners that
18 are registered charities or registered organisations, from
19 non-allowable donors must not be made or used for political
20 purposes. Gifts to such charities and organisations from
21 non-allowable donors must be kept in a separate account.

22 Anti-avoidance provisions apply to strengthen these requirements.

23 Generally, gifts must also be paid from bank accounts in Australia.
24 Specified particulars must be provided for gifts over \$250.

25 A person may be liable for a civil penalty for contravening the
26 requirements. There are some exceptions such as when a gift is
27 made in a personal capacity.

1 **302B Interpretation**

2 (1) In this Division:

3 *acceptable action* is taken in relation to a gift if any of the
4 following action is taken:

- 5 (a) an amount equal to the amount or value of the gift is
6 transferred to the Commonwealth for the purposes of this
7 Division;
8 (b) the gift is returned to the donor or the person who made the
9 gift;
10 (c) an amount equal to the amount or value of the gift is
11 transferred to the donor or the person who made the gift.

12 *appropriate donor information* has the meaning given by
13 section 302P.

14 *Persons to remain candidates and groups for 30 days after an*
15 *election*

16 (2) For the purpose of this Division:

- 17 (a) a person who is a candidate in an election is taken to remain a
18 candidate; and
19 (b) persons who constituted a group in an election are taken to
20 continue to constitute the same group;
21 for 30 days after the polling day in the election.

22 **302C Object of this Division**

- 23 (1) The object of the Division is to secure and promote the actual and
24 perceived integrity of the Australian electoral process by reducing
25 the risk of foreign persons and entities exerting (or being perceived
26 to exert) undue or improper influence in the outcomes of elections.
27 (2) This Division aims to achieve this object by restricting the receipt
28 and use of political donations made by foreign persons or entities
29 that do not have a legitimate connection to Australia.

1 **Subdivision B—Offences and civil penalty provisions relating to**
2 **donations**

3 **302D Donations to registered political parties, candidates, Senate**
4 **groups and political campaigners**

- 5 (1) A person contravenes this subsection if:
- 6 (a) the person is:
 - 7 (i) an agent of a political entity (the *gift recipient*); or
 - 8 (ii) a financial controller of a political campaigner (the *gift*
9 *recipient*); and
 - 10 (b) a gift is made to, or for the benefit of, the gift recipient during
11 a financial year; and
 - 12 (c) the gift is made by, or on behalf of, a person (the *donor*); and
 - 13 (d) the donor is not an allowable donor; and
 - 14 (e) at the time the gift is made:
 - 15 (i) the amount or value of the gift is at least \$250; or
 - 16 (ii) the amount or value of the gift, and of all gifts
17 previously made by the donor to the gift recipient
18 during the financial year, is at least \$250; and
 - 19 (f) acceptable action has not been taken in relation to the gift
20 before the end of 6 weeks after the gift is made; and
 - 21 (g) at the time the gift is made, the gift recipient is not registered
22 under:
 - 23 (i) the *Australian Charities and Not-for-Profits*
24 *Commission Act 2012*; or
 - 25 (ii) the *Fair Work (Registered Organisations) Act 2009*.

26 Note 1: For exceptions to this provision, see sections 302M (seeking
27 information about allowable donor status) and 302N (gifts made in
28 private capacity).

29 Note 2: The amount or value of the gift might be a debt due to the
30 Commonwealth under section 302Q.

31 Note 3: The physical elements of an offence against subsection (2) are set out
32 in this subsection (see section 302R).

1

Offence

2

- (2) A person commits an offence if the person contravenes subsection (1).

3

4

Penalty: 10 years imprisonment or 600 penalty units, or both.

5

Civil penalty

6

- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

7

8

Civil penalty: 1,000 penalty units.

9

Provision not continuing offence or civil penalty

10

- (4) Section 4K of the *Crimes Act 1914* does not apply in relation to an offence against subsection (2). Section 93 of the Regulatory Powers Act does not apply in relation to a contravention of subsection (3).

11

12

13

14

302E Donations to third party campaigners and certain political campaigners

15

16

- (1) A person contravenes this subsection if:

17

(a) the person is a financial controller of:

18

(i) a political campaigner (the *gift recipient*); or

19

(ii) a third party campaigner (the *gift recipient*); and

20

(b) a gift is made to, or for the benefit of, the gift recipient during a financial year; and

21

22

(c) the gift is made by, or on behalf of, a person; and

23

(d) the person is not an allowable donor; and

24

(e) at the time the gift is made, the gift recipient is:

25

(i) a third party campaigner; or

26

(ii) a political campaigner that is registered under the

27

Australian Charities and Not-for-Profits Commission

28

Act 2012 or the *Fair Work (Registered Organisations)*

29

Act 2009; and

30

(f) either of the conditions in subsection (2) is met; and

1 (g) acceptable action has not been taken in relation to the gift
2 before the end of 6 weeks after the gift is made.

3 Note 1: For an exception to this provision, see section 302M (seeking
4 information about allowable donor status).

5 Note 2: The amount or value of the gift might be a debt due to the
6 Commonwealth under section 302Q.

7 Note 3: The physical elements of an offence against subsection (2) are set out
8 in this subsection (see section 302R).

9 (2) A condition in this subsection is met if:

10 (a) the total of the following amounts is more than the gift
11 recipient's allowable amount for the financial year:

12 (i) the amount of political expenditure incurred by the gift
13 recipient during the financial year;

14 (ii) the total amount or value of gifts made to a political
15 entity or political campaigner by the gift recipient
16 during the financial year; or

17 (b) the gift is expressly made (whether wholly or partly) for one
18 or more political purposes, and at the time the gift is made:

19 (i) the amount or value of the gift is at least \$250; or

20 (ii) the amount or value of the gift, and of all gifts
21 previously made by the donor to the gift recipient
22 during the financial year, is at least \$250.

23 *Offence*

24 (3) A person commits an offence if the person contravenes
25 subsection (1).

26 Penalty: 10 years imprisonment or 600 penalty units, or both.

27 *Civil penalty*

28 (4) A person is liable to a civil penalty if the person contravenes
29 subsection (1).

30 Civil penalty: 1,000 penalty units.

1 *Provision not continuing offence or civil penalty*

2 (5) Section 4K of the *Crimes Act 1914* does not apply in relation to an
3 offence against subsection (3). Section 93 of the Regulatory
4 Powers Act does not apply in relation to a contravention of
5 subsection (4).

6 **302F Donations to political campaigners that are registered charities**
7 **and organisations**

- 8 (1) A person contravenes this subsection if:
- 9 (a) the person is a financial controller of a political campaigner
10 that is registered under the *Australian Charities and*
11 *Not-for-Profits Commission Act 2012* or the *Fair Work*
12 *(Registered Organisations) Act 2009*; and
 - 13 (b) a gift is made to the campaigner by, or on behalf of, a person;
14 and
 - 15 (c) the person is not an allowable donor; and
 - 16 (d) the gift is paid into an account; and
 - 17 (e) political expenditure, or one or more gifts to one or more
18 political entities or political campaigners, are paid by the
19 political campaigner from the account; and
 - 20 (f) acceptable action has not been taken in relation to the gift
21 referred to in paragraph (1)(b) before the end of 6 weeks after
22 that gift is made.

23 Note 1: For an exception to this provision, see section 302M (seeking
24 information about allowable donor status).

25 Note 2: The physical elements of an offence against subsection (2) are set out
26 in this subsection (see section 302R).

27 *Offence*

28 (2) A person commits an offence if the person contravenes
29 subsection (1).

