



Electoral Legislation Amendment (Political Campaigners) Act 2021

No. 137, 2021

**An Act to amend the law relating to elections in
respect of political campaigners and to provide for
application of the amendments**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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**An Act to amend the law relating to elections in
respect of political campaigners and to provide for
application of the amendments**

[Assented to 13 December 2021]

The Parliament of Australia enacts:

1 Short title

This Act is the *Electoral Legislation Amendment (Political Campaigners) Act 2021*.

2 Commencement

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

| Commencement information | | |
|---------------------------------|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this Act | The day after this Act receives the Royal Assent. | 14 December 2021 |

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Commonwealth Electoral Act 1918

1 Paragraph 287F(1)(a)

Omit “\$500,000”, substitute “\$250,000”.

2 Subparagraph 287F(1)(b)(i)

Omit “\$100,000 or more”, substitute “at least equal to the disclosure threshold”.

3 Subparagraph 287F(1)(b)(ii)

Omit “two-thirds”, substitute “one-third”.

4 Application of amendments

For the purposes of Part XX of the *Commonwealth Electoral Act 1918*, references to financial years, in subsection 287F(1) of that Act as amended by this Schedule, include references to financial years beginning before this item commences.

Note: The effect of this item is that a person or entity may be required to be registered as a significant third party before the end of 90 days after the commencement of this item (see subsection 287F(2) of the *Commonwealth Electoral Act 1918*).

Schedule 2—Other amendments

Commonwealth Electoral Act 1918

1 Section 286A

Before “or third parties must not be made by foreign donors”, insert “, associated entities”.

2 Subsection 287AB(3)

After “political entity,”, insert “a person or entity that is (or is required to be registered as) a significant third party or an associated entity,”.

3 After paragraph 287F(1)(b)

Insert:

- ; or (c) during that financial year the person or entity operates for the dominant purpose of fundraising amounts:
- (i) the aggregate of which is at least equal to the disclosure threshold; and
 - (ii) that are for the purpose of incurring electoral expenditure or that are to be gifted to another person or entity for the purpose of incurring electoral expenditure.

4 Subsection 287F(3)

Omit “must not incur further electoral expenditure in that financial year if the person or entity is not registered as a political campaigner”, substitute:

must not:

- (a) incur any, or any further, electoral expenditure; or
- (b) fundraise any, or any further, amounts for the purpose of incurring electoral expenditure;

in that financial year, after becoming required to be so registered, if the person or entity is not registered as a significant third party.

5 Subsection 287F(3) (paragraph (b) of the penalty)

After “this subsection”, insert “(if any), or the amount, or an estimate of the amount, fundraised in contravention of this subsection (if any), or both”.

6 At the end of subsection 287H(1)

Add:

- ; (g) the entity operates wholly, or to a significant extent, for the benefit of one or more disclosure entities and the benefit relates to one or more electoral activities (whether or not the electoral activities are undertaken during an election period).

Note: For the meaning of *disclosure entity*, see subsection (4).

7 At the end of section 287H

Add:

- (4) The reference in paragraph (1)(g) to a disclosure entity is a reference to a person or entity that is covered by paragraph (aa) or any of paragraphs (c) to (f) of the definition of *disclosure entity* in section 321B.
- (5) To avoid doubt, the reference in paragraph (1)(g) to a benefit that relates to an electoral activity includes:
 - (a) fundraising amounts, of at least equal to the disclosure threshold, for the purpose of incurring electoral expenditure; and
 - (b) assisting in the creation or communication of electoral matter; and
 - (c) otherwise facilitating the interests of a disclosure entity with respect to preparing for, or participating in, an election.

8 Subparagraph 287K(2)(b)(ii)

After “registered political party”, insert “, and any disclosure entity referred to in paragraph 287H(1)(g)”.

9 Paragraph 287N(2)(c)

After “registered political parties”, insert “, and any disclosure entities referred to in paragraph 287H(1)(g)”.

