



# **Electoral Legislation Amendment (Electoral Reform) Act 2025**

**No. 16, 2025**

**An Act to amend the law relating to elections and  
referendums, and for related purposes**

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



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## Contents

1	Short title .....	1
2	Commencement.....	2
3	Schedules.....	3
4	Review of operation of amendments.....	3
<b>Schedule 1—Key definitions</b>		<b>4</b>
Part 1—Meaning of gift and other miscellaneous amendments		4
Division 1—Amendments commencing day after Royal Assent		4
<i>Commonwealth Electoral Act 1918</i>		4
Division 2—Amendments commencing 1 July 2026		7
<i>Commonwealth Electoral Act 1918</i>		7
<i>Referendum (Machinery Provisions) Act 1984</i>		25
Division 3—Application of amendments		25
Part 2—Nominated entities		26
<i>Commonwealth Electoral Act 1918</i>		26
<b>Schedule 2—Expedited disclosure of donations</b>		<b>35</b>
Part 1—Amendment of the Commonwealth Electoral Act 1918		35
<i>Commonwealth Electoral Act 1918</i>		35
Part 2—Amendment of the Referendum (Machinery Provisions) Act 1984		66
<i>Referendum (Machinery Provisions) Act 1984</i>		66
<b>Schedule 3—Gift caps</b>		<b>74</b>
Part 1—Amendments		74
<i>Commonwealth Electoral Act 1918</i>		74
Part 2—Relationship of this Schedule with Schedule 4		98
<b>Schedule 4—Expenditure caps</b>		<b>99</b>
Part 1—Amendments		99
<i>Commonwealth Electoral Act 1918</i>		99
Part 2—Relationship of this Schedule with Schedule 3		134

---

<b>Schedule 5—Returns</b>	135
Part 1—Main amendments	135
<i>Commonwealth Electoral Act 1918</i>	135
<i>Referendum (Machinery Provisions) Act 1984</i>	163
Part 2—Amendments relating to publication of personal information	164
<i>Commonwealth Electoral Act 1918</i>	164
<b>Schedule 6—Commonwealth campaign accounts</b>	166
<i>Commonwealth Electoral Act 1918</i>	166
<b>Schedule 6A—Federal administrative accounts</b>	181
<i>Commonwealth Electoral Act 1918</i>	181
<b>Schedule 7—Administrative assistance funding and election funding</b>	188
Part 1—Administrative assistance funding	188
<i>Commonwealth Electoral Act 1918</i>	188
Part 2—Election funding	204
<i>Commonwealth Electoral Act 1918</i>	204
Part 3—Advance payment of election funding	205
<i>Commonwealth Electoral Act 1918</i>	205
<b>Schedule 8—Senate groups</b>	208
Part 1—Main amendments	208
<i>Commonwealth Electoral Act 1918</i>	208
Part 2—Contingent amendments	210
<i>Commonwealth Electoral Act 1918</i>	210
<b>Schedule 9—Compliance and enforcement powers</b>	211
Part 1—Compliance and enforcement powers	211
<i>Commonwealth Electoral Act 1918</i>	211
Part 2—Anti-avoidance	220
<i>Commonwealth Electoral Act 1918</i>	220

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<b>Schedule 10—Machinery amendments</b>	225
Part 1—Amendments	225
<i>Commonwealth Electoral Act 1918</i>	225
<i>Referendum (Machinery Provisions) Act 1984</i>	232
Part 2—Application and transitional provisions	239
<b>Schedule 11—Transitional rules</b>	240





# **Electoral Legislation Amendment (Electoral Reform) Act 2025**

**No. 16, 2025**

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## **An Act to amend the law relating to elections and referendums, and for related purposes**

*[Assented to 20 February 2025]*

The Parliament of Australia enacts:

### **1 Short title**

This Act is the *Electoral Legislation Amendment (Electoral Reform) Act 2025*.

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	20 February 2025
2. Schedule 1, Part 1, Division 1	The day after this Act receives the Royal Assent.	21 February 2025
3. Schedule 1, Part 1, Divisions 2 and 3	1 July 2026.	1 July 2026
4. Schedule 1, Part 2	1 July 2026.	1 July 2026
5. Schedules 2 to 4	1 July 2026.	1 July 2026
6. Schedule 5, Part 1	1 July 2026.	1 July 2026
7. Schedule 5, Part 2	The day after this Act receives the Royal Assent.	21 February 2025
8. Schedules 6, 6A and 7	1 July 2026.	1 July 2026
9. Schedule 8, Part 1	1 July 2026.	1 July 2026
10. Schedule 8, item 9	1 July 2026. However, the provisions do not commence at all if item 43 of Schedule 1 to this Act commences on or before that day.	Never commenced
11. Schedule 8, item 10	1 July 2026. However, the provisions do not commence	Never commenced



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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
	at all if item 44 of Schedule 1 to this Act commences on or before that day.	
12. Schedule 9, Part 1	The day after this Act receives the Royal Assent.	21 February 2025
13. Schedule 9, Part 2	1 July 2026.	1 July 2026
14. Schedules 10 and 11	The day after this Act receives the Royal Assent.	21 February 2025

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.

### **4 Review of operation of amendments**

- (1) The Joint Standing Committee on Electoral Matters, or another parliamentary committee determined in writing by the Minister, is to:
- (a) review the operation of the amendments made by this Act before the end of 12 months after the first general election that is held after 1 July 2026; and
  - (b) report the Committee's comments and recommendations to each House of the Parliament.
- (2) A determination under subsection (1) is not a legislative instrument.

## Schedule 1—Key definitions

### Part 1—Meaning of gift and other miscellaneous amendments

#### Division 1—Amendments commencing day after Royal Assent

##### *Commonwealth Electoral Act 1918*

###### 1 Section 287D

After:

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

insert:

The Electoral Commissioner must deregister a person or entity that is registered as a significant third party, or as an associated entity, in certain circumstances.

###### 2 Subsection 287L(1)

Omit “subsection (4)”, substitute “subsections (2), (3) and (4)”.