30 Penalty: 10 years imprisonment or 600 penalty units, or both.

31 *Civil penalty*

32 (3) A person is liable to a civil penalty if the person contravenes
33 subsection (1).

1 Civil penalty: 1,000 penalty units.

2 *Provision not continuing offence or civil penalty*

- 3 (4) Section 4K of the *Crimes Act 1914* does not apply in relation to an
4 offence against subsection (2). Section 93 of the Regulatory
5 Powers Act does not apply in relation to a contravention of
6 subsection (3).

7 **302G Soliciting gifts from non-allowable donors**

- 8 (1) A person (the *first person*) contravenes this subsection if:
9 (a) the first person solicits another person (the *donor*) to:
10 (i) make a gift; or
11 (ii) have a gift made on behalf of the donor;
12 (whether or not the gift is actually made); and
13 (b) the donor is not an allowable donor; and
14 (c) the first person solicits the gift intending that all or part of the
15 gift, or of the amount or value of the gift, be transferred to
16 any of the following (the *future gift recipient*):
17 (i) a political entity;
18 (ii) a political campaigner;
19 (iii) any other person for one or more political purposes; and
20 (d) at the time the gift is solicited, the future gift recipient is not
21 registered under:
22 (i) the *Australian Charities and Not-for-Profits*
23 *Commission Act 2012*; or
24 (ii) the *Fair Work (Registered Organisations) Act 2009*.

25 Note 1: For an exception to this provision, see section 302M (seeking
26 information about allowable donor status).

27 Note 2: The amount or value of the gift might be a debt due to the
28 Commonwealth under section 302Q.

29 Note 3: The physical elements of an offence against subsection (3) are set out
30 in this subsection (see section 302R).

31 *Exception—private capacity*

- 32 (2) Subsection (1) does not apply if the first person solicited the gift
33 intending that all or part of the gift, or of the amount or value of the
-

1 gift, be transferred to a person or entity referred to in
2 paragraph (1)(c) in a private capacity for his or her personal use.

3 Note: A person who wishes to rely on this subsection bears an evidential
4 burden in relation to the matters in this subsection (see
5 subsection 13.3(3) of the *Criminal Code* and section 96 of the
6 Regulatory Powers Act).

7 *Offence*

8 (3) A person commits an offence if the person contravenes
9 subsection (1).

10 Penalty: 5 years imprisonment or 300 penalty units, or both.

11 *Civil penalty*

12 (4) A person is liable to a civil penalty if the person contravenes
13 subsection (1).

14 Civil penalty: 500 penalty units.

15 **302H Receiving gifts from non-allowable donors in order to transfer**
16 **the gifts**

17 (1) A person (the *first person*) contravenes this subsection if:

18 (a) a gift is made to the first person by, or on behalf of, another
19 person (the *donor*); and

20 (b) the donor is not an allowable donor; and

21 (c) the first person receives the gift intending that all or part of
22 the gift, or of the amount or value of the gift, be transferred to
23 any of the following (the *gift recipient*):

24 (i) a political entity;

25 (ii) a political campaigner;

26 (iii) any other person for one or more political purposes; and

27 (d) at the time the gift is made, the gift recipient is not registered
28 under:

29 (i) the *Australian Charities and Not-for-Profits*
30 *Commission Act 2012*; or

31 (ii) the *Fair Work (Registered Organisations) Act 2009*.

1 Note 1: For an exception to this provision, see section 302M (seeking
2 information about allowable donor status).

3 Note 2: The amount or value of the gift might be a debt due to the
4 Commonwealth under section 302Q.

5 Note 3: The physical elements of an offence against subsection (3) are set out
6 in this subsection (see section 302R).

7 *Exception—private capacity*

8 (2) Subsection (1) does not apply if the first person received the gift
9 intending that all or part of the gift, or of the amount or value of the
10 gift, be transferred to a person or entity referred to in
11 paragraph (1)(c) in a private capacity for his or her personal use.

12 Note: A person who wishes to rely on this subsection bears an evidential
13 burden in relation to the matters in this subsection (see
14 subsection 13.3(3) of the *Criminal Code* and section 96 of the
15 Regulatory Powers Act).

16 *Offence*

17 (3) A person commits an offence if the person contravenes
18 subsection (1).

19 Penalty: 5 years imprisonment or 300 penalty units, or both.

20 *Civil penalty*

21 (4) A person is liable to a civil penalty if the person contravenes
22 subsection (1).

23 Civil penalty: 500 penalty units.

24 **302J Forming bodies corporate for the purposes of avoiding**
25 **restrictions in this Division**

26 (1) A person contravenes this subsection if:
27 (a) the person forms, or participates in the formation of, a body
28 corporate in Australia; and
29 (b) the person does so solely or predominantly for the purpose of
30 making a gift that, under this Division, it is unlawful to
31 receive or retain, or use for a political purpose.

1 Note: The physical elements of an offence against subsection (2) are set out
2 in this subsection (see section 302R).

3 *Offence*

4 (2) A person commits an offence if the person contravenes
5 subsection (1).

6 Penalty: 5 years imprisonment or 300 penalty units, or both.

7 *Civil penalty*

8 (3) A person is liable to a civil penalty if the person contravenes
9 subsection (1).

10 Civil penalty: 500 penalty units.

11 **Subdivision C—Other offences and civil penalty provisions**

12 **302K Donations from foreign bank accounts, or donations made**
13 **while in a foreign country**

14 (1) A person contravenes this subsection if:

15 (a) the person is:

16 (i) an agent of a political entity (the *gift recipient*); or

17 (ii) a financial controller of a political campaigner (the *gift*
18 *recipient*); and

19 (b) a gift is made to, or for the benefit of, the gift recipient; and

20 (c) either:

21 (i) the gift is made directly from an account with a bank,
22 credit union, building society or similar institution that
23 is held in a foreign country; or

24 (ii) the gift is made by telegraphic or electronic transfer by a
25 person who is in a foreign country at the time of making
26 the gift (except if the gift is made from an account held
27 by a bank, credit union, building society or similar
28 institution in Australia); and

29 (d) acceptable action has not been taken in relation to the gift
30 before the end of 6 weeks after the gift is made; and

31 (e) at the time the gift is made, the gift recipient is not registered
32 under:

- 1 (i) the *Australian Charities and Not-for-Profits*
2 *Commission Act 2012*; or
3 (ii) the *Fair Work (Registered Organisations) Act 2009*.

4 Note 1: For an exception to this provision, see section 302N (gifts made in
5 private capacity).

6 Note 2: The amount or value of the gift might be a debt due to the
7 Commonwealth under section 302Q.

8 Note 3: The physical elements of an offence against subsection (2) are set out
9 in this subsection (see section 302R).

10 *Offence*

- 11 (2) A person commits an offence if the person contravenes
12 subsection (1).

13 Penalty: 10 years imprisonment or 600 penalty units, or both.

14 *Civil penalty*

- 15 (3) A person is liable to a civil penalty if the person contravenes
16 subsection (1).

17 Civil penalty: 1,000 penalty units.

18 *Provision not continuing offence or civil penalty*

- 19 (4) Section 4K of the *Crimes Act 1914* does not apply in relation to an
20 offence against subsection (2). Section 93 of the Regulatory
21 Powers Act does not apply in relation to a contravention of
22 subsection (3).