10 Subparagraph 287S(1)(c)(v)

After “registered political party” (wherever occurring), insert “or a disclosure entity referred to in paragraph 287H(1)(g)”.

11 Subparagraph 287S(1)(c)(v)

Omit “; and”, substitute “; or”.

12 At the end of paragraph 287S(1)(c)

Add:

- (vi) the relevant person does not operate wholly, or to a significant extent, for the dominant purpose of fundraising amounts that are for the purpose of incurring electoral expenditure or that are to be gifted to another person or entity for the purpose of incurring electoral expenditure; and

13 Section 302A

Omit “political campaigners and third parties”, substitute “significant third parties, associated entities and third parties”.

14 Section 302A

Omit “or political campaigners”, substitute “, significant third parties or associated entities”.

15 Section 302A

Omit “political campaigner or third party”, substitute “significant third party, associated entity or third party”.

16 Section 302D (heading)

Omit “and political campaigners”, substitute “, **significant third parties and associated entities**”.

17 Subparagraph 302D(1)(a)(ii)

Omit “political campaigner”, substitute “significant third party or an associated entity”.

18 Paragraph 302D(1A)(a)

Omit “or political campaigner”, substitute “, significant third party or associated entity”.

19 Subparagraph 302F(1)(a)(ii)

Omit “political campaigner”, substitute “significant third party or an associated entity”.

20 Paragraph 302F(1)(b)

Omit “political campaigner”, substitute “significant third party, associated entity”.

21 After subparagraph 302F(2)(c)(ii)

Insert:

(ia) an associated entity; or

22 Paragraphs 302H(1)(b) and (c)

Omit “political campaigner” (wherever occurring), substitute “significant third party, associated entity”.

23 Subsection 314AB(1) (paragraph (b) of the penalty)

Omit “subparagraph (2)(b)(ii)”, substitute “(b)”.

24 After subsection 314AB(3)

Insert:

(3A) If:

- (a) a person or entity is registered as a significant third party for a financial year (the *current financial year*); and
 - (b) the person or entity was not required to be registered as a significant third party for the previous financial year;
- the financial controller of the significant third party must provide a return, that complies with subsection (2) and is in an approved form, for the previous financial year by the end of the period of 30 days after the person or entity is registered as a significant third party for the current financial year.

Civil penalty:

The higher of the following:

- (a) 120 penalty units;
 - (b) if an amount is not disclosed under paragraph (2)(a) or (b) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.
- (3B) If, in complying with subsection (2), a return that is required to be provided under subsection (3A) would include no amounts or details, the return provided must include a statement to the effect that there are no amounts or details to be included.
- (3C) Despite anything in this section, a return provided under this section in respect of a significant third party who is an individual is not required to include the following:
- (a) any amounts, or the details of any discretionary benefits, received by, or on behalf of, the significant third party in a purely personal capacity;
 - (b) any amounts paid by, or on behalf of, the significant third party for personal purposes and not solely or substantially for a purpose related to an election;
 - (c) the amount, or other details, of any debt incurred by, or on behalf of, the significant third party in a purely personal capacity.

25 Subsection 314AB(4)

After “subsection (1)”, insert “or (3A)”.

26 Subsection 314AEA(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (6), if:
- (a) an entity is registered as an associated entity for a financial year (the *current financial year*); and
 - (b) the entity was not required to be registered as an associated entity for the previous financial year;

the financial controller of the associated entity must provide a return to the Electoral Commission, in the approved form, by the end of the period of 30 days after the entity is registered as an associated entity for the current financial year, setting out:

-
- (c) the total amount received by, or on behalf of, the entity during the previous financial year, together with the details required by section 314AC; and
 - (d) the total amount paid by, or on behalf of, the entity during the previous financial year; and
 - (e) the total outstanding amount, as at the end of the previous financial year, of all debts incurred by or on behalf of the entity, together with the details required by section 314AE; and
 - (f) details of any discretionary benefits (however described) received by, or on behalf of, the entity from the Commonwealth, a State or a Territory during the previous financial year.

