

2008

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

**Commonwealth Electoral Amendment  
(Political Donations and Other  
Measures) Bill 2008**

**No.     , 2008**

*(Special Minister of State)*

**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 may be cited as the *Commonwealth Electoral Amendment*  
6                     *(Political Donations and Other Measures) Act 2008*.

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.  
12

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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1	1 July 2008.	1 July 2008

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1 Note: This table relates only to the provisions of this Act as originally  
2 passed by both Houses of the Parliament and assented to. It will not be  
3 expanded to deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not  
5 part of this Act. Information in this column may be added to or  
6 edited in any published version of this Act.

7 **3 Schedule(s)**

8 Each Act 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9 repealed as set out in the applicable items in the Schedule  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  
2 **Schedule 1—Amendment of the**  
3 **Commonwealth Electoral Act 1918**

4 **Part 1—Amendments**

5 *Commonwealth Electoral Act 1918*

6 **1 Subsection 4(1)**

7 Insert:

8 *related*: a political party is *related* to another political party if:

- 9 (a) one of the parties is part of the other party; or  
10 (b) both parties are parts of the same political party.

11 **2 Subsection 4(1)**

12 Insert:

13 *reporting period* means:

- 14 (a) the first 6 months of a financial year; or  
15 (b) a full financial year.

16 **3 Subsection 17A(1)**

17 Omit all the words after “compliance with a notice under subsection  
18 316(2A),”, substitute “unless, in the opinion of the Electoral  
19 Commission, the information relates to an offence that has, or may have  
20 been, committed against section 315”.

21 **4 Subsection 123(2)**

22 Repeal the subsection.

23 **5 Subsection 287(1)**

24 Insert:

25 *electoral expenditure*, in relation to an election, means expenditure  
26 incurred (whether or not incurred during the election period) on:

- 27 (a) the broadcasting, during the election period, of an  
28 advertisement relating to the election; or

- 1 (b) the publishing in a journal, during the election period, of an  
2 advertisement relating to the election; or  
3 (c) the display, during the election period, at a theatre or other  
4 place of entertainment, of an advertisement relating to the  
5 election; or  
6 (d) the production of an advertisement relating to the election,  
7 being an advertisement that is broadcast, published or  
8 displayed as mentioned in paragraph (a), (b) or (c); or  
9 (e) the production of any material (not being material referred to  
10 in paragraph (a), (b) or (c)) that is required under section 328  
11 or 328A to include the name and address of the author of the  
12 material or of the person authorising the material and that is  
13 used during the election period; or  
14 (f) the production and distribution of electoral matter that is  
15 addressed to particular persons or organisations and is  
16 distributed during the election period; or  
17 (g) the carrying out, during the election period, of an opinion  
18 poll, or other research, relating to the election.

19 **6 Subsection 287(1) (definition of *eligible vote*)**

20 Repeal the definition.

21 **7 Subsection 287(1) (definition of *entitlement*)**

22 Repeal the definition.

23 **8 Subsection 287(1)**

24 Insert:

25 *group vote*, in relation to a group of candidates in a Senate  
26 election, means a first preference vote:

- 27 (a) given in the election for any candidate who is a member of  
28 the group; and  
29 (b) counted for the purposes of section 273.

30 **9 Subsection 287(2)**

31 Repeal the subsection, substitute:

- 32 (2) If this Part requires something to be lodged, given or furnished to  
33 the Electoral Commission, the thing is taken to be so lodged, given



1 or furnished if it is lodged at the principal office of the Electoral  
2 Commission in Canberra.

3 **10 Subsection 287(4)**

4 After “an election”, insert “or a reference in section 305B”.

5 **11 After subsection 287(4A)**

6 Insert:

7 (4B) For the purposes of this Part, electoral expenditure incurred by or  
8 with the authority of a division of a State branch of a political party  
9 is treated as being incurred by that State branch.

10 **12 After subsection 287(6)**

11 Insert:

12 (6A) Subsection (6) does not apply in relation to a political party that is  
13 a body corporate.

14 **13 Subsection 287A(1)**

15 After “Divisions 4,”, insert “4A,”.

16 **14 At the end of Division 1 of Part XX**

17 Add:

18 **287C Commonwealth may not recover the amount of a gift twice**

19 Despite anything in this Part, if the Commonwealth has recovered  
20 the amount or value of a gift as a debt due to the Commonwealth  
21 under a provision of this Part, the Commonwealth may not recover  
22 the amount or value of that gift as a debt due to the Commonwealth  
23 under another provision of this Part.

24 **15 Paragraph 292B(a)**

25 After “Division 4,”, insert “4A,”.

26 **16 Sections 294 and 297**

27 Repeal the sections, substitute:

1           **Subdivision A—Entitlement to election funding**

2           **293 Entitlement to election funding—registered political parties**

3           (1) A registered political party is entitled to election funding under this  
4           section for all elections held on the same day if any of the  
5           following apply:

6                   (a) in respect of a candidate who the party endorses in a House  
7                   of Representatives election—the total number of formal first  
8                   preference votes given for the candidate is at least 4% of the  
9                   total number of formal first preference votes cast in the  
10                  election;

11                  (b) in respect of a candidate who the party endorses in a Senate  
12                  election and who is not a member of a group—the total  
13                  number of formal first preference votes given for the  
14                  candidate is at least 4% of the total number of formal first  
15                  preference votes cast in the election;

16                  (c) in respect of candidates who the party endorses in a Senate  
17                  election and who are members of a group—the total number  
18                  of formal first preference group votes is at least 4% of the  
19                  total number of formal first preference votes cast in the  
20                  election.

21           (2) The amount of election funding to which the registered political  
22           party is entitled is the lesser of:

23                   (a) the total of the following:

24                           (i) \$2.1894 for each formal first preference vote given for a  
25                           candidate in relation to whom paragraph (1)(a) or (b) is  
26                           satisfied;

27                           (ii) subject to section 296, \$2.1894 for each formal first  
28                           preference group vote in respect of a group in relation to  
29                           which paragraph (1)(c) is satisfied; and

30                   (b) the amount of electoral expenditure:

31                           (i) claimed in respect of the registered political party for all  
32                           elections held that day; and

33                           (ii) accepted by the Electoral Commission under  
34                           section 298C.

35           Note:        Subparagraph (a)(ii)—if the candidates in the group are endorsed by 2  
36                           or more registered political parties, section 296 affects the way formal  
37                           first preference votes are divided for the purposes of attributing a  
38                           portion of election funding to each party.

1           **294 Entitlement to election funding—unendorsed candidates**

2           (1) A candidate in an election is entitled to election funding under this  
3 section if:

- 4           (a) the candidate is neither:  
5                 (i) endorsed by a registered political party; nor  
6                 (ii) in the case of a Senate election—a member of a group;  
7                         and  
8           (b) the total number of formal first preference votes given for the  
9 candidate in the election is at least 4% of the total number of  
10 formal first preference votes cast in the election.

11          (2) The amount of election funding to which the candidate is entitled is  
12 the lesser of:

- 13          (a) \$2.1894 for each formal first preference vote given for the  
14 candidate in the election; and  
15          (b) the amount of electoral expenditure:  
16                 (i) claimed in respect of the candidate for the election; and  
17                 (ii) accepted by the Electoral Commission under  
18 section 298C.

19           **295 Entitlement to election funding—unendorsed groups**

20          (1) A group in a Senate election is entitled to election funding under  
21 this section if:

- 22          (a) none of the group’s members are candidates endorsed by a  
23 registered political party; and  
24          (b) the total number of formal first preference group votes is at  
25 least 4% of the total number of formal first preference votes  
26 cast in the Senate election.

27          (2) The amount of election funding to which the group is entitled is the  
28 lesser of:

- 29          (a) \$2.1894 for each formal first preference group vote in the  
30 Senate election; and  
31          (b) the amount of electoral expenditure:  
32                 (i) claimed in respect of the group for the Senate election;  
33                         and  
34                 (ii) accepted by the Electoral Commission under  
35 section 298C.

1       **296 Entitlement to election funding—special rule for joint Senate**  
2                   **groups**

- 3                   (1) This section applies if 2 or more registered political parties endorse  
4                   candidates who are members of a group in a Senate election.
- 5                   (2) An agent of one of the registered political parties must, before the  
6                   polling day for the Senate election, give the Electoral Commission  
7                   a copy of an agreement made between the parties that sets out, for  
8                   the purposes of applying subparagraph 293(2)(a)(ii), how the  
9                   parties agree to divide the formal first preference group votes.
- 10                  (3) The original agreement must have been signed by the agent of each  
11                  of the parties.
- 12                  (4) If a copy of an agreement is given to the Electoral Commission  
13                  before the polling day for the Senate election, the formal first  
14                  preference group votes are to be divided in accordance with the  
15                  agreement.
- 16                  (5) However, if a copy of an agreement is not given to the Electoral  
17                  Commission before that day, the formal first preference group  
18                  votes are to be divided in whatever way the Electoral Commission  
19                  determines.

