

## Introduction

- 1.1 Under the *Commonwealth Electoral Act 1918* (hereafter referred to as ‘the Electoral Act’), the Australian Electoral Commission (AEC) is required, as soon as practicable after a federal election, to provide a report on the operation of the funding and disclosure scheme for tabling in Parliament.
- 1.2 That scheme, which forms Part XX of the Electoral Act, was introduced for the 1984 Federal Election following recommendations made by the Joint Select Committee on Electoral Reform (JSCER) in its *First Report*.<sup>1</sup>
- 1.3 The two fundamental elements of the scheme, as set out by that Committee, are:
  - public funding of election campaigns; and
  - disclosure of certain financial details by registered political parties, candidates and other persons and groups as set out in Part XX of the Electoral Act.
- 1.4 Today, under current legislation, the funding and disclosure scheme is characterised by the following features:
  - payment of election funding based on the number of first preference votes received once a threshold of 4% of first preference votes is obtained;

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1 JSCER, *First Report*, September 1983, Chapters 9 and 10.

- political parties are required to lodge annual returns detailing the totals of all receipts, payments and debts. Details of those receipts and debts that reach a threshold of \$1,500 or more must also be disclosed;
- “associated entities” of political parties, being those “controlled by one or more registered political parties or operates wholly or to a significant extent for the benefit of one or more registered political parties”, are required to lodge returns;
- candidates and Senate groups are required to lodge election returns detailing the total of all donations received and certain categories of expenditure, and details of persons or organisations who donate \$200 or more to the same candidate, or \$1,000 or more to the same Senate group;
- persons who campaign, those who make donations to political parties or candidates or incur expenditure for the benefit of political parties or candidates, and third parties taking part in a campaign may also be required to lodge returns; and
- anonymous donations and anonymous loans are prohibited and may be forfeited to the Commonwealth.<sup>2</sup>

1.5 Since the original scheme was introduced, a number of changes have been made. Briefly, these include:

- minor changes have been made to the thresholds below which donations or expenditure need not be disclosed;
- candidates are no longer required to register for public funding and printers are no longer required to lodge returns;
- political parties are no longer required to lodge returns following an election, but instead, are required to lodge annual returns disclosing receipts, payments and debts;
- ‘associated entities’ now have similar reporting obligations to registered political parties;
- public funding is now paid as a grant in proportion to votes received, rather than as reimbursement of expenditure incurred. The amount of public funding for Senate votes was doubled to equal that for House of Representative votes (the rate was increased in 1995); and

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2 AEC (Submission No. 11, 40th Parliament), pp. 6-7.

- compliance officers of the AEC are now empowered to investigate the accuracy of returns.<sup>3</sup>
- 1.6 In addition to these changes, the AEC has recommended further change in its submissions to JSCEM inquiries and its post-election Funding and Disclosure reports.<sup>4</sup>

## Scope and conduct of the inquiry

- 1.7 The Committee has had a long history of examining the funding and disclosure regime. While the current inquiry originated in a reference in 2000, the Committee has also used its regular reports on the conduct of federal elections to make recommendations on specific aspects of the scheme.<sup>5</sup>

### 39<sup>th</sup> Parliament

- 1.8 The Committee's 1998 Federal Election report reviewed, and made recommendations on, the following aspects of the funding and disclosure scheme:
- disclosure thresholds;
  - electronic lodgement of annual returns;
  - technical or minor errors made in complying with s315(2) of the Electoral Act; and
  - annual returns by Commonwealth departments.
- 1.9 The Committee also made recommendations concerning the registration of political parties.<sup>6</sup>
- 1.10 On 29 June 2000, the Committee received a reference from the then Special Minister of State, Senator the Hon. Chris Ellison, to inquire into those recommendations of the AEC's 1996 and 1998 reports on funding and disclosure not currently incorporated in legislation or not previously examined by the Committee. The Committee was

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3 AEC (Submission No. 11, 40th Parliament), p. 6.