23 **302L Donations of at least \$250 etc. without appropriate donor**
24 **information**

- 25 (1) A person contravenes this subsection if:
26 (a) the person is:
27 (i) an agent of a political entity (the *gift recipient*); or
28 (ii) a financial controller of a political campaigner (the *gift*
29 *recipient*); and
30 (b) a gift is made to, or for the benefit of, the gift recipient during
31 a financial year; and
-

- 1 (c) the gift is made by, or on behalf of, a person (the *donor*); and
2 (d) at the time the gift is made:
3 (i) the amount or value of the gift is at least \$250; or
4 (ii) the amount or value of the gift, and of all gifts
5 previously made by the donor to the gift recipient
6 during the financial year, is at least \$250; and
7 (e) before the end of 6 weeks after the gift is made, appropriate
8 donor information has not been obtained in accordance with
9 section 302P establishing that the donor is an allowable
10 donor; and
11 (f) acceptable action has not been taken in relation to the gift
12 before the end of that 6-week period; and
13 (g) at the time the gift is made, the gift recipient is not registered
14 under:
15 (i) the *Australian Charities and Not-for-Profits*
16 *Commission Act 2012*; or
17 (ii) the *Fair Work (Registered Organisations) Act 2009*.

18 Note 1: For an exception to this provision, see section 302N (gifts made in
19 private capacity).

20 Note 2: The amount or value of the gift might be a debt due to the
21 Commonwealth under section 302Q.

22 Note 3: The physical elements of an offence against subsection (2) are set out
23 in this subsection (see section 302R).

24 *Offence*

- 25 (2) A person commits an offence if the person contravenes
26 subsection (1).

27 Penalty: 10 years imprisonment or 600 penalty units, or both.

28 *Civil penalty*

- 29 (3) A person is liable to a civil penalty if the person contravenes
30 subsection (1).

31 Civil penalty: 1,000 penalty units.

1 *Provision not continuing offence or civil penalty*

- 2 (4) Section 4K of the *Crimes Act 1914* does not apply in relation to an
3 offence against subsection (2). Section 93 of the Regulatory
4 Powers Act does not apply in relation to a contravention of
5 subsection (3).

6 **Subdivision D—Exceptions and other provisions relating to**
7 **offences and civil penalty provisions**

8 **302M Exception—seeking information about allowable donor status**

9 Subsection 302D(1), 302E(1), 302F(1), 302G(1) or 302H(1) does
10 not apply if:

- 11 (a) the person who, apart from this section, would contravene the
12 subsection obtained appropriate donor information in
13 accordance with section 302P establishing that the donor was
14 an allowable donor; and
15 (b) the person did not, at the following time or times, know, or
16 have reasonable grounds to believe, that the donor was not an
17 allowable donor:
18 (i) for subsection 302D(1), 302E(1) or 302F(1)—at any
19 time during the 6-week period referred to in that
20 subsection;
21 (ii) for subsection 302G(1)—at the time the gift is solicited;
22 (iii) for subsection 302H(1)—at the time the gift is received.

23 Note: A person who wishes to rely on this section bears an evidential burden
24 in relation to the matters in this section (see subsection 13.3(3) of the
25 *Criminal Code* and section 96 of the Regulatory Powers Act).

26 **302N Exception—gifts made in private capacity**

27 Subsection 302D(1), 302K(1) or 302L(1) does not apply if the
28 relevant gift was made in a private capacity to the relevant gift
29 recipient for his or her personal use.

30 Note: A person who wishes to rely on this section bears an evidential burden
31 in relation to the matters in this section (see subsection 13.3(3) of the
32 *Criminal Code* and section 96 of the Regulatory Powers Act).

1 **302P Information relating to allowable donor status**

2 (1) A person (the *first person*) obtains *appropriate donor information*
3 from another person establishing that the other person is an
4 allowable donor if:

5 (a) the first person obtains a statutory declaration from the other
6 person declaring that the other person is an allowable donor
7 (unless subsection (2) applies); or

8 (b) if the regulations determine information that the first person
9 may seek from the other person in order to establish that the
10 other person is an allowable donor—the first person obtains
11 that information from the other person.

12 (2) For the purposes of paragraph (1)(b), the regulations may (but are
13 not required to) determine that a statutory declaration that a person
14 is an allowable donor is not appropriate donor information.

15 Note: A person who obtains appropriate donor information may not commit
16 an offence or contravene a civil penalty provision in this Division (see
17 subsection 287(9) and section 302M).

18 **302Q Debts due to the Commonwealth**

19 (1) This section applies if:

20 (a) a gift is made to, or for the benefit of, a person (the *gift*
21 *recipient*); and

22 (b) a court has determined that the gift recipient or any other
23 person has contravened any of sections 302D to 302L (except
24 section 302J) in relation to the gift.

25 (2) The amount or value of the gift (determined at the time the gift is
26 made) is payable by the gift recipient to the Commonwealth and
27 may be recovered by the Commonwealth as a debt due to the
28 Commonwealth by action in a court of competent jurisdiction.

29 **302R Physical elements of offences**

30 (1) This section applies if a provision of this Division provides that a
31 person contravening another provision of this Act (the *conduct*
32 *rule provision*) commits an offence.

1 (2) For the purposes of applying Chapter 2 of the *Criminal Code* to the
2 offence, the physical elements of the offence are set out in the
3 conduct rule provision.

4 Note: Chapter 2 of the *Criminal Code* sets out general principles of criminal
5 responsibility.

6 **34 Before section 303**

7 Insert:

8 **302V Simplified outline of this Division**

9 Candidates and members of groups in an election who receive gifts
10 during the disclosure period for the election must disclose the gifts
11 by providing a return to the Electoral Commission. In addition,
12 persons who make such gifts, where the value or amount of the
13 gifts is more than the disclosure threshold, must also disclose the
14 gifts.

15 Gifts totalling more than the disclosure threshold that are made by
16 a single person to the same registered political party, State branch
17 or political campaigner during a financial year must also be
18 disclosed in a return provided to the Electoral Commission.

19 Returns provided under this Division are published by the Electoral
20 Commission under section 320.

21 There are limitations on loans made to political parties, State
22 branches, political campaigners, candidates or groups that are more
23 than the disclosure threshold.

24 Gifts of more than the disclosure threshold to a political party,
25 State branch, political campaigner, candidate or group by a
26 corporation that is wound up within a year of making the gift may
27 be recovered from the recipient of the gift.

28 **35 At the end of section 303**

29 Add:

30 Note: Particulars provided under subsection 318(2) may be taken to be a
31 return provided under this Division (see subsection 318(2A)).

1 **36 Subsection 304(2)**

2 After “approved form”, insert “and in accordance with this section”.

3 **37 At the end of subsection 304(2)**

4 Add:

5 Note: A contravention of this civil penalty provision may be a continuing
6 contravention (see section 93 of the Regulatory Powers Act).

7 Civil penalty: 180 penalty units.

8 **38 Subsection 304(3)**

9 After “approved form”, insert “and in accordance with this section”.

10 **39 At the end of subsection 304(3)**

11 Add:

12 Note: A contravention of this civil penalty provision may be a continuing
13 contravention (see section 93 of the Regulatory Powers Act).

14 Civil penalty: 180 penalty units.

15 **40 After subsection 304(3)**

16 Insert:

17 (3AA) A return provided under subsection (2) or (3) must also include
18 details of:

- 19 (a) any senior staff employed or engaged by or on behalf of the
20 person or group in the person or group’s capacity as a
21 candidate or group, and any membership of any registered
22 political party that any of those members of staff have; and
23 (b) any discretionary benefits (however described) received by,
24 or on behalf of, the person or any of the members of the
25 group from the Commonwealth, a State or a Territory during
26 the period of 12 months before the polling day in the election
27 or by-election.