20       **Subdivision B—Claims for election funding**

21       **297 Need for a claim**

- 22                   (1) To be paid an amount of election funding, the agent of a registered  
23                   political party, candidate or group must make a claim.
- 24                   (2) The agent may make:  
25                   (a) an interim claim; or  
26                   (b) both an interim claim and a final claim; or  
27                   (c) a final claim.
- 28                   Note:        If an interim claim only is made, see subsection 298C(3).
- 29                   (3) A final claim must specify all electoral expenditure for which  
30                   election funding is sought, even if some or all of the electoral  
31                   expenditure has been specified in an interim claim.

1 (4) A final claim may specify electoral expenditure already specified  
2 in an interim claim by making reference to the interim claim.

3 (5) Only one interim claim and one final claim may be made.

#### 4 **298 Electoral expenditure incurred**

5 (1) A claim made by the agent of a registered political party must  
6 specify electoral expenditure:

7 (a) incurred by the party, or by candidates endorsed by the party,  
8 in relation to all elections held on the same day; and

9 (b) for which election funding is sought.

10 (2) A claim made by the agent of a candidate in an election must  
11 specify electoral expenditure:

12 (a) incurred by the candidate in relation to the election; and

13 (b) for which election funding is sought.

14 (3) A claim made by the agent of a group in a Senate election must  
15 specify electoral expenditure:

16 (a) incurred by the group, or by candidates who are members of  
17 the group, in relation to the election; and

18 (b) for which election funding is sought.

#### 19 **298A Form of claim**

20 A claim must:

21 (a) specify whether the claim is an interim claim or final claim;  
22 and

23 (b) be in the approved form; and

24 (c) provide all the information, and be accompanied by any  
25 documents, required by the form.

#### 26 **298B Lodging of claim**

27 *Interim claim*

28 (1) If an interim claim is made in relation to an election or elections,  
29 the claim must be lodged with the Electoral Commission during the  
30 period:

- 1 (a) beginning on the 20th day after the polling day for the  
2 election or elections; and  
3 (b) ending 6 months after the polling day for the election or  
4 elections.

5 *Final claim*

- 6 (2) A final claim in relation to an election or elections must be lodged  
7 with the Electoral Commission during the period:  
8 (a) beginning on the day after:  
9 (i) if the claim relates to only one election—the day on  
10 which the writ for the election is returned; or  
11 (ii) if the claim relates to 2 or more elections—the day on  
12 which the writs for the elections are returned (or, if the  
13 writs are returned on different days, the last of those  
14 days); and  
15 (b) ending 6 months after the polling day for the election or  
16 elections.

17 *Claim cannot be lodged at any other time*

- 18 (3) A claim is taken not to have been made if it is lodged:  
19 (a) before the days mentioned in paragraph (1)(a) or (2)(a); or  
20 (b) after the 6 month period mentioned in paragraphs (1)(b) and  
21 (2)(b).

22 **298C Determination of claim**

- 23 (1) The Electoral Commission must, within 20 days of the Electoral  
24 Commission receiving a claim:  
25 (a) decide whether to accept or refuse the claim, in whole or in  
26 part; and  
27 (b) to the extent that the Electoral Commission accepts the  
28 claim—pay the amount required by section 298D or 298E.
- 29 (2) In deciding whether to accept or refuse a claim, in whole or in part,  
30 the Electoral Commission must only consider:  
31 (a) whether expenditure claimed is electoral expenditure; and  
32 (b) if expenditure claimed is electoral expenditure—whether the  
33 electoral expenditure was incurred.

- 1 (3) If an interim claim is accepted, in whole or in part, under  
2 section 298D and a final claim is not lodged:  
3 (a) no further election funding is payable; and  
4 (b) the interim claim is taken to be a final claim accepted by the  
5 Electoral Commission for the purposes of subsection 301(1).

6 **298D Accepting an interim claim**

- 7 (1) Subsection (2) applies if:  
8 (a) an interim claim is made by the agent of a registered political  
9 party, candidate or group in relation to an election or  
10 elections; and  
11 (b) the Electoral Commission accepts the claim, in whole or in  
12 part.
- 13 (2) The Electoral Commission must pay the lesser of:  
14 (a) 95% of the amount calculated under paragraph 293(2)(a),  
15 294(2)(a) or 295(2)(a), as applicable, based on formal first  
16 preference votes and formal first preference group votes  
17 counted as at the 20th day after the polling day for the  
18 election or elections; and  
19 (b) the amount of electoral expenditure accepted.

20 **298E Accepting a final claim**

- 21 (1) Subsection (2) applies if:  
22 (a) a final claim is made by the agent of a registered political  
23 party, candidate or group in relation to an election or  
24 elections; and  
25 (b) the Electoral Commission accepts the claim, in whole or in  
26 part.
- 27 (2) The Electoral Commission must pay the lesser of:  
28 (a) the amount calculated under paragraph 293(2)(a), 294(2)(a)  
29 or 295(2)(a), as applicable; and  
30 (b) the amount of electoral expenditure accepted;  
31 reduced by any amount that has been paid in accordance with  
32 section 298D.

1       **298F Refusing a final claim**

2                   If a final claim is refused, in whole or in part, the Electoral  
3                   Commission must cause to be served on the agent of the registered  
4                   political party, candidate or group to which the claim relates, a  
5                   notice that states that the claim has been refused, in whole or in  
6                   part, and sets out the reasons for the refusal.

7       **298G Application for reconsideration of decision refusing a final**  
8                   **claim**

- 9                   (1) If a final claim is refused, in whole or in part, the agent of the  
10                  registered political party, candidate or group to which the claim  
11                  relates may apply to the Electoral Commission for the Electoral  
12                  Commission to reconsider the decision.
- 13                  (2) The application must:  
14                      (a) be in writing; and  
15                      (b) set out the reasons for the application.
- 16                  (3) The application must be made within:  
17                      (a) 28 days after the day on which the relevant agent is notified  
18                      of the refusal; or  
19                      (b) if, either before or after the end of that period of 28 days, the  
20                      Electoral Commission extends the period within which the  
21                      application may be made—the extended period for making  
22                      the application.

23       **298H Reconsideration by Electoral Commission**

- 24                  (1) Upon receiving such an application, the Electoral Commission  
25                  must:  
26                      (a) reconsider the decision; and  
27                      (b) decide to:  
28                          (i) affirm the decision; or  
29                          (ii) vary the decision; or  
30                          (iii) set aside the decision and make another decision.
- 31                  (2) The Electoral Commission must give to the relevant agent a notice  
32                  stating the decision on the reconsideration together with a  
33                  statement of the reasons for the decision.



1 (3) If the Electoral Commission’s decision on the reconsideration  
2 would require an amount, or an additional amount, of election  
3 funding to be paid, the Electoral Commission must pay the amount  
4 within 20 days of the day of its decision.

5 (4) The Electoral Commission may not delegate its power under  
6 subsection (1).

7 **Subdivision C—Payments of election funding**

8 **17 Subsection 299(1)**

9 Omit “is payable under this Division in respect of votes given in an  
10 election or elections for”, substitute “of election funding is payable in  
11 respect of”.

12 **18 Subsections 299(2) to (5)**

13 Repeal the subsections, substitute:

14 (2) If subsection (1) does not apply and an amount of election funding  
15 is payable in respect of a candidate, the Electoral Commission  
16 must pay the amount to the candidate’s agent.

17 (3) If subsection (1) does not apply and an amount of election funding  
18 is payable in respect of a group, the Electoral Commission must  
19 pay the amount to the group’s agent.

20 **19 Subsections 299(5D) and (6)**

21 Repeal the subsections.

22 **20 Sections 300 and 301**

23 Repeal the sections, substitute:

24 **Subdivision D—Miscellaneous**

25 **300 Death of candidates or group members**

26 *Death of candidate*

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

- 1 (2) If the candidate was neither:  
2 (a) endorsed by a registered political party; nor  
3 (b) a member of a group;  
4 and was his or her own agent for the purposes of this Part, the  
5 payment may be made to the candidate's legal personal  
6 representative.