Civil penalty:

The higher of the following:

- (a) 60 penalty units;
- (b) if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed in accordance with subsection (2)—3 times that amount.

27 Subsection 314AEA(3)

Omit “If any”, substitute “For a return under subsection (1) or (2), if any”.

28 Subsection 314AEA(3)

After “paragraph (1)(b)”, insert “or (2)(d) (as the case may be)”.

29 Subsection 314AEA(4)

Omit “this section”, substitute “subsection (1) or (2)”.

30 Subsection 314AEA(5)

After “paragraphs (1)(a), (b) and (c)”, insert “and (2)(c), (d) and (e)”.

31 Subsection 314AEA(6)

After “subsection (1)”, insert “or (2)”.

32 After subsection 314AEA(6)

Insert:

- (6A) If a return that is required to be provided under subsection (2) would include no amounts or details, the return provided must include a statement to the effect that there are no amounts or details to be included.

33 Subsection 314AEA(7)

After “subsection (1)”, insert “or (2)”.

34 After subsection 316(2A)

Insert:

- (2AB) The period specified in a notice for the purposes of paragraph (2A)(c) must be no longer than 30 days after the date of the notice.

35 Application of amendments

- (1) For the purposes of Part XX of the *Commonwealth Electoral Act 1918*, references to financial years, in subsections 287F(1) and 287H(1) of that Act as amended by this Schedule, include references to financial years beginning before this item commences.

Note: The effect of this subitem is that a person or entity may be required to be registered as a significant third party or associated entity before the end of 90 days after the commencement of this item (see subsections 287F(2) and 287H(2) of the *Commonwealth Electoral Act 1918*).

- (2) Subject to subitem (3), subsection 314AB(3A) of the *Commonwealth Electoral Act 1918*, as inserted by this Schedule, applies in relation to a significant third party for the financial year in which this item commences and later financial years.
- (3) If a person or entity is a political campaigner immediately before the commencement of this item, subsection 314AB(3A) of the *Commonwealth Electoral Act 1918*, as inserted by this Schedule, has effect in relation to that person or entity as if “30 days after the person or entity is registered as a significant third party for the current financial year” were omitted and “30 days after the commencement of this subsection” were substituted.

- (4) Subject to subitem (5), subsection 314AEA(2) of the *Commonwealth Electoral Act 1918*, as substituted by this Schedule, applies in relation to an associated entity for the financial year in which this item commences and later financial years.
- (5) If a person or entity is an associated entity immediately before the commencement of this item, subsection 314AEA(2) of the *Commonwealth Electoral Act 1918*, as substituted by this Schedule, has effect in relation to that associated entity as if “30 days after the entity is registered as an associated entity for the current financial year” were omitted and “30 days after the commencement of this subsection” were substituted.

Schedule 3—Name change for political campaigners

Commonwealth Electoral Act 1918

1 Paragraph 4AA(4)(b)

Omit “political campaigner”, substitute “significant third party”.

2 Section 286A

Omit “It also deals with gifts and other financial matters relating to parties, candidates, groups, political campaigners”, substitute “It also deals with gifts and other financial matters relating to parties, candidates, groups, political campaigners, significant third parties”.

3 Section 286A

Omit “Political campaigners”, substitute “Significant third parties”.

4 Section 286A

Omit “groups) and political campaigners”, substitute “groups) and significant third parties”.

5 Section 286A

Omit “Broadly, gifts to political entities, political campaigners”, substitute “Broadly, gifts to political entities, significant third parties”.

6 Section 286A (paragraph (b) of paragraph beginning “There are obligations to disclose”)

Omit “political campaigners”, substitute “significant third parties”.

7 Section 286A

Omit “Each financial year, registered political parties, political campaigners”, substitute “Each financial year, registered political parties, significant third parties”.

8 Subsection 287(1) (definition of *political campaigner*)

Repeal the definition (including the notes), substitute:

political campaigner: see subsection (11).