28 Note: For the definition of *senior staff*, see subsection 287(1).

29 **41 Subparagraph 304(5)(b)(ii)**

30 Omit “\$10,000 or less”, substitute “less than or equal to the disclosure
31 threshold”.

1 **42 Paragraph 304(5)(c)**

2 Omit “\$10,000 or less”, substitute “less than or equal to the disclosure
3 threshold”.

4 **43 Subsection 304(5) (note)**

5 Repeal the note.

6 **44 Paragraphs 304(6)(b) and (c)**

7 Omit “exceeds \$10,000”, substitute “is more than the disclosure
8 threshold”.

9 **45 Subsection 304(6) (note)**

10 Repeal the note.

11 **46 Paragraph 305A(1)(a)**

12 After “election” (wherever occurring), insert “or by-election”.

13 **47 Subparagraph 305A(1)(b)(ii)**

14 Omit “\$10,000”, substitute “the disclosure threshold”.

15 **48 Paragraph 305A(1)(c)**

16 Repeal the paragraph, substitute:

17 (c) at the time the person makes the gift or gifts, the person is not
18 a political entity or associated entity.

19 **49 Subsection 305A(1) (note)**

20 Repeal the note.

21 **50 Paragraph 305A(1A)(a)**

22 After “election”, insert “or by-election”.

23 **51 Subparagraph 305A(1A)(b)(ii)**

24 Omit “\$10,000”, substitute “the disclosure threshold”.

25 **52 Paragraph 305A(1A)(c)**

26 Repeal the paragraph, substitute:

1 (c) at the time the person makes the gift or gifts, the person is not
2 a political entity or associated entity.

3 **53 Subsection 305A(1A) (note)**

4 Repeal the note.

5 **54 Subsection 305A(2)**

6 After “person must”, insert “, in accordance with this section,”.

7 **55 Paragraph 305A(2)(b)**

8 Omit “\$10,000”, substitute “the disclosure threshold”.

9 **56 Subsection 305A(2) (note)**

10 Repeal the note, substitute:

11 Note: A contravention of this civil penalty provision may be a continuing
12 contravention (see section 93 of the Regulatory Powers Act).

13 Civil penalty: 60 penalty units.

14 **57 Subsection 305A(2A)**

15 After “election”, insert “or by-election”.

16 **58 Paragraph 305A(3)(a)**

17 After “election”, insert “or by-election”.

18 **59 Subsection 305A(5)**

19 Repeal the subsection.

20 **60 Section 305B (heading)**

21 Repeal the heading, substitute:

22 **305B Gifts to political parties and political campaigners**

23 **61 Subsections 305B(1) and (2)**

24 Repeal the subsections, substitute:

25 (1) If, in a financial year, a person makes gifts totalling more than the
26 disclosure threshold to:

- 1 (a) the same registered political party; or
2 (b) the same State branch of a registered political party; or
3 (c) the same political campaigner;
4 the person must, in accordance with this section, provide a return
5 to the Electoral Commission within 20 weeks after the end of the
6 financial year, covering all the gifts that the person made to that
7 political party, branch or campaigner during the financial year.

8 Note: A contravention of this civil penalty provision may be a continuing
9 contravention (see section 93 of the Regulatory Powers Act).

10 Civil penalty: 60 penalty units.

- 11 (2) For the purposes of subsection (1), a person who makes a gift to
12 any person or body with the intention of benefiting a particular
13 registered political party, State branch of a registered political
14 party, or political campaigner, is taken to have made that gift
15 directly to that party, branch or campaigner.

16 **62 Paragraph 305B(3)(c)**

17 Omit “or branch”, substitute “, branch or campaigner”.

18 **63 Subsection 305B(3A)**

19 Repeal the subsection, substitute:

- 20 (3A) The return must also set out the relevant details of any gift received
21 by the person at any time if:
22 (a) the gift was used wholly or partly to make another gift (the
23 *later gift*) in a financial year to:
24 (i) the same registered political party; or
25 (ii) the same State branch of a registered political party; or
26 (iii) the same political campaigner; and
27 (b) the amount or value of the later gift is more than the
28 disclosure threshold.

29 **64 Subsection 305B(5)**

30 Repeal the subsection, substitute:

- 31 (5) This section does not apply to gifts made by a political entity or
32 associated entity.

1 **65 Section 306**

2 Repeal the section.

3 **66 Subsection 306A(1)**

4 Repeal the subsection, substitute:

5 (1) It is unlawful for any of the following:

6 (a) a political party or a State branch of a political party;

7 (b) a person acting on behalf of a political party or a State branch
8 of a political party;

9 (c) a political campaigner, or a person acting on behalf of a
10 political campaigner;

11 to receive a loan of more than the disclosure threshold from a
12 person or entity other than a financial institution unless the loan is
13 made in accordance with subsection (3).

14 **67 Subsection 306A(2)**

15 Omit “\$10,000”, substitute “the disclosure threshold”.

16 **68 Subsection 306A(2) (note)**

17 Repeal the note.

18 **69 Subsection 306A(3)**

19 Repeal the subsection, substitute:

20 (3) The receiver of the loan must keep a record of the following:

21 (a) the terms and conditions of the loan;

22 (b) the following information in relation to the loan (as the case
23 requires):

24 (i) for a loan from a registered industrial organisation other
25 than a financial institution—the name of the
26 organisation, and the names and addresses of the
27 members of the executive committee (however
28 described) of the organisation;

29 (ii) for a loan from an unincorporated association—the
30 name of the association, and the names and addresses of
31 the members of the executive committee (however
32 described) of the association;

- 1 (iii) for a loan paid out of a trust fund or out of the funds of a
2 foundation—the names and addresses of the trustees of
3 the fund or foundation, and the title, name or other
4 description of the trust fund or foundation;
5 (iv) for any other loan—the name and address of the person
6 or organisation that made the loan.

7 **70 Subsection 306A(4)**

8 After “an election”, insert “or by-election”.

9 **71 Paragraph 306A(6)(a)**

10 Repeal the paragraph, substitute:

- 11 (a) in the case of a loan to or for the benefit of a political party, a
12 State branch of a political party, or a political campaigner,
13 (the *loan recipient*):
14 (i) if the loan recipient is a body corporate—the loan
15 recipient; or
16 (ii) otherwise—the agent or financial controller of the loan
17 recipient; or

18 **72 Section 306A(8) (definitions of *credit card* and *loan*)**

19 Repeal the definitions.

20 **73 Section 306B**

21 Repeal the section, substitute:

22 **306B Repayment of gifts where corporations wound up etc.**

- 23 (1) This section applies if:
24 (a) a registered political party, a political campaigner, a
25 candidate or a member of a group receives from a
26 corporation a gift whose amount or value is more than the
27 disclosure threshold; and
28 (b) the corporation is wound up in insolvency, or by the court on
29 other grounds, within a year of making the gift; and
30 (c) for a political campaigner—at the time the gift was made, the
31 campaigner was not registered under:

- 1 (i) the *Australian Charities and Not-for-Profits*
2 *Commission Act 2012*; or
3 (ii) the *Fair Work (Registered Organisations) Act 2009*.
- 4 (2) The amount or value of the gift is payable, and may be recovered
5 by the liquidator as a debt due to the liquidator in a court of
6 competent jurisdiction, by:
- 7 (a) for a gift to or for the benefit of a registered political party or
8 a political campaigner (the *gift recipient*):
- 9 (i) if the gift recipient is a body corporate—the gift
10 recipient; or
11 (ii) if the gift recipient is a registered political party that is
12 not a body corporate—the agent of the gift recipient; or
13 (iii) if the gift recipient is a political campaigner that is not a
14 body corporate—the financial controller of the gift
15 recipient; or
- 16 (b) for a gift to or for the benefit of a candidate or member of the
17 group—the candidate or member, or the agent of the
18 candidate or the group.