4 AEC (Submission No. 1, 41st Parliament), p. 1.

5 See JSCEM, *The 1998 Federal Election*, pp. 123-140; JSCEM, *The 2001 Federal Election*, pp. 234-243; JSCEM, *The 2004 Federal Election*, pp. 311-344.

6 The guidelines for registration of political parties have implications for the funding and disclosure regime in that duly constituted and registered political parties may be attract public funding and may be subject to the disclosure provisions.

asked to report on the desirability of incorporating the remaining AEC funding and disclosure recommendations into existing legislation.<sup>7</sup>

- 1.11 The Committee adopted the reference on 15 August 2000 and the inquiry was advertised in all national papers on 9 and 12 September 2000.
- 1.12 In November 2000, the Committee decided to extend the reporting timetable for this inquiry until its inquiry into the *Integrity of the Electoral Roll* was completed.
- 1.13 The *Electoral Funding and Disclosure* inquiry recommenced and was readvertised in *The Weekend Australian* on 7 July 2001.
- 1.14 The Committee received 21 submissions to its inquiry and held three public hearings in Canberra.<sup>8</sup>
- 1.15 The Committee's reference lapsed when it ceased to exist at the dissolution of the House of Representatives on 8 October 2001.

#### 40<sup>th</sup> Parliament

- 1.16 In the course of its inquiry into the conduct of 2001 Federal Election the Committee made further recommendations on the funding and disclosure scheme concerning, among other things, anonymous and overseas donations.<sup>9</sup>
- 1.17 On Thursday 4 March 2004 the Senate asked the Committee to inquire into and report on:
- (a) the matter relating to electoral funding and disclosure, which was adopted by the committee on 15 August 2000, and any amendments to the Commonwealth Electoral Act necessary to improve disclosure of donations to political parties and candidates and the true source of those donations; and
  - (b) any submissions and evidence received by the committee in relation to that inquiry of 15 August 2000.

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7 The AEC incorporated recommendations in its post-election *Funding and Disclosure Report* for the 1996, 1998 and 2001 Federal Elections, but not for that of 2004.

8 A list of these submissions is at Appendix A. Appendix B lists the public hearings and witnesses.

9 JSCEM, *The 2001 Federal Election*, Recommendations 32 and 33 (not supported by the Government).

- 1.18 The inquiry was advertised in *The Australian* on 17 March 2004 and members of the public were invited to make submissions.
- 1.19 The Committee wrote to all Members, Senators and political party secretariats inviting them to make submissions to the inquiry. The Committee also wrote to those people and organisations that made submissions to the previous inquiry.
- 1.20 The Committee received a further 13 submissions to the inquiry and held one public hearing in Canberra on 11 May 2004.<sup>10</sup>
- 1.21 The inquiry lapsed upon the dissolution of the 40<sup>th</sup> Parliament.

#### 41st Parliament

- 1.22 The review was re-referred to the Committee by the Senate on Tuesday 30 November 2004 requesting that it inquire and report on the matter relating to electoral funding and disclosure in the same terms as those referred in the 40<sup>th</sup> Parliament (see page *xi*).
- 1.23 Since that referral, the Committee has received material and taken evidence relating to funding and disclosure arrangements in the course of its review of the 2004 Federal Election, and it made five recommendations to the Government about aspects of those arrangements. Chapter two of this report discusses these recommendations further.
- 1.24 On publication of its report on the 2004 Federal Election, the Committee resumed its consideration of evidence presented to it in the course of the 39<sup>th</sup> and 40<sup>th</sup> Parliaments addressing funding and disclosure.
- 1.25 While the Government has yet to respond formally to the Committee's report on the conduct of the 2004 Federal Election, on 8 December 2005, the Parliamentary Secretary to the Minister for Finance and Administration, the Hon. Dr Sharman Stone, introduced the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005. Among other things, this Bill proposes to amend Part XX of the Electoral Act with respect to funding and disclosure.

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<sup>10</sup> Submissions to the inquiries of the 39<sup>th</sup>, 40<sup>th</sup> and 41<sup>st</sup> parliaments are listed at Appendix A; public hearings and witnesses at Appendix B.