9 Subsection 287(1) (definition of *regulated entity*)

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

10 Subsection 287(1)

Insert:

significant third party means a person or entity that is registered as a significant third party under section 287L.

Note 1: See also subsection (8) of this section and section 287C (entities that have branches or are not incorporated).

Note 2: See section 287F for when a person or entity is required to be registered as a significant third party.

11 Subsection 287(1) (paragraph (b) of the definition of *third party*)

Omit “political campaigner”, substitute “significant third party”.

12 Subsection 287(8) (heading)

Omit “*political campaigners*”, substitute “*significant third parties*”.

13 Subsection 287(8)

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

14 At the end of section 287

Add:

References in other laws to political campaigners

- (11) A reference in another law of the Commonwealth to a person or entity registered under this Act as a political campaigner is taken to be a reference to a person or entity registered under this Act as a significant third party.

15 Subsection 287AB(1) (note 3)

Omit “political campaigners”, substitute “significant third parties”.

16 Subparagraphs 287C(b)(i) and (ii)

Omit “political campaigner”, substitute “significant third party”.

17 Paragraph 287C(b)

Omit “or campaigner”, substitute “or significant third party”.

18 Paragraph 287C(c)

Omit “political campaigner”, substitute “significant third party”.

19 Section 287C (note)

Omit “political campaigners”, substitute “significant third parties”.

20 Division 1A of Part XX (heading)

Omit “political campaigners”, substitute “significant third parties”.

21 Section 287D

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

22 Subdivision B of Division 1A of Part XX (heading)

Omit “political campaigner”, substitute “significant third party”.

23 Section 287F (heading)

Omit “political campaigner”, substitute “significant third party”.

24 Subsection 287F(1)

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

25 Section 287J

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

26 Paragraph 287K(1)(a)

Omit “political campaigner”, substitute “significant third party”.

27 Subsection 287L(4)

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

28 Paragraph 287L(6)(b)

Omit “political campaigner”, substitute “significant third party”.

29 Section 287M

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

30 Subparagraph 287N(2)(a)(i)

Omit “political campaigner”, substitute “significant third party”.

31 Paragraph 287N(2)(b)

Omit “political campaigners”, substitute “significant third parties”.

32 Paragraph 287S(1)(b)

Omit “political campaigner”, substitute “significant third party”.

33 Subsection 287S(2)

Omit “political campaigner”, substitute “significant third party”.

34 Section 287V

Omit “Political campaigners”, substitute “Significant third parties”.

35 Section 287V

Omit “political campaigners”, substitute “significant third parties”.

36 Section 292E (heading)

Omit “**political campaigners**”, substitute “**significant third parties**”.

37 Subsections 292E(1), (2) and (3)

Omit “political campaigner”, substitute “significant third party”.

38 Subsection 292E(3)

Omit “(the *campaigner or entity*)”.

39 Subsection 292E(3)

Omit “campaigner or entity”, substitute “significant third party or associated entity”.

40 Subparagraph 292F(1)(b)(iii)

Omit “political campaigner or associated entity—by the campaigner or entity”, substitute “significant third party or associated entity—by the significant third party or associated entity”.

41 Paragraph 292F(4)(b)

Omit “political campaigner”, substitute “significant third party”.

42 Subparagraph 302F(2)(c)(ii)

Omit “political campaigner”, substitute “significant third party”.

43 Section 302V

Omit “Gifts totalling more than the disclosure threshold that are made by a single person to the same registered political party, State branch or political campaigner”, substitute “Gifts totalling more than the disclosure threshold that are made by a single person to the same registered political party, State branch or significant third party”.

44 Section 302V

Omit “There are limitations on loans made to political parties, State branches, political campaigners”, substitute “There are limitations on loans made to political parties, State branches, significant third parties”.

45 Section 302V

Omit “Gifts of more than the disclosure threshold to a political party, State branch, political campaigner”, substitute “Gifts of more than the disclosure threshold to a political party, State branch, significant third party”.

46 Section 305B (heading)

Omit “**political campaigners**”, substitute “**significant third parties**”.