19 Note: The gift received by the liquidator is an asset of the corporation to be
20 distributed under the provisions of the *Corporations Act 2001*.

21 **74 Before section 308**

22 Insert:

23 **307A Simplified outline of this Division**

24 Expenditure incurred by or with the authority of a candidate or
25 group in an election during the election period must be disclosed
26 by providing a return to the Electoral Commission. The agent for
27 the candidate or group is responsible for providing the return.
28 (Expenditure incurred by registered political parties is provided
29 each financial year under Division 5A.)

30 Secretaries of Commonwealth Departments and Agency Heads of
31 Commonwealth Agencies must attach statements to annual reports
32 setting out of amounts of more than the disclosure threshold paid to
33 advertising agencies, and market research, polling or other
34 organisations.

1 Returns provided under this Division are published by the Electoral
2 Commission under section 320.

3 **75 At the end of subsection 308(1)**

4 Add:
5 ; or (h) any other event or activity prescribed by the regulations.

6 **76 At the end of section 308**

7 Add:
8 Note: Particulars provided under subsection 318(2) may be taken to be a
9 return provided under this Division (see subsection 318(2A)).

10 **77 Subsection 309(2)**

11 After “approved form”, insert “and in accordance with this section”.

12 **78 At the end of subsection 309(2)**

13 Add:
14 Note: A contravention of this civil penalty provision may be a continuing
15 contravention (see section 93 of the Regulatory Powers Act).
16 Civil penalty: 180 penalty units.

17 **79 Subsection 309(3)**

18 After “approved form”, insert “and in accordance with this section”.

19 **80 At the end of subsection 309(3)**

20 Add:
21 Note: A contravention of this civil penalty provision may be a continuing
22 contravention (see section 93 of the Regulatory Powers Act).
23 Civil penalty: 180 penalty units.

24 **81 At the end of section 309**

25 Add:
26 (4) A return provided under subsection (2) or (3) must also include
27 details of:

- 1 (a) any senior staff employed or engaged by or on behalf of the
2 person or group, in the person or group’s capacity as a
3 candidate or group in the election, and any membership of
4 any registered political party that any of those members of
5 staff have; and
6 (b) any discretionary benefits (however described) received by,
7 or on behalf of, the person or any of the members of the
8 group from the Commonwealth, a State or a Territory during
9 the period of 12 months before polling day in the election.

10 Note: For the definition of *senior staff*, see subsection 287(1).

11 **82 Subsection 311A(2)**

12 Omit “\$10,000 or less”, substitute “less than or equal to the disclosure
13 threshold”.

14 **83 Subsection 311A(2) (note)**

15 Repeal the note.

16 **84 Before section 314AA**

17 Insert:

18 **314AAA Simplified outline of this Division**

19 Registered political parties, political campaigners and associated
20 entities provide returns each financial year to the Electoral
21 Commission setting out details relating to amounts received or paid
22 or incurred by, and the senior staff of, the parties, campaigners or
23 entities during the year. Third party campaigners also provide
24 annual returns setting out details relating to political expenditure
25 incurred by, and the senior staff of, the campaigners during the
26 year.

27 Returns provided under this Division are published by the Electoral
28 Commission under section 320.

29 **85 Section 314AA**

30 Before “In this Division”, insert “(1)”.

1 **86 At the end of section 314AA**

2 Add:

- 3 (2) To avoid doubt, a person that becomes, or ceases to be, a registered
4 political party, political campaigner, third party campaigner or
5 associated entity during a financial year is required to provide a
6 return under this Division in relation to the whole financial year.

7 Note: Particulars provided under subsection 318(2) may be taken to be a
8 return provided under this Division (see subsection 318(2A)).

9 **87 Section 314AB**

10 Repeal the section, substitute:

11 **314AB Annual returns by registered political parties and political**
12 **campaigners**

- 13 (1) The agent or financial controller of each registered political party,
14 each State branch of each registered political party and each
15 political campaigner must, subject to this Division, provide the
16 Electoral Commission a return within 16 weeks after the end of a
17 financial year that:

- 18 (a) complies with subsection (2); and
19 (b) is in an approved form.

20 Note: A contravention of this civil penalty provision may be a continuing
21 contravention (see section 93 of the Regulatory Powers Act).

22 Civil penalty: 360 penalty units.

- 23 (2) The return must:

- 24 (a) set out the following:
25 (i) the total amount received by, or on behalf of, the party
26 or campaigner during the financial year, together with
27 the details required by section 314AC;
28 (ii) the total amount paid by, or on behalf of, the party or
29 campaigner during the financial year;
30 (iii) the total outstanding amount, as at the end of the
31 financial year, of all debts incurred by, or on behalf of,
32 the party or campaigner, together with the details
33 required by section 314AE; and

- 1 (b) include details of:
- 2 (i) any senior staff employed or engaged by or on behalf of
- 3 the party or branch, or by or on behalf of the
- 4 campaigner in its capacity as a political campaigner, and
- 5 any membership of any registered political party that
- 6 any of those members of staff have; and
- 7 (ii) any discretionary benefits (however described) received
- 8 by, or on behalf of, the party, branch or campaigner
- 9 from the Commonwealth, a State or a Territory during
- 10 the financial year; and
- 11 (c) include an auditor's report prepared in accordance with
- 12 section 314ABA; and
- 13 (d) for a return by a political campaigner that is registered under
- 14 the *Australian Charities and Not-for-Profits Commission Act*
- 15 *2012* or the *Fair Work (Registered Organisations) Act*
- 16 *2009*—include a signed statement by the financial controller
- 17 of the campaigner that the campaigner complied with
- 18 sections 302E and 302F (political donations to third party
- 19 campaigners, political campaigners and registered charities
- 20 and organisations) of this Act during the financial year; and
- 21 (e) in any case—be complete.

22 Note: For the definition of *senior staff*, see subsection 287(1).

- 23 (3) The financial controller of a political campaigner that is taken to
- 24 have incurred an amount of political expenditure in a financial year
- 25 (the *later financial year*) under section 287J must provide:
- 26 (a) a return for the financial year in which the expenditure was
- 27 actually incurred that includes that expenditure; and
- 28 (b) a separate return for the later financial year that does not
- 29 include the expenditure that was taken under section 287J to
- 30 have been incurred in that later financial year.

31 **314ABA Requirements for auditor's report**

32 *Who undertakes audit*

- 33 (1) An audit of the return of a registered political party, a State branch
- 34 of a registered political party, or a political campaigner, (the
- 35 *audited person*) must be undertaken by:

- 1 (a) a registered company auditor (within the meaning of the
2 *Corporations Act 2001*); or
3 (b) a firm:
4 (i) that consents to be appointed, or is appointed, as auditor
5 of the audited person; and
6 (ii) at least one member of which is a registered company
7 auditor (within the meaning of that Act) who is
8 ordinarily resident in Australia; or
9 (c) an authorised audit company (within the meaning of that
10 Act); or
11 (d) an entity prescribed by the regulations for the purposes of
12 this paragraph.

13 *Audit to be conducted in accordance with auditing standards*

- 14 (2) An audit must be undertaken in accordance with the auditing
15 standards.