7 *Death of member of group*

- 8 (3) If group votes were given in a Senate election in relation to a group  
9 of candidates, a payment may be made for the group even if a  
10 candidate who was a member of the group dies.
- 11 (4) If:  
12 (a) none of a group's members were candidates endorsed by a  
13 registered political party; and  
14 (b) the member of the group who died was the group's agent for  
15 the purposes of this Part;  
16 the payment may be made to another member of the group as if  
17 that other member were the group's agent for the purposes of this  
18 Part.

19 **301 Varying decisions accepting claims**

- 20 (1) If:  
21 (a) the Electoral Commission has made a decision (the *claim*  
22 *decision*) under section 298C to accept an amount of  
23 electoral expenditure specified in a final claim; and  
24 (b) the Electoral Commission becomes satisfied that:  
25 (i) the amount of electoral expenditure should not have  
26 been accepted; or  
27 (ii) only a lesser amount of electoral expenditure should  
28 have been accepted;  
29 the Electoral Commission may vary the claim decision  
30 accordingly.
- 31 (2) If the Electoral Commission makes a decision (the *variation*  
32 *decision*) to vary the claim decision, sections 298F, 298G and  
33 298H apply in relation to the variation decision as if it were, to the  
34 extent of the variation, a decision of the Commission to refuse the  
35 claim.

- 1 (3) If:  
2 (a) the Electoral Commission varies the claim decision; and  
3 (b) the total amount of election funding that has been paid to a  
4 person in respect of the final claim, and any interim claim,  
5 exceeds the amount that, under the claim decision as varied,  
6 should have been paid to the person in respect of the final  
7 claim;  
8 the amount of the excess is an overpayment, and may be recovered  
9 by the Commonwealth as a debt due to the Commonwealth by  
10 action against the person.
- 11 (4) If an interim claim has been made, then in working out the amount  
12 that, under the claim decision as varied, should have been paid to  
13 the person as mentioned in subsection (3), the amount paid to the  
14 person in respect of the interim claim is not to be deducted.

## 15 **21 After section 303**

16 Insert:

### 17 **303A How Division applies to gifts that are returned etc. within 6** 18 **weeks**

19 *Division generally does not apply to gifts returned within 6 weeks*  
20 *of receipt*

- 21 (1) Subject to subsections (2) to (5), this Division does not apply to a  
22 gift that is returned within 6 weeks after its receipt.

23 *Division applies to gifts of foreign property, whether or not*  
24 *returned*

- 25 (2) This Division applies to a gift of foreign property within the  
26 meaning of Subdivision A of Division 4A, whether or not the gift  
27 is returned within 6 weeks as mentioned in section 306AA.
- 28 (3) If the gift is so returned, any return under this Division that  
29 includes the amount or value of the gift must also include a  
30 statement to the effect that the gift was so returned.

1                    *Division applies to anonymous gifts, whether or not returned or*  
2                    *paid to the Commonwealth*

3                    (4) This Division applies to an anonymous gift within the meaning of  
4                    Subdivision B of Division 4A, whether or not the gift is returned,  
5                    or the amount or value of the gift is paid to the Commonwealth,  
6                    within 6 weeks as mentioned in section 306AF.

7                    (5) If the gift is so returned, or the amount or value of the gift is so  
8                    paid to the Commonwealth, any return under this Division that  
9                    includes the amount or value of the gift must also include a  
10                   statement to the effect that the gift was so returned, or that the  
11                   amount or value of the gift was so paid to the Commonwealth.

12                   **22 Subsections 304(2) and (3)**

13                   Omit “15 weeks”, substitute “8 weeks”.

14                   **23 Subparagraph 304(5)(b)(ii)**

15                   Omit “\$10,000 or less”, substitute “less than \$1,000”.

16                   **24 Paragraph 304(5)(c)**

17                   Omit “\$10,000 or less”, substitute “less than \$1,000”.

18                   **25 Subsection 304(5) (note)**

19                   Repeal the note.

20                   **26 Paragraph 304(6)(b)**

21                   Omit “exceeds \$10,000”, substitute “is \$1,000 or more”.

22                   **27 Paragraph 304(6)(c)**

23                   Omit “exceeds \$10,000”, substitute “is \$1,000 or more”.

24                   **28 Subsection 304(6) (note)**

25                   Repeal the note.

26                   **29 At the end of section 304**

27                   Add:

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*Nil returns*

- (9) If no details are required to be included in a return under this section in respect of a candidate, the return must still be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.
- (10) If no details are required to be included in a return under this section in respect of a group, the return must still be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.

**30 Subparagraph 305A(1)(b)(ii)**

Omit “more than \$10,000”, substitute “\$1,000 or more”.

**31 Subsection 305A(1) (note)**

Repeal the note.

**32 Subparagraph 305A(1A)(b)(ii)**

Omit “more than \$10,000”, substitute “\$1,000 or more”.

**33 Subsection 305A(1A) (note)**

Repeal the note.

**34 Paragraph 305A(2)(b)**

Omit “more than \$10,000”, substitute “\$1,000 or more”.

**35 Subsection 305A(2) (note)**

Repeal the note.

**36 Paragraph 305A(3)(a)**

Omit “15 weeks”, substitute “8 weeks”.

**37 Subsections 305B(1) and (2)**

Repeal the subsections, substitute:

*Obligation to furnish returns for reporting periods*

- (1) Subject to subsections (2A) and (2B), if, in a reporting period, a person makes gifts totalling \$1,000 or more to the same registered political party, the person must furnish a return to the Electoral

1 Commission within 8 weeks after the end of the reporting period,  
2 disclosing all the gifts that the person made to the registered  
3 political party during the reporting period.

4 *How section applies to political parties that are related*

5 (1A) If:

- 6 (a) 2 or more political parties are related to each other; and  
7 (b) at least one of those parties is a registered political party;  
8 subsection (1) applies as if:  
9 (c) those parties together constituted a single registered political  
10 party (rather than being separate political parties); and  
11 (d) a gift made by a person to any of those parties were a gift  
12 made by that person to the single registered political party  
13 referred to in paragraph (c).

14 *How section applies to gifts made with intention of benefiting a*  
15 *party*

16 (2) If a person makes a gift to any person or body with the intention of  
17 benefiting a particular political party, the person is taken for the  
18 purpose of this section (including paragraph (1A)(d)) to have made  
19 that gift directly to that political party.

20 *Half-year returns: effect on obligation to furnish full year return*

21 (2A) If a person:

- 22 (a) has furnished a return to the Electoral Commission disclosing  
23 a gift or gifts that the person made to a registered political  
24 party during a reporting period that is the first 6 months of a  
25 financial year; and  
26 (b) has not made any further gifts to the registered political party  
27 during the remainder of the financial year;

28 the person is not required to furnish a return to the Electoral  
29 Commission under subsection (1) in respect of the reporting period  
30 that is the full financial year.

31 (2B) A return furnished by a person under subsection (1) in respect of a  
32 reporting period that is a full financial year does not have to  
33 disclose any gift made by the person that has already been  
34 disclosed in a return under subsection (1) in respect of the reporting  
35 period that is the first 6 months of that financial year.

1       **38 Paragraph 305B(3)(c)**

2               Omit “registered political party or branch”, substitute “political party  
3               that received the gift”.

4       Note:     The following heading to subsection 305B(3) is inserted “*Content of return*”.

5       **39 Subsection 305B(3A)**

6               Repeal the subsection, substitute:

7                       *Disclosure of receipt of gifts in certain circumstances*

8       (3A) If:

9               (a) a person is required to disclose a gift (the *ultimate gift*) in a  
10              return under subsection (1); and

11              (b) the person received a gift of \$1,000 or more (the *enabling*  
12              *gift*) which the person used to make all or a substantial part  
13              of the ultimate gift;

14              the person must also disclose the relevant details of the enabling  
15              gift in the return under subsection (1).

16       Note 1:   The following heading to subsection 305B(4) is inserted “*Return to be in approved*  
17              *form*”.

18       Note 2:   The following heading to subsection 305B(5) is inserted “*Gifts to which section does*  
19              *not apply*”.

20       **40 Section 306**

21               Repeal the section, substitute:

22       **Division 4A—Rules about certain gifts and loans**

23       **Subdivision A—Gifts of foreign property**

24       **306 Interpretation**

25               (1) In this Subdivision:

26                       *Australian property* means:

27               (a) money standing to the credit of an account kept in Australia;  
28               or

29               (b) other money (for example, cash) that is located in Australia;  
30               or

31               (c) property, other than money, that is located in Australia.