47 Paragraph 305B(1)(c)

Omit “political campaigner”, substitute “significant third party”.

48 Subsection 305B(1)

Omit “branch or campaigner”, substitute “branch or significant third party”.

49 Subsection 305B(2)

Omit “political campaigner”, substitute “significant third party”.

50 Subsection 305B(2)

Omit “branch or campaigner”, substitute “branch or significant third party”.

51 Paragraph 305B(3)(c)

Omit “branch or campaigner”, substitute “branch or significant third party”.

52 Subparagraph 305B(3A)(a)(iii)

Omit “political campaigner”, substitute “significant third party”.

53 Paragraph 306A(1)(c)

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

54 Paragraph 306A(6)(a)

Omit “political campaigner”, substitute “significant third party”.

55 Paragraph 306B(1)(a)

Omit “political campaigner”, substitute “significant third party”.

56 Subsection 306B(2)

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

57 Section 314AAA

Omit “political campaigners”, substitute “significant third parties”.

58 Section 314AAA

Omit “parties, campaigners”, substitute “parties, significant third parties”.

59 Subsection 314AA(2)

Omit “political campaigner”, substitute “significant third party”.

60 Section 314AB (heading)

Omit “political campaigners”, substitute “significant third parties”.

61 Subsection 314AB(1)

Omit “political campaigner”, substitute “significant third party”.

62 Subparagraphs 314AB(2)(a)(i), (ii) and (iii)

Omit “party or campaigner”, substitute “registered political party or significant third party”.

63 Subparagraph 314AB(2)(a)(iv)

Omit “political campaigners—the total amount of electoral expenditure incurred by or with the authority of the campaigner”, substitute “significant third parties—the total amount of electoral expenditure incurred by or with the authority of the significant third party”.

64 Paragraph 314AB(2)(b)

Omit “party, branch or campaigner”, substitute “registered political party, branch or significant third party”.

65 Subsection 314AB(3)

Omit “political campaigner”, substitute “significant third party”.

66 Subsection 314AC(1)

Omit “political campaigner”, substitute “significant third party”.

67 Subsection 314AE(1)

Omit “political campaigner”, substitute “significant third party”.

68 Subsection 314AEA(5)

Omit “political campaigner”, substitute “significant third party”.

69 Paragraph 314AEA(6)(a)

Omit “political campaigner”, substitute “significant third party”.

70 Subparagraph 316(2A)(aaa)(i)

Omit “political campaigners”, substitute “significant third parties”.

71 Subparagraph 316(2A)(aaa)(iv)

Omit “political campaigner”, substitute “significant third party”.

72 Paragraph 316(2A)(aa)

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

73 Subsection 316(2B)

Omit “political campaigner” (wherever occurring), substitute “significant third party”.

74 Paragraphs 316(3A)(a) and (b)

Omit “political campaigner”, substitute “significant third party”.

75 Paragraph 319A(2A)(b)

Omit “political campaigner”, substitute “significant third party”.

76 Section 321B (paragraph (aa) of the definition of *disclosure entity*)

Omit “political campaigner”, substitute “significant third party”.

77 Section 321B (note to the definition of *disclosure entity*)

Omit “political campaigners”, substitute “significant third parties”.

78 Transitional provisions

- (1) A person or entity registered as a political campaigner for a financial year immediately before this item commences is taken to be registered as a significant third party for the financial year from the time this item commences.

Schedule 3 Name change for political campaigners

- (2) The change of name from political campaigner to significant third party does not affect any rights, liabilities or obligations of a person or entity registered as a political campaigner before this item commences.
 - (3) If, as a result of the amendments made by this Act, amendments in another Act become misdescribed, the amendments in the other Act may be given effect by an editorial change under section 15V of the *Legislation Act 2003* (see also paragraph 15X(2)(o) of that Act).
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*[Minister's second reading speech made in—
House of Representatives on 12 August 2021
Senate on 24 November 2021]*

(99/21)