16 *Content of auditor's report*

- 17 (3) The auditor must prepare a report setting out the opinion formed by
18 the auditor about:
19 (a) whether the return satisfies the requirements of this Act; and
20 (b) if the auditor is not satisfied that the return satisfies the
21 requirements of this Act:
22 (i) an explanation as to why the return does not satisfy the
23 requirements of the Act; and
24 (ii) if it is practicable to quantify the effect that the failure to
25 satisfy the requirements of the Act has on the return—
26 the quantification of that effect; and
27 (iii) otherwise—a statement as to why it is not possible to
28 quantify the effect that the failure has on the return; and
29 (c) whether the auditor has been given all information,
30 explanation and assistance necessary for the conduct of the
31 audit; and
32 (d) whether the audited person has kept financial records
33 sufficient to enable a return to be prepared and audited; and
34 (e) whether the audited person has kept other records as required
35 by this Act; and

- 1 (f) any material defect or irregularity in the return; and
2 (g) any other statements or disclosures required by the auditing
3 standards.

4 *Obligations on audited entities*

- 5 (4) In having its return audited, the audited person must ensure that the
6 auditor:
7 (a) has access at all reasonable times to the books of the audited
8 person; and
9 (b) is given all requested information, explanations or other
10 assistance for the purposes of the audit.
11 A request under paragraph (b) must be reasonable.

12 **88 Subsection 314AC(1)**

13 Omit “the party”, substitute “a registered political party or a political
14 campaigner”.

15 **89 Subsection 314AC(1)**

16 Omit “\$10,000”, substitute “the disclosure threshold”.

17 **90 Subsection 314AC(1) (note)**

18 Repeal the note.

19 **91 Subsection 314AC(2)**

20 Omit “of \$10,000 or less”, substitute “that is less than or equal to the
21 disclosure threshold”.

22 **92 Subsection 314AC(2) (note)**

23 Repeal the note.

24 **93 Subsection 314AE(1)**

25 Omit “the party”, substitute “a registered political party or a political
26 campaigner”.

27 **94 Subsection 314AE(1)**

28 Omit “\$10,000”, substitute “the disclosure threshold”.

1 **95 Subsection 314AE(1) (note)**

2 Repeal the note.

3 **96 Subsection 314AEA(1)**

4 Omit “financial controller must furnish”, substitute “financial controller
5 must, subject to subsection (6), provide”.

6 **97 At the end of subsection 314AEA(1)**

7 Add:

8 ; and (d) in any case—details of:

- 9 (i) any senior staff employed or engaged by or on behalf of
10 the entity, in the entity’s capacity as an associated
11 entity, and any membership of any registered political
12 party that any of those members of staff have; and
13 (ii) any discretionary benefits (however described) received
14 by, or on behalf of, the entity from the Commonwealth,
15 a State or a Territory during the financial year.

16 Note 1: For the definition of *senior staff*, see subsection 287(1).

17 Note 2: A contravention of this civil penalty provision may be a continuing
18 contravention (see section 93 of the Regulatory Powers Act).

19 Civil penalty: 180 penalty units.

20 **98 Subsection 314AEA(5)**

21 Omit “paragraphs 314AB(2)(a), (b) and (c) to a return for a registered
22 political party”, substitute “subparagraphs 314AB(2)(a)(i), (ii) and (iii)
23 to a return for a registered political party or a political campaigner”.

24 **99 At the end of section 314AEA**

25 Add:

- 26 (6) A return is not required to be provided under subsection (1) for an
27 associated entity for a financial year if:
28 (a) the entity was also a political campaigner during that year;
29 and
30 (b) a return was provided for the entity under section 314AB for
31 that year.

1 **100 Section 314AEB (heading)**

2 Repeal the heading, substitute:

3 **314AEB Annual returns by third party campaigners**

4 **101 Subsections 314AEB(1) and (2)**

5 Repeal the subsections, substitute:

6 (1) A person or entity must provide a return for a financial year in
7 accordance with this section if:

8 (a) the person or entity is a third party campaigner during the
9 year; and

10 (b) the campaigner incurred, or authorised the incurring of,
11 political expenditure at a time during the year; and

12 (c) at that time, the campaigner was not:

13 (i) a political entity; or

14 (ii) a member of the House of Representatives or the
15 Senate; or

16 (iii) the Commonwealth (including a Department of the
17 Commonwealth, an Executive Agency or a Statutory
18 Agency (within the meaning of the *Public Service Act*
19 *1999*)).

20 Note: A contravention of this civil penalty provision may be a continuing
21 contravention (see section 93 of the Regulatory Powers Act).

22 Civil penalty: 180 penalty units.

23 (2) The campaigner must provide to the Electoral Commission a return
24 for the financial year:

25 (a) setting out details of:

26 (i) the expenditure incurred; and

27 (ii) any senior staff employed or engaged by or on behalf of
28 the campaigner, in its capacity as a third party
29 campaigner, and any membership of any registered
30 political party that any of those members of staff have;
31 and

32 (iii) any discretionary benefits (however described) received
33 by, or on behalf of, the campaigner from the

- 1 Commonwealth, a State or a Territory during the
2 financial year; and
3 (b) including a signed statement by the financial controller of the
4 campaigner that the campaigner complied with section 302E
5 (donations to third party campaigners and certain political
6 campaigners) during the financial year.

7 Note: For the definition of *senior staff*, see subsection 287(1).

8 **102 At the end of subsection 314AEB(3)**

- 9 Add:
10 ; and (c) if the campaigner is also required to provide a return under
11 section 314AEC—include that return.

12 **103 At the end of section 314AEB**

- 13 Add:
14 (4) The financial controller of a third party campaigner that is taken to
15 have incurred an amount of political expenditure in a financial year
16 (the *later financial year*) under section 287J must provide:
17 (a) a return for the financial year in which the expenditure was
18 actually incurred that includes that expenditure; and
19 (b) a separate return for the later financial year that does not
20 include the expenditure that was taken under section 287J to
21 have been incurred in that later financial year.

22 **104 Section 314AEC**

23 Repeal the section, substitute:

24 **314AEC Annual returns relating to gifts received by third party**
25 **campaigners for political expenditure**

- 26 (1) A person or entity must provide a return for a financial year in
27 accordance with this section if:
28 (a) the person or entity is required to provide a return for the
29 year under section 314AEB (annual returns by third party
30 campaigners); and
31 (b) the person or entity received a gift or gifts, at any time, that
32 the person or entity used during the year (either wholly or
33 partly):
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- 1 (i) to enable the person or entity to incur political
2 expenditure; or
3 (ii) to reimburse the person or entity for incurring
4 expenditure for a political purpose; and
5 (c) either:
6 (i) the amount of at least one such gift was more than the
7 disclosure threshold; or
8 (ii) the total amount of all gifts received by the person from
9 at least one single person during the financial year was
10 more than the disclosure threshold.
- 11 Note: The return required under this section must be included in the return
12 provided under section 314AEB (see paragraph 314AEB(3)(c)).
- 13 (2) The person must provide to the Electoral Commission a return for
14 the financial year setting out the following details:
15 (a) for subparagraph (1)(c)(i):
16 (i) the amount of each gift covered by that subparagraph;
17 and
18 (ii) the date on which the gift was made;
19 (b) for subparagraph (1)(c)(ii):
20 (i) the total amount of gifts made by each single person
21 who is covered by that subparagraph; and
22 (ii) the date on which each of those gifts were made; and
23 (c) in any case:
24 (i) for a gift or gifts on behalf of the members of an
25 unincorporated association (other than a registered
26 industrial organisation)—the name of the association,
27 and the names and addresses of the members of the
28 executive committee (however described) of the
29 association; or
30 (ii) for a gift or gifts purportedly made out of a trust fund,
31 or out of the funds of a foundation—the names and
32 addresses of the trustees of the fund or foundation, and
33 the title, name or other description of the trust fund or
34 foundation; or
35 (iii) for any other gift or gifts—the name and address of the
36 person who made the gift or gifts.