###### 3 Subsection 287L(2)

Repeal the subsection, substitute:

###### *Refusing registration*

- (2) The Electoral Commissioner must refuse to register a person or entity as a significant third party in accordance with the person or entity’s application under section 287K if the person or entity is not required to be so registered under section 287F.
- (3) The Electoral Commissioner must refuse to register an entity as an associated entity in accordance with the entity’s application under

section 287K if the entity is not required to be so registered under section 287H.

**4 Subsection 287L(4) (heading)**

Repeal the heading.

**5 Before subsection 287L(5)**

Insert:

*Variation of application*

**6 After section 287L**

Insert:

**287LA Deregistration of person or entity as significant third party or associated entity if not required to be registered**

*Electoral Commissioner may review Transparency Register*

- (1) The Electoral Commissioner may review the Transparency Register to determine whether:
  - (a) a person or entity registered as a significant third party under section 287L is required to be registered as a significant third party under section 287F; or
  - (b) an entity registered as an associated entity under section 287L is required to be registered as an associated entity under section 287H.
- (2) The Electoral Commissioner may review the Transparency Register under subsection (1) at any time other than during the period that:
  - (a) begins on the day a writ for a Senate election or House of Representatives election is issued; and
  - (b) ends on the day the writ is returned.

*Electoral Commissioner may request further information*

- (3) For the purposes of reviewing the Transparency Register, the Electoral Commissioner may:

## Schedule 1 Key definitions

### Part 1 Meaning of gift and other miscellaneous amendments

---

- (a) give a written notice to the financial controller of a person or entity that is registered as a significant third party under section 287L requesting specified information in relation to the requirements for the person or entity to be registered as a significant third party under section 287F; or
  - (b) give a written notice to the financial controller of an entity that is registered as an associated entity under section 287L requesting specified information in relation to the requirements for the entity to be registered as an associated entity under section 287H.
- (4) The notice must specify a period within which the information must be provided. The period must not be longer than 30 days after the notice is given.
- (5) The financial controller must comply with the notice within the specified period. However, the Electoral Commissioner may extend that period.

Note: If a financial controller fails to comply with a notice, an authorised officer can give them a notice under section 314AN (power of authorised officers to obtain information—compliance).

#### *Deregistration*

- (6) The Electoral Commissioner must deregister a person or entity as a significant third party if:
- (a) the person or entity is registered as a significant third party under section 287L and included on the Transparency Register; and
  - (b) the Electoral Commissioner is satisfied, on reasonable grounds, that the person or entity is not required under section 287F to be registered as a significant third party.
- (7) The Electoral Commissioner must deregister an entity as an associated entity if:
- (a) the entity is registered as an associated entity under section 287L and included on the Transparency Register; and
  - (b) the Electoral Commissioner is satisfied, on reasonable grounds, that the entity is not required under section 287H to be registered as an associated entity.

*Notice of intended deregistration*

- (8) Before deregistering a person or entity under subsection (6) or (7), the Electoral Commissioner must give the financial controller of the person or entity written notice of the Electoral Commissioner's intention to deregister the person or entity.

*Review of decisions*

- (9) Section 141 (review of certain decisions) applies as if:
- (a) a decision under this section to deregister a person or entity as a significant third party, or as an associated entity, were a reviewable decision; and
  - (b) references to a person included references to a significant third party or an associated entity.

**7 Application—applications for registration as significant third party or associated entity**

The amendments of section 287L of the *Commonwealth Electoral Act 1918* made by this Division apply in relation to an application for the registration of a person or entity as a significant third party, or as an associated entity, if the application is made after the commencement of this item.

**Division 2—Amendments commencing 1 July 2026**

***Commonwealth Electoral Act 1918***

**8 Section 286A**

Repeal the section, substitute:

**286A Simplified outline of this Part**

This Part deals with the funding of registered political parties and candidates. It also deals with gifts and other financial matters relating to political parties, members of the House of Representatives, Senators, candidates, significant third parties, associated entities, nominated entities and third parties.

## Schedule 1 Key definitions

### Part 1 Meaning of gift and other miscellaneous amendments

---

Registered political parties and candidates must have agents. Significant third parties, associated entities and nominated entities must nominate financial controllers. Many of the obligations in this Part are imposed on those agents and financial controllers. In some cases, obligations are imposed on registered officers of registered political parties.

Registered political parties, candidates, members of the House of Representatives, Senators, significant third parties, associated entities, nominated entities and third parties must have federal accounts to be used for paying for electoral expenditure or for crediting gifts of money.

Registered political parties and candidates may be entitled to election funding. The election funding is payable in relation to any candidate who received at least 4% of the total formal first preference votes cast in the election. The regulations may provide for payments of an advance on election funding in limited circumstances (broadly, where a registered political party or candidate was entitled to election funding in the most recent election).

Administrative assistance funding may be payable to registered political parties and independent members for quarters in a calendar year.

Broadly, political entities and other entities called “capped expenditure entities” (these are significant third parties, associated entities, nominated entities and third parties) must not incur electoral expenditure above specified caps each calendar year. The caps apply to electoral expenditure generally, and also to electoral expenditure targeted to particular Divisions, States or Territories.

There are also caps that apply in by-election and Senate-only election periods to electoral expenditure on the Division or on the State or Territory to which the election relates.

The caps are indexed each year.

Generally, gifts of at least \$1,000 to members of the House of Representatives, Senators, political entities (who are registered

political parties and candidates) and significant third parties must not be made by foreign donors (that is, persons who, broadly, do not have a connection to Australia).

Broadly, gifts must not be made to a member of the House of Representatives, Senator, political entity, significant third party, associated entity, nominated entity or third party by a foreign donor for the purpose of incurring electoral expenditure or creating or communicating electoral matter.

Gifts to these persons or entities by other donors that are made for a federal purpose are subject to a cap. Gifts (other than gifts made for the purposes of a by-election or a Senate-only election) are subject to an annual cap for a calendar year. Gifts made for the purposes of a by-election or a Senate-only election are subject to a separate cap during the election period for the election. Gifts may be aggregated with other gifts made by the same donor to related persons or entities if the gifts are made in the same calendar year, or for the purposes of the same by-election or Senate-only election.