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Note: For how this Subdivision applies to gifts or transfers made using a credit card, see subsection 306AB(4).

***candidacy period***, in relation to a candidate, means the period:

- (a) starting on the earlier of the day on which the person announces that he or she will be a candidate in an election, or the day on which the nomination of the person as a candidate in the election is made; and
- (b) ending 30 days after the polling day in the election.

***credit card*** means:

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

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

***enables***: a gift or other transfer ***enables*** a person or entity to do a particular thing if all or a substantial part of the gift or transfer enables the person or entity:

- (a) to do all or a substantial part of that thing; or
- (b) to be wholly or substantially reimbursed for having done that thing.

***foreign property*** means:

- (a) money standing to the credit of an account kept outside Australia; or
- (b) other money (for example, cash) that is located outside Australia; or
- (c) property, other than money, that is located outside Australia.

Note: For how this Subdivision applies to gifts or transfers made using a credit card, see subsection 306AB(4).

***gift***:

- (a) in relation to a candidate, has a meaning affected by subsection (2); and
- (b) in relation to a member of a group, has a meaning affected by subsection (3).

***group period***, in relation to a group, means the period:



- 1 (a) starting on the day on which the persons constituting the  
2 group make a request under section 168 in relation to an  
3 election; and  
4 (b) ending 30 days after the polling day in the election.

5 ***political expenditure*** means expenditure incurred for any of the  
6 purposes specified in paragraph 314AEB(1)(a).

- 7 (2) A reference in this Subdivision to a gift, in relation to a candidate  
8 (or a person acting on behalf of a candidate), does not include:  
9 (a) a gift made for the benefit of a group of which the candidate  
10 is a member; or  
11 (b) a gift made in a private capacity to (or for the benefit of) the  
12 candidate if the candidate has not used, and will not use, the  
13 gift solely or substantially for a purpose related to an  
14 election.
- 15 (3) A reference in this Subdivision to a gift, in relation to a member of  
16 a group (or a person acting on behalf of a group), is a reference to a  
17 gift made for the benefit of the group.
- 18 (4) A reference in this Subdivision to a thing done by a person  
19 includes a reference to a thing done by a person on behalf of the  
20 members of an unincorporated association.

21 **306AA Subdivision does not apply to gifts that are returned within 6**  
22 **weeks**

23 This Subdivision does not apply to a gift that is returned within 6  
24 weeks after its receipt.

25 **306AB Determining whether a gift or transfer is of Australian or**  
26 **foreign property**

27 *Status of property as Australian or foreign to be determined by*  
28 *reference to position immediately before gift or transfer*

- 29 (1) For the purpose of this Subdivision (but without limiting the effect  
30 of subsections (2) and (3)):  
31 (a) a gift or transfer of property is a gift or transfer of Australian  
32 property if the property was Australian property immediately  
33 before the gift or transfer was made; and

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(b) a gift or transfer of property is a gift or transfer of foreign property if the property was foreign property immediately before the gift or transfer was made.

*Transferring foreign property to enable another person to make a gift*

- (2) For the purpose of this Subdivision, if:
- (a) a person (the **donor**) transfers foreign property (the **primary transfer**) to another person (the **first recipient**); and
  - (b) the donor's main purpose in making the primary transfer is to enable (directly or indirectly) the first recipient, or another person, to make a gift to another person or entity (the **ultimate recipient**); and
  - (c) the first recipient, or another person, makes a gift (the **ultimate gift**) to the ultimate recipient; and
  - (d) the primary transfer enabled (directly or indirectly) the first recipient, or the other person, to make the ultimate gift;
- the ultimate gift is taken to be a gift of foreign property.

*Changing location of foreign property etc. prior to making a gift or transfer*

- (3) For the purpose of this Subdivision, if:
- (a) a person:
    - (i) changes the location of property so that it becomes Australian property; or
    - (ii) uses foreign property to acquire Australian property; and
  - (b) the person's main purpose in changing the location of the property, or in acquiring the Australian property, was to enable the person to make a gift or transfer of property that would be Australian property rather than foreign property; and
  - (c) the person makes a gift or transfer of Australian property in accordance with that purpose;
- the gift or transfer is taken to be a gift or transfer of foreign property.

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*How Subdivision applies to gifts or transfers made by credit card*

- (4) This Subdivision applies to a gift or transfer of money made by use of a credit card as if the gift or transfer were of money standing to the credit of an account kept in the country in which the credit card is based.

**306AC Gifts of foreign property: when unlawful for political party, candidate etc. to receive gift**

*When receiving gift is unlawful*

- (1) It is unlawful for a person or entity to receive a gift of foreign property in any of the following circumstances:
  - (a) the gift is received by a registered political party (or by a person acting on behalf of a registered political party);
  - (b) the gift is received by a State branch of a registered political party (or by a person acting on behalf of a State branch of a registered political party);
  - (c) the gift is received by a candidate (or by a person acting on behalf of a candidate) during the candidacy period;
  - (d) the gift is received by a member of a group (or by a person acting on behalf of a group) during the group period.

*Liability for unlawful receipt of gift*

- (2) If a person or entity specified in column 2 of an item in the following table receives a gift that, under subsection (1), it is unlawful for the person or entity to receive, an amount equal to the amount or value of the gift is payable to the Commonwealth by the person or persons specified in column 3 of that item.

<b>Liability for unlawful receipt of gift</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the recipient is ...</b>	<b>the amount is payable by ...</b>
1	a registered political party that is a body corporate (or a person acting on behalf of such a party)	the registered political party.
2	a registered political party that is not a body corporate (or a	the agent of the registered political party.

<b>Liability for unlawful receipt of gift</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the recipient is ...</b>	<b>the amount is payable by ...</b>
	person acting on behalf of such a party)	
3	a State branch of a registered political party, being a State branch that is a body corporate (or a person acting on behalf of such a branch)	the State branch.
4	a State branch of a registered political party, being a State branch that is not a body corporate (or a person acting on behalf of such a branch)	the agent of the State branch.
5	a candidate (or a person acting on behalf of a candidate)	the candidate and the agent of the candidate.
6	a member of a group (or a person acting on behalf of a group)	the members of the group and the agent of the group.

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(3) If, under subsection (2), an amount is payable to the Commonwealth by 2 or more persons, those persons are jointly and severally liable for the payment of the amount.

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(4) An amount that, under subsection (2), is payable by a person or persons to the Commonwealth may be recovered by the Commonwealth as a debt due to the Commonwealth by action, in a court of competent jurisdiction, against that person or any one or more of those persons.

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### **306AD Gifts of foreign property made to enable incurring of political expenditure: when unlawful to use or receive gift**

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*Persons other than candidates and members of groups (current and former) and associated entities: when incurring expenditure is unlawful*

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(1) It is unlawful for a person (the *recipient*) to incur an amount of political expenditure if:

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- 1 (a) the recipient:  
2 (i) is not, and has not at any time been, a candidate or a  
3 member of a group; and  
4 (ii) is not an associated entity; and  
5 (b) a gift of foreign property received by the recipient from  
6 another person (the *donor*) enabled the recipient to incur the  
7 expenditure; and  
8 (c) the donor's main purpose in making the gift of foreign  
9 property was to enable the recipient to incur political  
10 expenditure; and  
11 (d) the recipient is required by section 314AEB to provide a  
12 return setting out details of the expenditure (whether or not  
13 that return has been provided).

14 *Candidates and members of groups (current and former): when*  
15 *incurring expenditure is unlawful*

- 16 (2) It is unlawful for a person (the *recipient*) to incur an amount of  
17 political expenditure if:  
18 (a) the recipient is, or has at any time been, a candidate or a  
19 member of a group; and  
20 (b) a gift of foreign property received by the recipient from  
21 another person (the *donor*) enabled the recipient to incur the  
22 expenditure; and  
23 (c) the donor's main purpose in making the gift of foreign  
24 property was to enable the recipient to incur political  
25 expenditure.

26 *Associated entities: when receiving gift is unlawful*

- 27 (3) It is unlawful for an associated entity to receive a gift of foreign  
28 property from a person (the *donor*) if the donor's main purpose in  
29 making the gift is to enable the associated entity to incur political  
30 expenditure.  
31 (4) In subsections (3) and (6), a reference to an associated entity  
32 receiving a gift or incurring expenditure is, if the entity is not a  
33 body corporate, a reference to a person receiving a gift or incurring  
34 expenditure on behalf of the entity.