1 **105 Subsection 314AG(2)**

2 Omit “section 314AB”, substitute “paragraph 314AB(2)(a)”.

3 **106 Section 314A**

4 Repeal the section, substitute:

5 **314A Simplified outline of this Division**

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This Division deals with:

- (a) the recovery of payments made by the Commonwealth;
and
- (b) the powers of the Electoral Commission in relation to
investigating compliance with this Part; and
- (c) general provisions relating to claims and returns (such as
amending claims and returns, and record-keeping and
publishing requirements).

14 **107 Section 315**

15 Repeal the section, substitute:

16 **315 Requirement to refund payments**

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If:

- (a) a person is convicted of an offence under section 137.1 of the
Criminal Code in relation to the giving of a return or the
making of a claim under this Part; or
 - (b) a civil penalty order is made against a person in relation to a
contravention of a civil penalty provision in this Part;
- a court of competent jurisdiction may, in addition to imposing a
penalty under section 137.1 or making the civil penalty order, order
the person to refund to the Commonwealth the amount of any
payment wrongfully obtained by the person under Division 3 of
this Part, or the amount or value of any gift made in contravention
of this Part.

1 **108 Subsection 315A(1)**

2 Omit “subsection 299(6) or 306(5)”, substitute “section 299 or 302Q or
3 subsection 301(3), or under a civil penalty order made in relation to a
4 contravention of a civil penalty provision in this Part”.

5 **109 Subsection 316(2A)**

6 Omit “the financial controller of an associated entity or the agent of a
7 registered political party”, substitute “the financial controller of a
8 political campaigner, third party campaigner or associated entity, or the
9 agent of a registered political party, candidate or group”.

10 **110 Paragraphs 316(2A)(a) and (aa)**

11 Repeal the paragraphs, substitute:

- 12 (a) the agent or any officer of the political party, or the agent of
13 the candidate or group; or
14 (aa) the financial controller of the political campaigner, third
15 party campaigner or associated entity or any officer of the
16 political campaigner, third party campaigner or associated
17 entity; or

18 **111 Subsection 316(2B)**

19 Repeal the subsection, substitute:

- 20 (2B) If a notice under paragraph (2A)(a) requires an officer of a political
21 party, political campaigner, third party campaigner or associated
22 entity (other than the agent of the party, or the financial controller
23 of the campaigner or entity, as the case requires) to appear before
24 an authorised officer under paragraph (2A)(d), then the agent of the
25 party, or the financial controller of the campaigner or entity, is
26 entitled:
27 (a) to attend at the proceeding under paragraph (2A)(d); or
28 (b) to nominate another person in writing to attend on behalf of
29 the agent or financial controller.

30 **112 Subsection 316(3)**

31 Omit “section 315”, substitute “a civil penalty provision in this Part”.

1 **113 Paragraph 316(3A)(a)**

2 Repeal the paragraph, substitute:

- 3 (a) an authorised officer has reasonable grounds to believe that a
4 person is capable of producing documents or other things, or
5 giving evidence, relating to whether another person or an
6 entity is, or was at a particular time, a political campaigner,
7 third party campaigner or associated entity; and

8 **114 Paragraph 316(3A)(b)**

9 After “an officer of the”, insert “campaigner or associated”.

10 **115 Paragraph 316(7)(a)**

11 Omit “section 315”, substitute “a civil penalty provision in, or an
12 offence against, this Part”.

13 **116 Paragraphs 316(8)(b) and (11)(a)**

14 Omit “section 315”, substitute “the civil penalty provision or offence”.

15 **117 Section 317**

16 Repeal the section, substitute:

17 **317 Keeping records**

- 18 (1) A person who is subject to a civil penalty provision in this Part
19 must keep the following records in accordance with subsections (2)
20 and (3):
21 (a) records allowing the person to provide an accurate return or
22 claim under this Part;
23 (b) records required for the purposes of complying with
24 Division 3A (requirements relating to donations);
25 (c) any other records required for the purposes of allowing the
26 Electoral Commissioner to determine whether the person is
27 complying, or has complied, with this Part;
28 (d) any other records required by the regulations or a
29 determination under subsection (4).

30 Civil penalty: 1,000 penalty units.

- 31 (2) A record must be kept for:
-

- 1 (a) if the record relates to a return in relation to a financial
2 year—5 years after the end of the financial year; and
3 (b) if the record relates to a return in relation to a gift—5 years
4 after the day the gift is made; and
5 (c) if the record relates to a claim—5 years after the polling day
6 in the election to which the claim relates; and
7 (d) if the records relates to compliance with Division 3A—5
8 years after the day the relevant gift is made.
- 9 (3) A record must be kept in accordance with any other requirements
10 determined under subsection (4).
- 11 (4) The Electoral Commissioner may, by legislative instrument,
12 determine:
13 (a) records for the purposes paragraph (1)(d); or
14 (b) requirements for records for the purposes of subsection (3).

15 **118 Subsection 318(1)**

16 Omit “subsection 315(2)”, substitute “this Part”.

17 **119 After subsection 318(2)**

18 Insert:

- 19 (2A) Particulars that were not provided in a return under Division 4, 5 or
20 5A that are provided under subsection (2) are, for the purposes of
21 this Part, taken to be a return provided under that Division.

22 **120 Subsection 318(3A)**

23 Omit “subsection 315(2)”, substitute “this Part”.

24 **121 Subsection 319A(2A)**

25 After “registered political party,”, insert “or the financial controller of a
26 political campaigner, third party campaigner or associated entity,”.

27 **122 Paragraph 319A(2A)(b)**

28 After “of the political party”, insert “, or nominated as the financial
29 controller of the campaigner or entity”.

1 **123 Subsection 319A(9)**

2 Omit “the liability of a person to be convicted of an offence against
3 subsection 315(2), (3) or (4)”, substitute “whether a civil penalty order
4 may be made against a person because of a contravention of a civil
5 penalty provision in this Part”.

6 **124 Section 320**

7 Repeal the section, substitute:

8 **320 Requirement to publish determinations, notices and returns**

9 (1) The Electoral Commission must publish the following in
10 accordance with the following table.
11

Requirement to publish determinations, notices and returns

Item	The Electoral Commission must publish ...	at this time ...
1	each determination made under section 298C or subsection 301(1) (determination and variation of determination of claims for election funding)	as soon as reasonably practicable after making the determination.
2	each notice of a refusal of a final claim given under section 298F	as soon as reasonably practicable after giving the notice.
3	each notice given under section 298H reconsidering the refusal of a final claim	as soon as reasonably practicable after giving the notice.
4	each election return provided under Division 4 or 5	before the end of 24 weeks after the polling day in the election to which the return relates.
5	each annual return provided under Division 5A	before the end of the first business day in February in the calendar year after the return is provided.

12 (2) A person is not entitled to inspect a determination, notice or return
13 referred to in subsection (1) before the determination, notice or
14 return is published under that subsection.

1 **125 Subsection 321(1) (definition of *relevant amount*)**

2 Repeal the definition, substitute:

3 *relevant amount* means an amount specified in the following
4 provisions:

- 5 (a) subparagraphs 293(2)(a)(i) and (ii);
6 (b) paragraphs 294(2)(a) and 295(2)(a).

7 **126 Subsection 321(1) (definition of *relevant period*)**

8 Omit “the period of 6 months commencing on 1 July 1995 and each
9 subsequent period of 6 months”, substitute “each period of 6 months
10 beginning on 1 January or 1 July”.

11 **127 Section 321A (heading)**

12 Repeal the heading, substitute:

13 **321A Indexation of disclosure threshold**

14 **128 Subsection 321A(1)**

15 Repeal the subsection, substitute:

- 16 (1) This section applies to the dollar amount mentioned in the
17 definition of *disclosure threshold* in subsection 287(1).