In addition, gifts made for a federal purpose by the same person or entity to unendorsed candidates in the same State or Territory are also subject to a cap.

There are obligations to disclose certain gifts made to:

- (a) candidates; and
- (b) members of the House of Representatives, Senators, registered political parties, State branches, significant third parties, associated entities, nominated entities and third parties.

Each calendar year, registered political parties, candidates, members of the House of Representatives, Senators, significant third parties, associated entities, nominated entities and third parties are required to disclose details relating to amounts received or paid or incurred by the parties, candidates, members, Senators, persons or entities during the year.

## **9 Subsection 287(1)**

Insert:

**Schedule 1** Key definitions

**Part 1** Meaning of gift and other miscellaneous amendments

---

**commercial interest rate**, in relation to a loan, means a rate of interest per annum that is at least 1.5 percentage points above:

- (a) the cash rate target published by the Reserve Bank of Australia that is in effect on the day the loan is made; or
- (b) if the Reserve Bank no longer publishes an interest rate called the cash rate target—the interest rate published by the Reserve Bank that is substantively the same as the cash rate target and is in effect on the day the loan is made.

Note: The cash rate target published by the Reserve Bank is commonly referred to as the cash rate. For details of the cash rate target and other interest rates published by the Reserve Bank, see [www.rba.gov.au](http://www.rba.gov.au).

**core member** of an expenditure group has the meaning given by paragraph 302ALF(1)(a).

**10 Subsection 287(1) (definition of *disclosure threshold*)**

Repeal the definition (including the note), substitute:

**disclosure threshold** means \$5,000.

Note: The amount of \$5,000 is indexed under section 321AA.

**11 Subsection 287(1)**

Insert:

**expenditure group** has the meaning given by subsection 302ALF(1).

**financial institution** means:

- (a) an ADI (within the meaning of the *Banking Act 1959*); or
- (b) a bank; or
- (c) a building society; or
- (d) a credit union.

Note: ADI is short for authorised deposit-taking institution.

**12 Subsection 287(1) (definition of *gift*)**

Repeal the definition, substitute:

**gift** has the meaning given by section 287AAB.



### **13 Subsection 287(1)**

Insert:

***peak representative body*** means an entity in respect of which the following conditions are satisfied:

- (a) the majority of the entity's income is payments made by the members, branches or affiliates (however described) of the entity;
- (b) none of the members, branches or affiliates (however described) of the entity is a natural person except:
  - (i) an officeholder of the entity who is a non-financial member, branch or affiliate of the entity; or
  - (ii) a person who is a non-financial member, branch or affiliate of the entity in their capacity as an officeholder of a body corporate or another organisation; or
  - (iii) an honorary non-financial member, branch or affiliate of the entity;
- (c) the entity operates for the sole or dominant purpose of representing the shared interests of the members, branches or affiliates (however described) of the entity;
- (d) the majority of the entity's income is not used for the purpose of incurring electoral expenditure or making gifts for the purpose of incurring electoral expenditure;
- (e) the entity was formed in Australia, or incorporated by or under a law of the Commonwealth or of a State or a Territory.

Note: A peak representative body represents the shared interests of other organisations, and may also be a significant third party, an associated entity or a third party.

***Senate-only election*** means a Senate election not held concurrently with a general election.

### **14 Subsection 287(1) (definition of *third party*)**

Repeal the definition, substitute:

***third party***: a person or entity (except a political entity, a member of the House of Representatives or a Senator) is a third party at a time during a calendar year if:

**Schedule 1** Key definitions

**Part 1** Meaning of gift and other miscellaneous amendments

---

- (a) the amount of electoral expenditure incurred by or with the authority of the person or entity during the year as at that time is more than the third party threshold; and
- (b) at that time in the year, the person or entity:
  - (i) is not required to be registered as a significant third party under section 287F or as an associated entity under section 287H for the year; and
  - (ii) is not so registered under section 287L; and
- (c) the person or entity is not a nominated entity at that time in the year.

Note: See also subsections (8) and (8A) to (8D) and section 287C (entities that have branches or are not incorporated).

**15 Subsection 287(1)**

Insert:

***third party threshold*** means \$20,000.

Note: The amount of \$20,000 is indexed under section 321A.

**16 After subsection 287(8)**

Insert:

*Entities that are both a significant third party and an associated entity*

- (8A) If, at a time, an entity is registered as both:
- (a) a significant third party; and
  - (b) an associated entity;
- then the entity is, for the purposes of this Part, to be treated at that time as if it were only an associated entity.

*Branches of associated entities*

- (8B) An associated entity that has a branch that is also an associated entity is, for the purposes of this Part, to be treated as a separate associated entity from the branch.

*Associated entity that is a body corporate that is related to another body corporate*

- (8C) If an associated entity is a body corporate that is related to another body corporate, then, despite subsection (6), the associated entity is, for the purposes of this Part, to be treated as a separate person from the other body corporate.

*Significant third party or third party that has a branch that is an associated entity*

- (8D) If a significant third party or a third party has a branch that is an associated entity, then, despite subsection (8), the branch is, for the purposes of this Part, to be treated as separate from the significant third party or third party.

## **17 Subsection 287(9)**

Repeal the subsection, substitute:

*When a person is a candidate*

- (9) For the purposes of this Part, a person:
- (a) begins to be a candidate in an election on the earliest of the following days:
    - (i) the day the person announced that the person would be a candidate in the election;
    - (ii) the day the person nominated as a candidate in the election;
    - (iii) the day the person receives a gift for a federal purpose in relation to the person's campaign as a candidate that exceeds the disclosure threshold;
    - (iv) the day that the total amount or value of all gifts for a federal purpose received by the person in relation to the person's campaign as a candidate, from the same person or entity, exceeds the disclosure threshold;
    - (v) the day the person incurs electoral expenditure for the purposes of the person's campaign as a candidate that exceeds the disclosure threshold; and
  - (b) ceases to be a candidate in an election at the end of 7 days after the polling day in the election.