1 *Liability for unlawful incurring of expenditure or receipt of gift*

- 2 (5) If a person incurs an amount of political expenditure that is  
3 unlawful under subsection (1) or (2), an amount equal to the  
4 amount of the expenditure is payable to the Commonwealth by the  
5 person.
- 6 (6) If an associated entity receives a gift that, under subsection (3), it is  
7 unlawful for the associated entity to receive, an amount equal to  
8 the amount or value of the gift is payable to the Commonwealth in  
9 accordance with whichever of the following paragraphs applies:  
10 (a) if the associated entity is a body corporate, or is the trustee of  
11 a trust—the amount is payable to the Commonwealth by the  
12 associated entity;  
13 (b) if the associated entity is not a body corporate—the amount  
14 is payable to the Commonwealth by the financial controller  
15 of the associated entity.
- 16 (7) An amount that, under subsection (5) or (6), is payable by a person  
17 to the Commonwealth may be recovered by the Commonwealth as  
18 a debt due to the Commonwealth by action, in a court of competent  
19 jurisdiction, against that person.

20 **Subdivision B—Anonymous gifts**

21 **306AE Interpretation**

- 22 (1) In this Subdivision:

23 *anonymous gift*: a gift is an *anonymous gift* if the gift is not made  
24 by a known donor.

25 *candidacy period*, in relation to a candidate, means the period:

- 26 (a) starting on the earlier of the day on which the person  
27 announces that he or she will be a candidate in an election, or  
28 the day on which the nomination of the person as a candidate  
29 in the election is made; and  
30 (b) ending 30 days after the polling day in the election.

31 *enables*: a gift *enables* a person or entity to do a particular thing if  
32 all or a substantial part of the gift enables the person or entity:

- 33 (a) to do all or a substantial part of that thing; or

1 (b) to be wholly or substantially reimbursed for having done that  
2 thing.

3 **gift:**

4 (a) in relation to a candidate, has a meaning affected by  
5 subsection (2); and

6 (b) in relation to a member of a group, has a meaning affected by  
7 subsection (3).

8 **group period**, in relation to a group, means the period:

9 (a) starting on the day on which the persons constituting the  
10 group make a request under section 168 in relation to an  
11 election; and

12 (b) ending 30 days after the polling day in the election.

13 **known donor**: a gift is made by a **known donor** if:

14 (a) at the time when the gift is made:

15 (i) the person making the gift (the **donor**) gives the donor's  
16 name and address to the person receiving the gift; and

17 (ii) the person receiving the gift has no grounds to believe  
18 that the name and address so given are not the donor's  
19 true name and address; or

20 (b) the name and address of the donor are otherwise known to  
21 the person receiving the gift.

22 **political expenditure** means expenditure incurred for any of the  
23 purposes specified in paragraph 314AEB(1)(a).

24 (2) A reference in this Subdivision to a gift, in relation to a candidate  
25 (or a person acting on behalf of a candidate), does not include:

26 (a) a gift made for the benefit of a group of which the candidate  
27 is a member; or

28 (b) a gift made in a private capacity to (or for the benefit of) the  
29 candidate if the candidate has not used, and will not use, the  
30 gift solely or substantially for a purpose related to an  
31 election.

32 (3) A reference in this Subdivision to a gift, in relation to a member of  
33 a group (or a person acting on behalf of a group), is a reference to a  
34 gift made for the benefit of the group.

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- (4) A reference in the definition of *known donor* in subsection (1) to the donor’s name and address is:
  - (a) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—a reference to:
    - (i) the name of the association; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the association; and
  - (b) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to:
    - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
    - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires.
- (5) A reference in this Subdivision to a thing done by a person includes a reference to a thing done by a person on behalf of the members of an unincorporated association.

**306AF Subdivision does not apply to gifts that are returned or paid to Commonwealth within 6 weeks**

This Subdivision does not apply to a gift if, within 6 weeks of the receipt of the gift:

- (a) the gift is returned; or
- (b) if it is not possible or practicable to return the gift—the amount or value of the gift is paid to the Commonwealth.

**306AG Anonymous gifts: when unlawful for political party, candidate etc. to receive gift**

*When receiving gift is unlawful*

- (1) It is unlawful for an anonymous gift to be received in any of the following circumstances:
  - (a) the gift is received by a registered political party (or by a person acting on behalf of a registered political party);
  - (b) the gift is received by a State branch of a registered political party (or by a person acting on behalf of a State branch of a registered political party);



- 1 (c) the gift is received by a candidate (or by a person acting on  
 2 behalf of a candidate) during the candidacy period;  
 3 (d) the gift is received by a member of a group (or by a person  
 4 acting on behalf of a group) during the group period.

5 *Liability for unlawful receipt of gift*

- 6 (2) If a person or entity specified in column 2 of an item in the  
 7 following table receives a gift that, under subsection (1), it is  
 8 unlawful for the person or entity to receive, an amount equal to the  
 9 amount or value of the gift is payable to the Commonwealth by the  
 10 person or persons specified in column 3 of that item.

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<b>Liability for unlawful receipt of gift</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the recipient is ...</b>	<b>the amount is payable by ...</b>
1	a registered political party that is a body corporate (or a person acting on behalf of such a party)	the registered political party.
2	a registered political party that is not a body corporate (or a person acting on behalf of such a party)	the agent of the registered political party.
3	a State branch of a registered political party, being a State branch that is a body corporate (or a person acting on behalf of such a branch)	the State branch.
4	a State branch of a registered political party, being a State branch that is not a body corporate (or a person acting on behalf of such a branch)	the agent of the State branch.
5	a candidate (or a person acting on behalf of a candidate)	the candidate and the agent of the candidate.
6	a member of a group (or a person acting on behalf of a group)	the members of the group and the agent of the group.

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- 1 (3) If, under subsection (2), an amount is payable to the  
2 Commonwealth by 2 or more persons, those persons are jointly and  
3 severally liable for the payment of the amount.
- 4 (4) An amount that, under subsection (2), is payable by a person or  
5 persons to the Commonwealth may be recovered by the  
6 Commonwealth as a debt due to the Commonwealth by action, in a  
7 court of competent jurisdiction, against that person or any one or  
8 more of those persons.

9 **306AH Anonymous gifts: when unlawful for political party,**  
10 **candidate etc. to receive gift made using anonymous gift**

11 *When receiving gift is unlawful*

- 12 (1) It is unlawful for a person or entity to receive a gift (the *political*  
13 *gift*) from a person (the *donor*) if:
- 14 (a) the political gift is received in any of the following  
15 circumstances:
- 16 (i) the gift is received by a registered political party (or by  
17 a person acting on behalf of a registered political party);
- 18 (ii) the gift is received by a State branch of a registered  
19 political party (or by a person acting on behalf of a State  
20 branch of a registered political party);
- 21 (iii) the gift is received by a candidate (or by a person acting  
22 on behalf of a candidate) during the candidacy period;
- 23 (iv) the gift is received by a member of a group (or by a  
24 person acting on behalf of a group) during the group  
25 period; and
- 26 (b) an anonymous gift received by the donor enabled the donor  
27 to make the political gift.

28 *Liability for unlawful receipt of gift*

- 29 (2) If a person or entity specified in column 2 of an item in the  
30 following table receives a gift that, under subsection (1), it is  
31 unlawful for the person or entity to receive, an amount equal to the  
32 amount or value of the gift is payable to the Commonwealth by the  
33 person or persons specified in column 3 of that item.
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**Liability for unlawful receipt of gift**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the recipient is ...</b>	<b>the amount is payable by ...</b>
1	a registered political party that is a body corporate (or a person acting on behalf of such a party)	the registered political party.
2	a registered political party that is not a body corporate (or a person acting on behalf of such a party)	the agent of the registered political party.
3	a State branch of a registered political party, being a State branch that is a body corporate (or a person acting on behalf of such a branch)	the State branch.
4	a State branch of a registered political party, being a State branch that is not a body corporate (or a person acting on behalf of such a branch)	the agent of the State branch.
5	a candidate (or a person acting on behalf of a candidate)	the candidate and the agent of the candidate.
6	a member of a group (or a person acting on behalf of a group)	the members of the group and the agent of the group.

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(3) If, under subsection (2), an amount is payable to the Commonwealth by 2 or more persons, those persons are jointly and severally liable for the payment of the amount.

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(4) An amount that, under subsection (2), is payable by a person or persons to the Commonwealth may be recovered by the Commonwealth as a debt due to the Commonwealth by action, in a court of competent jurisdiction, against that person or any one or more of those persons.