18 **129 Subsections 321A(2) and (3)**

19 Omit “mentioned in the provision”, substitute “mentioned in the
20 definition”.

21 **130 Subsection 321A(7) (definition of *indexation year*)**

22 Omit “the financial year commencing on 1 July 2006, and each
23 subsequent financial year”, substitute “each financial year beginning on
24 1 July”.

25 **131 Section 321B (paragraphs (g) and (h) of the definition of
26 *disclosure entity*)**

27 Repeal the paragraphs, substitute:

- 28 (g) a person who:

- 1 (i) is or will be required to provide a return under
2 section 305A, 305B or 314AEB for the financial year in
3 which the time occurs; or
4 (ii) based on conduct in previous financial years, may be
5 required to provide a return under section 305A, 305B
6 or 314AEB for the financial year in which the time
7 occurs;
8 except if the return is provided because of political
9 expenditure incurred solely for the purposes of carrying out
10 an opinion poll, or other research, relating to an election or
11 the voting intentions of electors.

12 **132 Section 321B (note at the end of the definition of**
13 ***disclosure entity*)**

14 Omit “and political expenditure”, substitute “and returns by third party
15 campaigners”.

16 **133 Subsection 384(1)**

17 Omit “subsection 315(3) or”.

18 **134 Subsection 384(2)**

19 Omit “an offence referred to in subsection (1)”, substitute “the offence”.

20 **135 Subsection 384(3)**

21 Repeal the subsection, substitute:

- 22 (3) If, under subsection (2), a court of summary jurisdiction convicts a
23 person of the offence, the court may impose a penalty of
24 imprisonment for a period not exceeding 12 months or a fine not
25 exceeding 20 penalty units, or both.

26 **136 Subsection 384A(1)**

27 Omit “Section 321D”, substitute “Each civil penalty provision of this
28 Act”.

29 **137 Subsection 384A(2)**

30 Omit “section 321D of this Act”, substitute “each civil penalty
31 provision of this Act”.

1 **138 At the end of section 384A**

2 Add:

3 *Delegation*

- 4 (3) The Electoral Commissioner may, in writing, delegate his or her
5 powers and functions under the Regulatory Powers Act to an SES
6 employee, or acting SES employee, of the Commission.

7 Note: The expressions *SES employee* and *acting SES employee* are defined
8 in section 2B of the *Acts Interpretation Act 1901*.

- 9 (4) A person exercising powers or performing functions under a
10 delegation under subsection (3) must comply with any directions of
11 the Electoral Commissioner.

12 ***Referendum (Machinery Provisions) Act 1984***

13 **139 Section 110A (paragraphs (c) and (d) of the definition of**
14 ***disclosure entity*)**

15 Repeal the paragraphs, substitute:

16 (c) a person who:

- 17 (i) is or will be required to provide a return under
18 section 314AEB of that Act for the financial year in
19 which the time occurs; or
20 (ii) based on conduct in previous financial years, may be
21 required to provide a return under section 314AEB of
22 that Act for the financial year in which the time occurs;
23 except if the return is provided because of political
24 expenditure incurred solely for the purposes of carrying out
25 an opinion poll, or other research, relating to an election or
26 the voting intentions of electors;

27 **140 Section 110A (paragraph (e) of the definition of**
28 ***disclosure entity*)**

29 Omit “the amount referred to in paragraph 314AEB(1)(b) of that Act”,
30 substitute “the disclosure threshold (within the meaning of Part XX of
31 that Act)”.

1 **141 Section 110A (note at the end of the definition of**
2 ***disclosure entity*)**

3 Repeal the note, substitute:

4 Note: Section 314AEB of the *Commonwealth Electoral Act 1918* requires
5 returns by third party campaigners.

6 **142 At the end of section 140AAA**

7 Add:

8 *Delegation*

- 9 (3) The Electoral Commissioner may, in writing, delegate his or her
10 powers and functions under the Regulatory Powers Act to an SES
11 employee, or acting SES employee, of the Commission.

12 Note: The expressions *SES employee* and *acting SES employee* are defined
13 in section 2B of the *Acts Interpretation Act 1901*.

- 14 (4) A person exercising powers or performing functions under a
15 delegation under subsection (3) must comply with any directions of
16 the Electoral Commissioner.

17 **Division 2—Application and transitional provisions**

18 **143 Application of amendments**

19 *Death and resignation of agents*

- 20 (1) The amendments of section 292D of the *Commonwealth Electoral Act*
21 *1918*, made by this Part, apply in relation to resignations that occur after
22 the commencement of this item.

23 *Appointment of financial controllers and requirement to publish*
24 *determinations, notices and returns*

- 25 (2) Sections 292E and 320 of the *Commonwealth Electoral Act 1918*, as
26 inserted by this Part, apply on and after the commencement of this item.

27 *Gifts and loans*

- 28 (3) The following amendments apply in relation to gifts and loans made
29 after the commencement of this item:

1 (a) Division 3A of Part XX of the *Commonwealth Electoral Act*
2 *1918* (except as provided by subitems (3) to (5)), as inserted
3 by this Part;

4 (b) the amendments of Division 4 of Part XX of that Act made
5 by this Part.

6 *Annual returns*

7 (4) The following amendments apply in relation to financial years
8 commencing at or after the commencement of this item:

9 (a) sections 302D and 302E of the *Commonwealth Electoral Act*
10 *1918*, and Division 3A of Part XX of that Act to the extent
11 that it relates to those sections, as inserted by this Part;

12 (b) the amendments of Division 5A of Part XX of that Act made
13 by this Part.

14 *Soliciting gifts*

15 (5) Section 302G of the *Commonwealth Electoral Act 1918*, and
16 Division 3A of Part XX of that Act to the extent that it relates to that
17 section, as inserted by this Part, apply in relation to the soliciting of
18 gifts after the commencement of this item.

19 *Forming bodies corporate*

20 (6) Section 302J of the *Commonwealth Electoral Act 1918*, and
21 Division 3A of Part XX of that Act to the extent that it relates to that
22 section, as inserted by this Part, apply in relation to the forming of
23 bodies corporate after the commencement of this item.

24 *Disclosure of electoral expenditure*

25 (7) The amendments of Division 5 of Part XX of the *Commonwealth*
26 *Electoral Act 1918* made by this Part apply in relation to returns
27 provided after the commencement of this item.

28 *Requirement to refund payments*

29 (8) Section 315 of the *Commonwealth Electoral Act 1918*, as inserted by
30 this Part, applies in relation to penalties imposed, or civil penalty orders
31 made, after the commencement of this item.

1 *Keeping records*

2 (9) Section 317 of the *Commonwealth Electoral Act 1918*, as inserted by
3 this Part, applies in relation to records made after the commencement of
4 this item.

5 (10) Despite the repeal of section 317 of the *Commonwealth Electoral Act*
6 *1918* by this Part, that section, as in force immediately before its repeal,
7 continues to apply after the commencement of this item in relation to
8 records made before that commencement.

9 *Indexation*

10 (11) To avoid doubt, sections 321 and 321A of the *Commonwealth Electoral*
11 *Act 1918*, as amended by this Part, apply from the first 1 July that
12 occurs on or after the day on which this Act receives the Royal Assent.

13 **144 Transitional—notices given under subsection 290(1)**

14 A notice given to the Electoral Commission under subsection 290(1) of
15 the *Commonwealth Electoral Act 1918* that is in force immediately
16 before the commencement of this item is taken, after that
17 commencement, to be in force under subsection 292F(1) of that Act, as
18 inserted by this Part.