## Schedule 1 Key definitions

### Part 1 Meaning of gift and other miscellaneous amendments

---

Note 1: A person may, for example, begin to be a candidate when the person receives a gift as described in subparagraph (a)(iii) of this subsection, regardless of whether the person has announced the person would be a candidate, or the person nominated as a candidate, in an election.

Note 2: Candidates have certain obligations under this Part in relation to, for example, the expedited disclosure of gifts, the keeping of a federal account and the submission of annual returns (see Division 5). Gifts to candidates may be subject to a gift cap (see Division 3A), and expenditure by candidates may be subject to an electoral expenditure cap (see Division 3AB).

## 18 After section 287AA

Insert:

### 287AAB Meaning of *gift*

- (1) A *gift* means any disposition of property made by a person or entity to another person or entity, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service for no consideration or for inadequate consideration.

Note: For *disposition of property*, see subsection 287(1).

- (2) In addition, a *gift* includes the following:
- (a) an amount paid by a person as a contribution, entry fee or other payment to attend, or otherwise obtain a benefit from, a fundraising venture or function that forms part of the net proceeds of the venture or function (see also section 302CH);
  - (b) uncharged interest on a loan to a person or entity, being the additional amount that would have been payable by the person or entity if:
    - (i) the loan had been made on terms requiring the payment of interest at a commercial interest rate; and
    - (ii) any interest payable had not been waived; and
    - (iii) any interest payments were not capitalised.
- (3) Subject to subsection (4), a *gift* does not include the following:
- (a) a subscription paid to a political party, to a State branch of a political party or to a division of a State branch of a political party by a person or entity in respect of the person or entity's membership of the party, branch or division;

- (b) a subscription paid to an associated entity by a person or entity in respect of the person or entity's membership of the associated entity;
- (c) an amount paid to a political party, to a State branch of a political party or to a division of a State branch of a political party by a person or entity in respect of the person or entity's affiliation with the party, branch or division;
- (d) an amount paid to an associated entity by a person or entity in respect of the person or entity's affiliation with the associated entity;
- (e) an amount paid by a political party to another political party, if:
  - (i) the parties are related to each other within the meaning of paragraph 123(2)(a) because one party is a part of the other (while not being a State branch of the other); and
  - (ii) the other is a federal branch;
- (f) an annual levy paid to a registered political party or a State branch of a political party by:
  - (i) a person elected as a member of the House of Representatives or as a Senator; or
  - (ii) a member of staff of a person elected as a member of the House of Representatives or as a Senator; or
  - (iii) an employee or elected official of the political party;
- (g) a disposition of property (including the provision of a service) made by a core member of a registered political party's expenditure group to another core member of the expenditure group;

Note: See subsection (3A) for an exception to paragraph (g).
- (ga) a loan made by a core member of a registered political party's expenditure group to another core member of the expenditure group;
- (gb) an amount of uncharged interest on a loan, as mentioned in paragraph (2)(b) of this subsection, if the loan was made by a core member of a registered political party's expenditure group to another core member of the expenditure group;
- (h) a disposition of property (including the provision of a service) made by:

**Schedule 1** Key definitions

**Part 1** Meaning of gift and other miscellaneous amendments

---

- (i) a State branch of an associated entity to another State branch of the associated entity; or
  - (ii) a State branch of an associated entity to a federal branch of the associated entity (or vice versa);
- (i) a payment under Division 3 (election funding) or Division 3AA (administrative assistance funding);
- (j) a grant of financial assistance made by the Commonwealth;
- (k) any visit, experience or activity provided for the purposes of a political exchange program;
- (l) the provision of labour by a person acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses);
- (m) the provision of labour (including the provision of an asset or piece of equipment to be used by a person in providing the labour, the asset or piece of equipment) shared between:
  - (i) core members of a registered political party's expenditure group; or
  - (ii) an associated entity and any branch of the associated entity; or
  - (iii) an associated entity and core members of a registered political party's expenditure group, if the core members of the group include a registered political party with which the entity is associated;
- (n) the provision of labour (including the provision of an asset or piece of equipment to be used by a person in providing the labour, the asset or piece of equipment) shared between 2 political parties if:
  - (i) the parties are related to each other within the meaning of paragraph 123(2)(a) because one party is a part of the other (while not being a State branch of the other); and
  - (ii) the other is a federal branch;
- (o) the provision, by an associated entity, of office accommodation, an asset or a piece of equipment for the purposes of a campaign in an election, to a core member of a registered political party's expenditure group, if the core members of the group include a registered political party with which the entity is associated;

- (p) the provision, by a political party to another political party, of office accommodation, an asset or a piece of equipment for the purposes of a campaign in an election, if:
  - (i) the parties are related to each other within the meaning of paragraph 123(2)(a) because one party is a part of the other (while not being a State branch of the other); and
  - (ii) the other is a federal branch;
- (q) a bequest;
- (r) except as provided by paragraph (2)(b):
  - (i) a loan made by a financial institution; or
  - (ii) a loan made by a person or entity at a commercial interest rate;
- (s) electoral expenditure incurred by a person or entity for the benefit of another person or entity;
- (t) an amount of salary or allowance paid to a member of the Parliament, or a member of the staff of a member of the Parliament, including an amount of salary, remuneration, allowance or expenses payable under:
  - (i) the Constitution; or
  - (ii) the *Parliamentary Business Resources Act 2017*; or
  - (iii) an agreement for employment or engagement referred to in the *Members of Parliament (Staff) Act 1984*;
- (u) a gift made to a person who is a candidate, a member of the House of Representatives or a Senator if:
  - (i) the gift is made in a private capacity to the person for the person's personal use; and
  - (ii) the person has not used, and does not intend to use, the gift solely or substantially for a purpose related to an election or a by-election;
- (v) a gift to a person or entity for a State or Territory electoral purpose that is not paid into a federal account;
- (w) a gift received by, or on behalf of, a person or entity registered under the *Australian Charities and Not-for-profits Commission Act 2012* if:
  - (i) the gift was not made for a federal purpose; and
  - (ii) the gift was not made for the purpose of reimbursing the person or entity for incurring electoral expenditure or for creating or communicating electoral matter;

**Schedule 1** Key definitions

**Part 1** Meaning of gift and other miscellaneous amendments

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- (x) an amount paid by a person as a contribution, entry fee or other payment to attend, or otherwise obtain a benefit from, a fundraising venture or function that does not form part of the net proceeds of the venture or function.