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1       **306AI Anonymous gifts: when unlawful for person to incur political**  
2                   **expenditure using anonymous gift**

3                   *Persons other than candidates and members of groups (current*  
4                   *and former): when incurring expenditure is unlawful*

- 5       (1) It is unlawful for a person to incur an amount of political  
6           expenditure if:  
7           (a) the person is not, and has not at any time been, a candidate or  
8           a member of a group; and  
9           (b) an anonymous gift received by the person enabled the person  
10           to incur the expenditure; and  
11           (c) the person is required by section 314AEB to provide a return  
12           setting out details of the expenditure (whether or not that  
13           return has been provided).

14                   *Candidates and members of groups (current and former): when*  
15                   *incurring expenditure is unlawful*

- 16       (2) It is unlawful for a person to incur an amount of political  
17           expenditure if:  
18           (a) the person is, or has at any time been, a candidate or a  
19           member of a group; and  
20           (b) an anonymous gift received by the person enabled the person  
21           to incur the expenditure.

22                   *Liability for unlawful incurring of expenditure*

- 23       (3) If a person incurs an amount of political expenditure that is  
24           unlawful under subsection (1) or (2), an amount equal to the  
25           amount of the expenditure is payable to the Commonwealth by the  
26           person.  
27       (4) An amount that, under subsection (3), is payable by a person to the  
28           Commonwealth may be recovered by the Commonwealth as a debt  
29           due to the Commonwealth by action, in a court of competent  
30           jurisdiction, against that person.

31       **Subdivision C—Other gifts and loans**

32       **41 Subsection 306A(1)**

33           Omit “more than \$10,000”, substitute “\$1,000 or more”.

1 **42 Subsection 306A(1) (note)**

2 Repeal the note.

3 **43 Subsection 306A(2)**

4 Omit “more than \$10,000”, substitute “\$1,000 or more”.

5 **44 Subsection 306A(2) (note)**

6 Repeal the note.

7 **45 Paragraph 306B(a)**

8 Omit “exceeds \$10,000”, substitute “is \$1,000 or more”.

9 **46 Section 306B (note 3)**

10 Repeal the note.

11 **47 Section 307**

12 Repeal the section.

13 **48 Section 308**

14 Repeal the section.

15 **49 Subsections 309(2) and (3)**

16 Omit “15 weeks”, substitute “8 weeks”.

17 **50 Subsection 311A(2)**

18 Omit “\$10,000 or less”, substitute “less than \$1,000”.

19 **51 Subsection 311A(2) (note)**

20 Repeal the note.

21 **52 Division 5A of Part XX (heading)**

22 Repeal the heading, substitute:

23 **Division 5A—Returns for reporting periods by registered**  
24 **political parties and other persons**

25 **53 After section 314AA**

26 Insert:

1       **314AAA How Division applies to gifts that are returned etc. within 6**  
2               **weeks**

3                       *Division generally does not apply to gifts returned within 6 weeks*  
4                       *of receipt*

5               (1) Subject to subsections (2) to (5), this Division does not apply to a  
6               gift that is returned within 6 weeks after its receipt.

7                       *Division applies to gifts of foreign property, whether or not*  
8                       *returned*

9               (2) This Division applies to a gift of foreign property within the  
10              meaning of Subdivision A of Division 4A, whether or not the gift  
11              is returned within 6 weeks as mentioned in section 306AA.

12              (3) If the gift is so returned, any return under this Division that  
13              includes the amount or value of the gift must also include a  
14              statement to the effect that the gift was so returned.

15                      *Division applies to anonymous gifts, whether or not returned or*  
16                      *paid to the Commonwealth*

17              (4) This Division applies to an anonymous gift within the meaning of  
18              Subdivision B of Division 4A, whether or not the gift is returned,  
19              or the amount or value of the gift is paid to the Commonwealth,  
20              within 6 weeks as mentioned in section 306AF.

21              (5) If the gift is so returned, or the amount or value of the gift is so  
22              paid to the Commonwealth, any return under this Division that  
23              includes the amount or value of the gift must also include a  
24              statement to the effect that the gift was so returned, or that the  
25              amount or value of the gift was so paid to the Commonwealth.

26       **54 Subsection 314AB(1)**

27                      Omit “within 16 weeks after the end of each financial year beginning on  
28                      or after 1 July 1992”, substitute “within 8 weeks after the end of each  
29                      reporting period”.

30       Note:       The heading to section 314AB is altered by omitting “**Annual returns**” and substituting  
31                      “**Returns for reporting periods**”.

32       **55 Paragraph 314AB(1)(b)**

1 Omit “audited annual accounts”, substitute “audited accounts, for the  
2 reporting period.”.

3 **56 Subsection 314AB(2)**

4 Omit “financial year” (wherever occurring), substitute “reporting  
5 period”.

6 **57 Subsection 314AC(1)**

7 Omit “financial year is more than \$10,000”, substitute “reporting period  
8 is \$1,000 or more”.

9 **58 Subsection 314AC(1) (note)**

10 Repeal the note.

11 **59 Subsection 314AC(2)**

12 Repeal the subsection.

13 **60 Subsection 314AE(1)**

14 Omit “financial year is more than \$10,000”, substitute “reporting period  
15 is \$1,000 or more”.

16 **61 Subsection 314AE(1) (note)**

17 Repeal the note.

18 **62 Subsection 314AEA(1)**

19 Omit “financial year” (wherever occurring), substitute “reporting  
20 period”.

21 Note: The heading to section 314AEA is altered by omitting “**Annual returns**” and  
22 substituting “**Returns for reporting periods**”.

23 **63 Subsection 314AEA(1)**

24 Omit “16 weeks”, substitute “8 weeks”.

25 **64 Paragraph 314AEA(3)(d)**

26 Omit “financial year”, substitute “reporting period”.

27 **65 Subsection 314AEB(1)**

28 Omit “financial year”, substitute “reporting period”.

29 Note: The heading to section 314AEB is altered by omitting “**Annual returns**” and

1 substituting “Returns for reporting periods”.

2 **66 Paragraph 314AEB(1)(a)**

3 Omit “the year”, substitute “the reporting period”.

4 **67 Paragraphs 314AEB(1)(b) and (c)**

5 Repeal the paragraphs, substitute:

6 (b) the total amount of expenditure of all of the kinds referred to  
7 in paragraph (a) incurred by the person during the reporting  
8 period was \$1,000 or more.

9 **68 Subsection 314AEB(1) (note)**

10 Repeal the note.

11 **69 After subsection 314AEB(1)**

12 Insert:

13 (1A) An amount of expenditure incurred with the authority of a person is  
14 not counted in the total amount referred to in paragraph (1)(b) if, at  
15 the time the person gave authority to incur the amount of  
16 expenditure, the person was:

17 (a) a registered political party; or

18 (b) a State branch of a registered political party; or

19 (c) the Commonwealth (including a Department of the  
20 Commonwealth, an Executive Agency or a Statutory Agency  
21 (within the meaning of the *Public Service Act 1999*)); or

22 (d) a member of the House of Representatives or the Senate; or

23 (e) a candidate in an election; or

24 (f) a member of a group.

25 **70 Subsection 314AEB(2)**

26 Omit “financial year”, substitute “reporting period”.

27 **71 Paragraph 314AEB(3)(a)**

28 Omit “20 weeks after the end of the financial year”, substitute “8 weeks  
29 after the end of the reporting period”.

30 **72 Subsection 314AEC(1)**

31 Omit “financial year”, substitute “reporting period”.



1 Note: The heading to section 314AEC is altered by omitting “**Annual returns**” and  
2 substituting “**Returns for reporting periods**”.

3 **73 Paragraphs 314AEC(1)(a) and (b)**

4 Omit “the year”, substitute “the reporting period”.

5 **74 Paragraph 314AEC(1)(c)**

6 Repeal the paragraph, substitute:

7 (c) there is at least one major donor in relation to the person and  
8 the reporting period.

9 **75 Subsection 314AEC(1) (note)**

10 Repeal the note.

11 **76 After subsection 314AEC(1)**

12 Insert:

13 (1A) For the purpose of this section, a person (the *donor*) is a *major*  
14 *donor* in relation to the person and the reporting period referred to  
15 in subsection (1) if the total amount of the gifts referred to in  
16 paragraph (1)(b) that were made by the donor to the person is  
17 \$1,000 or more.