Note 1: For *State or Territory electoral purpose*, see subsection 287(1).

Note 2: There are restrictions regarding the receipt of certain loans (see section 306A).

- (3A) Despite paragraph (3)(g), a disposition of property (including the provision of a service) made by a core member of a registered political party's expenditure group to another core member of the expenditure group is a *gift* if the disposition is made, for a federal purpose, by a core member who is a candidate, a member of the House of Representatives or a Senator.

Note: Gifts for a federal purpose are subject to caps (see Division 3A) and expedited disclosure obligations (see Division 4).

- (4) Each of the following that is credited to a federal account by a financial controller in relation to a significant third party or an associated entity, or by a third party (including a peak representative body), is a *gift*:

- (a) a subscription paid to the significant third party, associated entity or third party by a person or entity in respect of the person or entity's membership of the significant third party, associated entity or third party;
- (b) an amount paid to the significant third party, associated entity or third party by a person or entity in respect of the person or entity's affiliation with the significant third party, associated entity or third party;
- (c) an annual levy paid to the significant third party, associated entity or third party by an elected official or employee of the significant third party, associated entity or third party.

Note: Unless this subsection applies, an amount that is covered by paragraph (3)(b) or (d) is not a gift. These kinds of amounts may, up to a limit, be credited to a federal account (see subsection 292FA(4) and section 292FAE).

**18A Subsection 287AB(1)**

Repeal the subsection (not including the notes), substitute:

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*Dominant purpose of creating or communicating electoral matter*

- (1) Expenditure is *electoral expenditure* if it is incurred for the dominant purpose of creating or communicating electoral matter.

**18B Subsection 287AB(3)**

Omit “In addition, any expenditure incurred by or with the authority of a political entity, a person or entity”, substitute “Any expenditure incurred by or with the authority of a political entity, a member of the House of Representatives or a Senator, or a person or an entity”.

**18C Subsection 287AB(3)**

Omit “a member of the House of Representatives or a Senator in relation to an election is *electoral expenditure*, except to the extent that the expenditure is, or is to be, paid or reimbursed by the Commonwealth (except under Division 3 (election funding)) to or in relation to a person who is or was a member of the House of Representatives, a Senator or a Minister, because that person is or was such a member, Senator or Minister”, substitute “is *electoral expenditure* to the extent that it is in relation to an election”.

**19 At the end of subsection 287AB(3)**

Add:

Note: *Election* means an election of a member of the House of Representatives or an election of Senators for a State or Territory (see subsection 287(1)).

**19A After subsection 287AB(3)**

Insert:

*Specific electoral expenditure*

- (3A) Any expenditure incurred by or with the authority of a political entity, a member of the House of Representatives or a Senator, a third party, or a person or an entity that is (or is required to be registered as) a significant third party, an associated entity or a nominated entity, is *electoral expenditure* to the extent that it is in relation to an election and also any of the following:
- (a) expenditure on electoral matter in the form of advertisements in radio, television, the internet, cinemas, newspapers,

**Schedule 1** Key definitions

**Part 1** Meaning of gift and other miscellaneous amendments

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billboards, posters, brochures, how-to-vote cards or any other form;

- (b) expenditure on the production and distribution of electoral matter;
- (c) expenditure on the internet, telecommunications, stationery or postage for the purposes of communicating electoral matter;
- (d) expenditure incurred in employing staff engaged in an election campaign;
- (e) expenditure incurred for office accommodation for any such staff and candidates;
- (f) expenditure on travel and travel accommodation for candidates and staff engaged in an election campaign;
- (g) expenditure on research associated with an election campaign (other than in-house research);
- (h) expenditure incurred in raising funds for an election;
- (i) expenditure of a kind prescribed by the regulations.

Note 1: The expenditure caps in Division 3AB apply in relation to all electoral expenditure unless an exemption in Subdivision G of Division 3AB applies.

Note 2: References to an election mean an election of a member of the House of Representatives or an election of Senators for a State or Territory (see subsection 287(1)).

Note 3: A candidate's staff includes any volunteers.

*Expenditure that is not electoral expenditure*

- (3B) Despite anything else in this section, expenditure is not ***electoral expenditure*** to the extent that it is, or is to be, paid or reimbursed by the Commonwealth (except under Division 3 (election funding)) to or in relation to a person who is or was a member of the House of Representatives, a Senator or a Minister, because that person is or was such a member, Senator or Minister.
- (3C) Despite anything else in this section, expenditure is not ***electoral expenditure*** to the extent that it is incurred by a person or entity (the ***service provider***):
  - (a) in providing a communication service or communication platform that is used to create or communicate electoral matter; or

- (b) in providing a service for another person or entity that engaged the service provider, on a commercial basis, to create or communicate electoral matter.

## **20 At the end of section 287AB**

Add:

- (4) Despite anything else in this section, none of the following is *electoral expenditure*:
  - (a) expenditure that is a gift to which Subdivision AA of Division 3A applies;
  - (b) a disposition of property made by a member of a registered political party's expenditure group to another member of the expenditure group;
  - (c) a disposition of property made by a political party to a political party to which it is related within the meaning of subsection 123(2);
  - (ca) expenditure to the extent that it is administrative expenditure;
  - (cb) expenditure to the extent that it would be administrative expenditure if references in subsection 287AAA(1) to a registered political party included references to a political entity, a member of the House of Representatives or a Senator, a third party, or a person or an entity that is (or is required to be registered as) a significant third party, an associated entity or a nominated entity;
  - (cc) expenditure incurred in relation to an election other than an election within the meaning of this Part (see subsection 287(1));
  - (d) expenditure of a kind prescribed by the regulations.

## **21 After section 287AC**

Insert:

### **287AD This Part does not have effect of making internal documents of political party enforceable in an Australian court**

To avoid doubt, nothing in this Part has the effect of making the constitution, rules, resolutions or other internal documents or

decisions (however described) of a political party, in and of themselves, enforceable in an Australian court.