18 **77 Subsection 314AEC(2)**

19 Omit “financial year”, substitute “reporting period”.

20 **78 Subsection 314AEC(2)**

21 Omit “each gift of more than \$10,000 that is mentioned in  
22 paragraph (1)(b)”, substitute “each gift referred to in paragraph (1)(b)  
23 that was made by a major donor”.

24 **79 Subsection 314AEC(2) (note)**

25 Repeal the note.

26 **80 Paragraph 314AEC(3)(a)**

27 Omit “20 weeks after the end of the financial year”, substitute “8 weeks  
28 after the end of the reporting period”.

29 **81 Subsection 314AEC(4)**

30 Repeal the subsection.

1 **82 Subsections 315(1) to (4)**

2 Repeal the subsections, substitute:

3 *Failing to furnish a Division 4, 5 or 5A return*

- 4 (1) A person commits an offence if:  
5 (a) the person is required to furnish a return under Division 4, 5  
6 or 5A; and  
7 (b) the person fails to furnish the return to the Electoral  
8 Commission by the time required by that Division.

9 Penalty: 120 penalty units.

10 *Furnishing a Division 4, 5 or 5A return that is incomplete*

- 11 (2) A person commits an offence if:  
12 (a) the person is required to furnish a return under Division 4, 5  
13 or 5A; and  
14 (b) the person furnishes a return to the Electoral Commission;  
15 and  
16 (c) the return purports to be a return under that Division; and  
17 (d) the return is incomplete.

18 Penalty: 120 penalty units.

- 19 (3) For the purpose of subsection (2) a return is *incomplete* if it does  
20 not contain all the information that is required to be included in the  
21 return by Division 4, 5 or 5A (as the case requires) or by the  
22 approved form for the return.

23 *Failing to retain records as required by section 317*

- 24 (4) A person commits an offence if:  
25 (a) the person is required by section 317 to retain records; and  
26 (b) the person fails to retain the records as required by that  
27 section.

28 Penalty: 120 penalty units.

29 *Furnishing a Division 3 claim that is false or misleading*

- 30 (4A) A person commits an offence if:

- 1 (a) the person lodges a claim with the Electoral Commission;  
2 and  
3 (b) the claim purports to be a claim under Division 3; and  
4 (c) the person knows that:  
5 (i) the claim is false or misleading in a material particular;  
6 or  
7 (ii) the claim omits a matter or thing without which the  
8 claim is misleading in a material particular.

9 Penalty: Imprisonment for 2 years or 240 penalty units, or both.

10 Note: See also subsections (5) and (6).

11 *Furnishing a Division 4, 5 or 5A return that is false or misleading*

12 (4B) A person commits an offence if:

- 13 (a) the person furnishes a return to the Electoral Commission;  
14 and  
15 (b) the return purports to be a return under Division 4, 5 or 5A;  
16 and  
17 (c) the person knows that:  
18 (i) the return is false or misleading in a material particular;  
19 or  
20 (ii) the return omits a matter or thing without which the  
21 return is misleading in a material particular.

22 Penalty: Imprisonment for 12 months or 120 penalty units, or  
23 both.

### 24 **83 Subsection 315(5)**

25 Omit “subsection (3) or (4)”, substitute “subsection (4A)”.

26 Note: The following heading to subsection 315(5) is inserted “*Additional orders if person*  
27 *convicted of offence against subsection (4A)*”.

### 28 **84 Subsection 315(6A) (penalty)**

29 Repeal the penalty, substitute:

30 Penalty: Imprisonment for 2 years or 240 penalty units, or both.

31 Note: The following heading to subsection 315(6A) is inserted “*Giving another person false*  
32 *or misleading information for a Division 3 claim*”.

### 33 **85 Subsection 315(7) (penalty)**

1 Repeal the penalty, substitute:

2 Penalty: Imprisonment for 12 months or 120 penalty units, or  
3 both.

4 Note 1: The following heading to subsection 315(7) is inserted “*Giving another person false or*  
5 *misleading information for a Division 4, 5 or 5A return*”.

6 Note 2: The following heading to subsection 315(8) is inserted “*Effect of continued failure to*  
7 *furnish a Division 4, 5 or 5A return*”.

## 8 **86 After subsection 315(10)**

9 Insert:

10 *Unlawful receipt of gift: situations other than when political party,*  
11 *State branch or associated entity is not a body corporate, or when*  
12 *gift is received by person on behalf of group*

13 (10A) A person commits an offence if:

- 14 (a) the person (or a person acting on behalf of the person, but not  
15 a person acting on behalf of a group) receives a gift; and  
16 (b) the receipt of the gift is unlawful under subsection 306AC(1),  
17 306AD(3), 306AG(1) or 306AH(1); and  
18 (c) the person is:  
19 (i) a registered political party that is a body corporate; or  
20 (ii) a State branch of a registered political party, being a  
21 State branch that is a body corporate; or  
22 (iii) a candidate; or  
23 (iv) a member of a group; or  
24 (v) an associated entity that is a body corporate.

25 Penalty: Imprisonment for 12 months or 240 penalty units, or  
26 both.

27 *Unlawful receipt of gift: registered political parties, State branches*  
28 *and associated entities that are not bodies corporate*

29 (10B) A person commits an offence if:

- 30 (a) a gift is received by (or by a person acting on behalf of) any  
31 of the following (the **recipient**):  
32 (i) a registered political party that is not a body corporate;  
33 (ii) a State branch of a registered political party, being a  
34 State branch that is not a body corporate;

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- (iii) an associated entity that is not a body corporate; and
- (b) the receipt of the gift is unlawful under subsection 306AC(1), 306AD(3), 306AG(1) or 306AH(1); and
- (c) the recipient is specified in column 2 of an item in the following table, and the person is specified in column 3 of that item.

<b>Liability for unlawful receipt of gift</b>		
<b>Column 1 Item</b>	<b>Column 2 If the recipient is ...</b>	<b>Column 3 the person is liable for the offence if the person is ...</b>
1	a registered political party	the registered officer of the party, the secretary of the party (as defined in section 123), or the agent of the party.
2	a State branch of a registered political party, being a State branch that itself is a registered political party	the registered officer of the party that is the State branch, the secretary of that party (as defined in section 123), or the agent of that party.
3	a State branch of a registered political party, being a State branch that is not itself a registered political party	a member of the executive committee of the State branch.
4	an associated entity	the financial controller of the associated entity.

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Penalty: Imprisonment for 12 months or 240 penalty units, or both.

(10C) A person does not commit an offence against subsection (10B) if:

- (a) the person does not know of the circumstances because of which the receipt of the gift is unlawful; or
- (b) the person takes all reasonable steps to avoid those circumstances occurring.

Note: A defendant bears an evidential burden of proof in relation to the matters in subsection (10C) (see subsection 13.3(3) of the *Criminal Code*).

1 *Unlawful receipt of gift: person acting on behalf of group*

2 (10D) A person commits an offence if:

3 (a) the person receives a gift; and

4 (b) in receiving the gift, the person is acting on behalf of a group;  
5 and

6 (c) the receipt of the gift is unlawful under subsection 306AC(1),  
7 306AG(1) or 306AH(1).

8 Penalty: Imprisonment for 12 months or 240 penalty units, or  
9 both.

10 *Unlawful incurring of expenditure*

11 (10E) A person commits an offence if:

12 (a) the person incurs expenditure; and

13 (b) the incurring of the expenditure is unlawful under subsection  
14 306AD(1) or (2) or 306AI(1) or (2).

15 Penalty: Imprisonment for 12 months or 240 penalty units, or  
16 both.

17 Note: The following heading to subsection 315(11) is inserted "*Prosecutions to be brought*  
18 *within 3 years*".

19 **87 After section 315**

20 Insert:

21 **315AA Recovery of undisclosed gifts**

22 (1) Subject to subsection (2), for the purpose of this section, a gift is an  
23 *undisclosed gift* if:

24 (a) any of the following provisions (the *disclosure provision*)  
25 requires details (however described) of the gift to be included  
26 in a return:

27 (i) subsection 304(2) or (3);

28 (ii) section 314AC;

29 (iii) section 314AC, as it applies for the purpose of  
30 section 314AEA;

31 (iv) section 314AEC; and

32 (b) either:

- 1 (i) the return has not been furnished by the time required  
 2 by this Part; or  
 3 (ii) the return has been furnished by that time, but it does  
 4 not include the required details of the gift.