**22 Subsection 287F(1)**

Omit “financial year” (first occurring), substitute “calendar year”.

**23 Paragraph 287F(1)(a)**

Omit “financial years”, substitute “calendar years”.

**24 Subparagraph 287F(1)(b)(i)**

Repeal the subparagraph, substitute:

- (i) during that calendar year is more than the third party threshold; and

**25 Subparagraph 287F(1)(b)(ii)**

Omit “financial year”, substitute “calendar year”.

**26 Paragraph 287F(1)(c)**

Omit “financial year”, substitute “calendar year”.

**27 Subparagraph 287F(1)(c)(i)**

Omit “at least equal to the disclosure threshold”, substitute “more than the third party threshold”.

**28 Subsection 287F(1) (note)**

Omit “financial year” (wherever occurring), substitute “calendar year”.

**29 Subsection 287F(3)**

Omit “financial year” (wherever occurring), substitute “calendar year”.

**30 Subsection 287H(1)**

Omit “financial year”, substitute “calendar year”.

**31 Paragraph 287H(1)(f)**

Omit “entity;”, substitute “entity.”.

**32 Paragraph 287H(1)(g)**

Repeal the paragraph (including the note).

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**33 Subsection 287H(3)**

Omit “financial year” (wherever occurring), substitute “calendar year”.

**34 Subsections 287H(4) and (5)**

Repeal the subsections.

**35 Subsection 287J(1)**

Omit “financial year” (first occurring), substitute “calendar year”.

**36 Subsection 287J(1)**

Omit “*current financial year*”, substitute “*current calendar year*”.

**37 Paragraphs 287J(1)(a) and (b)**

Omit “financial year”, substitute “calendar year”.

**38 Subparagraphs 287J(1)(c)(i) and (ii)**

Omit “financial year”, substitute “calendar year”.

**39 Subsection 287J(2)**

Omit “financial year” (wherever occurring), substitute “calendar year”.

**40 Subparagraph 287K(2)(b)(ii)**

Omit “, and any disclosure entity referred to in paragraph 287H(1)(g),”.

**41 Paragraph 287N(2)(c)**

Omit “, and any disclosure entities referred to in paragraph 287H(1)(g),”.

**42 Section 302A**

Repeal the section, substitute:

**302A Simplified outline of this Division**

<p>This Division regulates gifts that are made to members of the House of Representatives, Senators, registered political parties, candidates, significant third parties, associated entities, nominated entities and third parties.</p>
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**Schedule 1** Key definitions

**Part 1** Meaning of gift and other miscellaneous amendments

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Gifts to these persons and entities that are made for a federal purpose are subject to a cap. Gifts (other than gifts made for the purposes of a by-election or a Senate-only election) are subject to an annual cap for a calendar year. Gifts made for the purposes of a by-election or a Senate-only election are subject to a separate cap during the election period for the election. Gifts may be aggregated with other gifts made by the same donor to related persons or entities if the gifts are made in the same calendar year, or for the purposes of the same by-election or Senate-only election.

Separately, gifts made for a federal purpose by the same person or entity are subject to the overall gift cap, and any such gifts made to recipients related to a particular State or Territory are subject to the State and Territory gift cap.

Gifts of at least \$1,000 to members of the House of Representatives, Senators, political entities (broadly, registered political parties and candidates), significant third parties, associated entities or nominated entities must not be made by foreign donors. A foreign donor is a person who does not have a connection to Australia, such as a person who is not an Australian citizen or an entity that does not have a significant business presence in Australia.

Broadly, gifts must not be made to a member of the House of Representatives, Senator, political entity, significant third party, associated entity, nominated entity or third party by a foreign donor for the purpose of incurring electoral expenditure or creating or communicating electoral matter.

Anti-avoidance provisions apply to strengthen these requirements (see Subdivision C of Division 5C of this Part).

A person or entity may commit an offence or be liable to a civil penalty if the person or entity contravenes these requirements. There are some exceptions, such as when a gift is made in a personal capacity.

**42A At the end of section 302CA**

Add:

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*Extended meaning of gift*

- (11) Disregard subsection 287AAB(3) in working out whether something is a gift for the purposes of this section.

**43 Subsection 302D(5)**

Repeal the subsection.

**44 Subsection 302F(7)**

Repeal the subsection.

**44A After subsection 314B(9)**

Insert:

- (9A) Disregard subsection 287AAB(3) in working out whether something is a gift for the purposes of this section.

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

**45 Subsection 3(1) (definition of *referendum entity*)**

Omit “disclosure threshold”, substitute “third party threshold”.

**46 Subsection 3(1)**

Insert:

*third party threshold* has the meaning given by Part XX of the *Commonwealth Electoral Act 1918*.

**Division 3—Application of amendments**

**47 Application of amendments**

- (1) To avoid doubt, the repeal of paragraph 287H(1)(g) of the *Commonwealth Electoral Act 1918* made by Division 2 of this Part has effect in relation to an entity on and from the day the repeal commences, regardless of whether the entity was registered as an associated entity before that day.
- (2) Subitem (1) is subject to any rules made by the Minister under Schedule 11 to this Act that affect the application of items of this Act.

## Part 2—Nominated entities

### *Commonwealth Electoral Act 1918*

#### 48 Subsection 287(1)

Insert:

*nominated entity* means an entity registered as the nominated entity of a registered political party under section 287MC.

#### 49 Subsection 287(1) (paragraph (b) of the definition of *regulated entity*)

Omit “or an associated entity”, substitute “, an associated entity or a nominated entity”.

#### 50 Subsection 287AB(3)

Omit “or an associated entity”, substitute “, an associated entity or a nominated entity”.

#### 51 Division 1A of Part XX (heading)

Omit “and associated entities”, substitute “, associated entities and nominated entities,”.

#### 52 Section 287D

After:

A significant third party or associated entity must be registered as such under this Division. A person or entity may be liable to a civil penalty if the person or entity incurs electoral expenditure without being appropriately registered.

insert:

Certain entities that are incorporated in Australia may be registered as the nominated entity of a registered political party. Any exchanges between a registered political party and an entity



registered as the nominated entity of the party are not gifts (see paragraph 287AAB(3)(g)).

### **53 After Subdivision B of Division 1A of Part XX**

Insert:

#### **Subdivision BA—Registration as the nominated entity of a registered political party**

##### **287MA Application for registration as the nominated entity of a registered political party**

- (1) A registered political party may apply to the Electoral Commissioner to register an entity (except a political entity) as the nominated entity of the party.
- (2) The application must:
  - (a) be in an approved form; and
  - (b) without limiting paragraph (a):
    - (i) state the name of the financial controller nominated for the entity; and
    - (ii) include the entity's consent to being registered as the nominated entity of the party, as mentioned in subsection (3); and
    - (iii) include any other information required by the regulations.

Note: For the nomination of a financial controller for the entity, see section 292E.

##### *Consent to registration*

- (3) An entity (except a political entity) may give consent in an approved form to being registered as the nominated entity of a registered political party.

**287MB Eligibility for registration as the nominated entity of a registered political party**

*Requirements for registration*

- (1) An entity is eligible to be registered as the nominated entity of a registered political party if:
- (a) the entity is incorporated in Australia; and
  - (b) the entity has its head office and principal place of activity in Australia; and
  - (c) the entity operates wholly, or to a significant extent, for the benefit of one or more registered political parties including the registered political party; and
  - (d) the entity is not a political entity; and
  - (e) the entity has given consent in accordance with subsection 287MA(3) to being registered as the nominated entity of the party; and
  - (f) no other entity is registered as the nominated entity of the party; and
  - (g) the entity is not registered as the nominated entity of any other registered political party.

Note: A registered political party cannot have more than one entity registered as its nominated entity and that entity cannot be registered as the nominated entity of more than one registered political party (see paragraphs (f) and (g)).

*Entities that are also associated entities*

- (2) An entity may be registered both as an associated entity and a nominated entity.

Note: The effect of paragraph (1)(c) of this section and paragraph 287H(1)(b) is that all nominated entities are required to be registered as associated entities.

**287MC Decision on application for registration as the nominated entity of a registered political party**

*Decision on application*

- (1) If an application is made under section 287MA to register an entity as the nominated entity of a registered political party, the Electoral Commissioner must register the entity accordingly if the application complies with subsection 287MA(2).
- (2) Despite subsection (1) of this section, the Commissioner must refuse to register the entity as the nominated entity of the party if the Commissioner is satisfied that:
  - (a) the entity is not eligible to be so registered (see subsection 287MB(1)); or
  - (b) the Electoral Commission would be required to refuse registration under subsection 129(1) (except paragraph 129(1)(a)) assuming that:
    - (i) the entity were applying to be registered as a political party; and
    - (ii) a reference in subsection 129(1) to “the party” were a reference to the entity; and
    - (iii) both the registered political party (the *applicant party*) that made the application under section 287MA and any other political party related to the applicant party were related to the entity; or
  - (c) the Electoral Commission would be required to refuse registration under subsection 129(3) (except subparagraph 129(3)(a)(ii)) assuming that:
    - (i) the entity were applying to be registered as a political party; and
    - (ii) a reference in subsection 129(3) to “the applicant party” or “the applicant party’s” were a reference to the entity.
- (3) The Commissioner must make a decision under this section as soon as practicable after receiving the application.

*Notice of decision*

- (4) The Commissioner must, as soon as practicable after making a decision under this section, give written notice of the decision to the party and the entity.
- (5) As soon as practicable after giving the notice, the Electoral Commissioner must cause a copy of the notice to be published on the Electoral Commission's website.

*Review of decisions*

- (6) Section 141 (review of certain decisions) applies in relation to a decision under this section to refuse to register an entity as the nominated entity of a registered political party as if:
  - (a) the decision were a reviewable decision; and
  - (b) a reference to a person included a reference to the party and the entity; and
  - (c) a reference in subsections 141(2) and (8) to a delegate of the Electoral Commission were a reference to a delegate of the Electoral Commissioner; and
  - (d) a reference in subsections 141(5) and (9) to the Electoral Commission included a reference to the Electoral Commissioner (but not a reference to a delegate of the Electoral Commissioner); and
  - (e) a reference to a written notice given under Part XI in relation to a reviewable decision included a reference to a written notice given under this section in relation to a decision to refuse registration.

**287MD Cancellation of registration as the nominated entity of a registered political party on application**

- (1) If an entity is registered under section 287MC as the nominated entity of a registered political party, the entity or the party may apply to the Electoral Commissioner to cancel the registration.
- (2) On receiving an application under subsection (1), the Commissioner must cancel the registration of the entity as the nominated entity of the party.

- (3) The Commissioner must, as soon as practicable after cancelling the registration, give written notice of the cancellation to both the party and the entity.
- (4) As soon as practicable after giving the notice, the Electoral Commissioner must cause a copy of the notice to be published on the Electoral Commission's website.

**287ME Commissioner must cancel registration in certain circumstances**

*When Commissioner must cancel registration*

- (1) The Electoral Commissioner must cancel the registration of an entity as the nominated entity of a registered political party if the Commissioner is satisfied that:
  - (a) the party is no longer a registered political party; or
  - (b) the entity has ceased to be eligible for such registration under paragraph 287MB(1)(a), (b), (c), or (d); or
  - (c) the agent of the party, or the financial controller of the entity, have been convicted of an offence under this Part.

*Notice of cancellation*

- (2) The Commissioner must, as soon as practicable after cancelling the registration of an entity as the nominated entity of a registered political party under subsection (1), give written notice of the cancellation to both the entity and the party.
- (3) As soon as practicable after giving the notice, the Electoral Commissioner must cause a copy of the notice to be published on the Electoral Commission's website.