- 5 (2) If:  
 6 (a) a notice is served on a person under subsection 318(2) in  
 7 relation to a return; and  
 8 (b) the notice requires the person to furnish certain particulars in  
 9 relation to a gift within a specified period (the *extension*  
 10 *period*);  
 11 then:  
 12 (c) paragraph (1)(b) of this section has effect in relation to the  
 13 return as if it referred to the end of the extension period  
 14 (rather than the time by which the return is required to be  
 15 furnished); and  
 16 (d) if the particulars are furnished as required by the notice at or  
 17 before the end of the extension period, subsection (1) has  
 18 effect as if those particulars had been included in the return.
- 19 (3) If the disclosure provision in relation to an undisclosed gift is  
 20 specified in column 2 of an item in the following table, an amount  
 21 equal to the amount or value of the gift is payable to the  
 22 Commonwealth by the person or persons specified in column 3 of  
 23 that item.  
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**Liability for receipt of undisclosed gifts**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the disclosure provision is</b>	<b>the amount is payable by ...</b>
	<b>...</b>	
1	subsection 304(2)	the agent who is required to furnish the return.
2	subsection 304(3)	the agent who is required to furnish the return.
3	section 314AC	the agent who is required to furnish the return.
4	section 314AC, as it applies for the purpose of section 314AEA	the financial controller who is required to furnish the return.

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**Liability for receipt of undisclosed gifts**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the disclosure provision is</b>	<b>the amount is payable by ...</b>
	<b>...</b>	
5	section 314AEC	the person who is required to furnish the return.

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2 (4) An amount that, under subsection (3), is payable by a person or  
3 persons to the Commonwealth may be recovered by the  
4 Commonwealth as a debt due to the Commonwealth by action, in a  
5 court of competent jurisdiction, against that person.

6 **88 Subsection 315A(1)**

7 Repeal the subsection, substitute:

8 (1) If, under a provision of this Part, an amount may be recovered by  
9 the Commonwealth as a debt due to the Commonwealth, an action  
10 to recover the amount may be brought in the name of the  
11 Commonwealth by the Electoral Commissioner.

12 Note: The heading to section 315A is replaced by the heading "**Recovery of amounts due to**  
13 **Commonwealth**".

14 **89 Subsection 316(2A)**

15 Repeal the subsection, substitute:

16 (2A) An authorised officer may, for the purpose of finding out whether a  
17 person or entity specified in column 2 of an item in the following  
18 table has complied with this Part or has done something that is  
19 unlawful under this Part, by notice to a person who is, or has at any  
20 time been, a person specified in column 3 of that item, require the  
21 person:

22 (a) to produce, within the period and in the manner specified in  
23 the notice, the documents or other things referred to in the  
24 notice; or

25 (b) to appear, at a time and place specified in the notice, before  
26 the authorised officer to give evidence, either orally or in  
27 writing, and to produce the documents or other things  
28 referred to in the notice.

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**Use of compliance powers**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>For compliance by these persons and entities ...</b>	<b>requirements may be made of these persons ...</b>
1	a registered political party or the agent of a registered political party	the agent of the party, any officer of the party, any person acting on behalf of the party, or any candidate endorsed by the party.
2	a State branch of a registered political party or the agent of a State branch of a registered political party	the agent of the branch, any officer of the branch, any person acting on behalf of the branch, or any candidate endorsed by the branch.
3	a candidate or the agent of a candidate	the candidate, the agent of the candidate, or any person acting on behalf of the candidate.
4	a member of a group or the agent of a group	any member of the group, the agent of the group, or any person acting on behalf of the group.
5	an associated entity or the financial controller of an associated entity	the financial controller of the associated entity, any officer of the associated entity, or any person acting on behalf of the associated entity.
6	a person who has furnished a return under section 305A, 305B, 314AEB or 314AEC	the person, any person acting on behalf of the person or (if the person is a body corporate) any officer of the person.
7	a prescribed person	the prescribed person, any person acting on behalf of the prescribed person or (if the prescribed person is a body corporate) any officer of the prescribed person.

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2 (2AA) A notice to a person under subsection (2A) is to be served  
3 personally or by post on the person.

4 (2AB) Subsection (2A), as it applies in relation to a person who has  
5 furnished a return under section 305A, 305B, 314AEB or 314AEC,  
6 is not limited just to compliance in relation to that return or the  
7 period to which that return relates.

1 **90 Subsection 316(2B)**

2 After “party” (wherever occurring), insert “or branch”.

3 **91 Subsection 316(5) (penalty)**

4 Repeal the penalty, substitute:

5 Penalty: Imprisonment for 12 months or 60 penalty units, or both.

6 **92 Subsection 316(5A) (penalty)**

7 Repeal the penalty, substitute:

8 Penalty: Imprisonment for 12 months or 60 penalty units, or both.

9 **93 Subsections 316(5B) and (5C)**

10 Repeal the subsections.

11 **94 Subsection 316(6) (penalty)**

12 Repeal the penalty, substitute:

13 Penalty: Imprisonment for 12 months or 60 penalty units, or both.

14 **95 Subsection 319A(1)**

15 Omit “a claim or”, substitute “a final claim or a”.

16 Note: The heading to section 319A is altered by inserting “**final**” after “**Amendment of**”.

17 **96 Subsection 319A(2)**

18 After “lodged a”, insert “final”.

19 **97 After subsection 319A(4)**

20 Insert:

21 (4A) However, if the amendment of the claim would increase the overall  
22 amount of electoral expenditure claimed, election funding for the  
23 amount of the increase is not payable.

24 **98 Subsection 319A(9)**

25 Omit “subsection 315(2), (3) or (4)”, substitute “subsection 315(2),  
26 (4A) or (4B)”.

27 **99 Subsections 320(4) and (5)**

1 Repeal the subsections, substitute:

2 (4) Nothing in this section requires the Electoral Commission to make  
3 a copy of a claim or return available for inspection or perusal, or to  
4 provide a copy of a claim or return, sooner after lodgment of the  
5 claim or return than is reasonably practicable.

6 **100 Subsection 321(1) (definition of *relevant amount*)**

7 Omit “subsection 294(1) or (2)”, substitute “subparagraphs 293(2)(a)(i)  
8 and (ii), and paragraphs 294(2)(a) and 295(2)(a)”.

9 **101 Subsection 321(1) (definition of *relevant period*)**

10 Omit “1 July 1995”, substitute “1 January 2009”.

11 **102 Section 321A**

12 Repeal the section.

13 **103 Section 384**

14 Repeal the section.

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2 **Part 2—Application and saving provisions**

3 **104 Amendments applying to reporting periods starting on or**  
4 **after 1 July 2008**

5 The amendments made by the following items of this Schedule apply in  
6 relation to reporting periods that start on or after 1 July 2008:

- 7 (a) items 37 to 39;  
8 (b) items 54 to 81.

9 **105 Amendments applying to financial years starting on or**  
10 **after 1 July 2008**

11 The amendments made by the items 50 and 51 of this Schedule apply in  
12 relation to financial years that start on or after 1 July 2008.

13 **106 Amendments applying to elections the writs for which**  
14 **are issued on or after 1 July 2008**

15 The amendments made by the following items of this Schedule apply in  
16 relation to elections the writs for which are issued on or after 1 July  
17 2008:

- 18 (a) items 5 to 9;  
19 (b) item 11;  
20 (c) items 16 to 20;  
21 (d) items 22 to 36;  
22 (e) items 48 and 49;  
23 (f) items 95 to 97;  
24 (g) items 100 and 101.

25 **107 Amendments applying to gifts etc. made on or after**  
26 **1 July 2008**

27 The amendments made by the following items of this Schedule apply to  
28 gifts, transfers or loans made or received, or expenditure incurred, on or  
29 after 1 July 2008:

- 30 (a) item 21;  
31 (b) items 40 to 46;  
32 (c) item 53.

1 **108 Amendments applying to acts or omissions occurring on**  
2 **or after 1 July 2008**

3 The amendments made by the following items of this Schedule apply in  
4 relation to acts and omissions that occur on or after 1 July 2008:

- 5 (a) items 82 to 86;  
6 (b) items 91 to 94;  
7 (c) item 98;  
8 (d) item 103.

9 **109 Amendment applying to returns a person becomes**  
10 **required to furnish on or after 1 July 2008**

11 The amendment made by item 87 of this Schedule applies in relation to  
12 returns a person becomes required to furnish on or after 1 July 2008.

13 **110 Saving of notices under subsection 316(2A)**

14 A notice given before 1 July 2008 under subsection 316(2A) of the  
15 *Commonwealth Electoral Act 1918* as then in force has effect after that  
16 commencement as if it had been given under that subsection as  
17 amended by item 89 of this Schedule.