*Review of decisions*

- (4) Section 141 (review of certain decisions) applies in relation to a decision under this section to cancel the registration of an entity as the nominated entity of a registered political party as if:
  - (a) the decision were a reviewable decision; and
  - (b) a reference to a person included a reference to the party and the entity; and

- (c) a reference in subsections 141(2) and (8) to a delegate of the Electoral Commission were a reference to a delegate of the Electoral Commissioner; and
- (d) a reference in subsections 141(5) and (9) to the Electoral Commission included a reference to the Electoral Commissioner (but not a reference to a delegate of the Electoral Commissioner); and
- (e) a reference to a written notice given under Part XI in relation to a reviewable decision included a reference to a written notice given under this section in relation to a decision to cancel registration.

**287MF Transparency Register to determine period of registration as nominated entity**

The registration of an entity as the nominated entity of a registered political party:

- (a) comes into force when the Electoral Commissioner records the registration in the Transparency Register under section 287N; and
- (b) ceases to be in force when the Commissioner removes that record of the registration in the Transparency Register under section 287N.

**54 After subparagraph 287N(2)(a)(ii)**

Insert:

- (ia) each entity registered as the nominated entity of a registered political party under section 287MC; and

**55 Paragraph 287N(2)(b)**

Omit “and associated entities”, substitute “, associated entities and nominated entities”.

**56 After paragraph 287N(2)(c)**

Insert:

- (ca) for each nominated entity—the name of the registered political party for which the entity is registered as the nominated entity; and

**57 Section 287V**

Omit “Significant third parties and associated entities must nominate”, substitute “Significant third parties, associated entities and nominated entities must nominate”.

**58 Section 287V**

Omit “significant third parties and associated entities is kept”, substitute “significant third parties, associated entities and nominated entities is kept”.

**59 Section 292E (heading)**

Omit “and associated entities”, substitute “, associated entities and nominated entities”.

**60 Subsection 292E(1)**

Omit “and associated entity”, substitute “, associated entity and nominated entity”.

**61 Subparagraph 292F(1)(b)(iii)**

Repeal the subparagraph, substitute:

- (iii) for a nomination of a financial controller of a significant third party, associated entity or nominated entity—by the party or entity nominating the financial controller;

**62 Paragraph 292F(4)(b)**

Omit “or associated entity”, substitute “, associated entity or nominated entity”.

**63 Section 302D (heading)**

Omit “and associated entities”, substitute “, associated entities and nominated entities”.

**64 Subparagraph 302D(1)(a)(ii)**

Omit “or an associated entity”, substitute “, an associated entity or a nominated entity”.

**65 Paragraph 302D(1A)(a)**

Omit “or associated entity”, substitute “, associated entity or nominated entity”.

**66 Subparagraph 302F(1)(a)(ii)**

Omit “or an associated entity”, substitute “, an associated entity or a nominated entity”.

**67 Paragraph 302F(1)(b)**

After “associated entity”, insert “, nominated entity”.

**68 After subparagraph 302F(2)(c)(iia)**

Insert:

(iib) a nominated entity; or

**69 Paragraph 319A(2A)(b)**

Omit “or associated entity”, substitute “, associated entity or nominated entity”.

**70 Section 321B (after paragraph (b) of the definition of *disclosure entity*)**

Insert:

(ba) a nominated entity (within the meaning of Part XX);



## **Schedule 2—Expedited disclosure of donations**

### **Part 1—Amendment of the Commonwealth Electoral Act 1918**

#### *Commonwealth Electoral Act 1918*

##### **1 Subsection 17(2A)**

Omit “furnish a return under subsection 305A(1) or (1A) in relation to that election”, substitute “give a notice under section 303E in relation to a gift given to a candidate in that election”.

##### **2 Subsection 287(1)**

Insert:

*donation disclosure notice* means a notice under subsection 303A(1), 303E(1) or 303L(1).

##### **3 Subsection 287(1) (at the end of the definition of *election*)**

Add:

Note: For the meaning of *election* when used in Division 4 of this Part, see section 303.

##### **4 Sections 302V to 306**

Repeal the sections, substitute:

#### **Subdivision A—Preliminary**

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

A donation disclosure notice must be given to the Electoral Commission if certain kinds of gifts are received by any of the following:

- (a) members of the House of Representatives and Senators;
- (b) candidates in elections or by-elections;
- (c) registered political parties;

- (d) State branches of registered political parties;
- (e) significant third parties, associated entities, third parties and nominated entities.

The kinds of gifts that must be disclosed are:

- (a) gifts made for a federal purpose; or
- (b) certain other gifts;

where the amount or value of the gift is over the disclosure threshold. A notice must also be given if the total amount or value of all gifts received from the same person or entity in a calendar year is over the disclosure threshold.

Subdivision B sets out when the recipient of a gift made for a federal purpose must give a donation disclosure notice to the Electoral Commission.

Subdivision C sets out when the donor of a gift made for a federal purpose must give a donation disclosure notice to the Electoral Commission.

Subdivision D requires the Electoral Commissioner to publish some of the information about gifts made for a federal purpose in a donation disclosure notice on the Transparency Register.

Subdivision E sets out when a recipient of certain other gifts must give a donation disclosure notice to the Electoral Commission.

Subdivision F requires the Electoral Commissioner to publish some of the information about those other gifts in a donation disclosure notice on the Transparency Register.

Subdivision G deals with limitations on loans made to political parties, State branches, significant third parties or candidates that are more than the disclosure threshold.

Subdivision G also provides that gifts of more than the disclosure threshold to a political party, State branch, significant third party or candidate by a corporation that is wound up within a year of making the gift may be recovered from the recipient of the gift.

### 303 Definitions

In this Division:

**acceptable action** has the same meaning as in Division 3A.

**by-election** means an election of a member of the House of Representatives that is not part of a general election.

**election** means a general election or an election of Senators for a State or Territory.

Note: **Election** includes a **Senate-only election** (see the definition of that term in subsection 287(1)).

**election period**, in relation to an election or by-election, means the period commencing on the day of issue of the writ for the election or by-election and ending at the latest time on polling day at which an elector in Australia could enter a polling booth for the purpose of casting a vote in the election or by-election.

**expedited notice period**, in relation to an election or by-election, means the period:

- (a) beginning on the Saturday that immediately precedes the polling day for the election or by-election; and
- (b) ending at the end of the seventh day after that polling day.

**polling day**, in relation to an election or by-election, means the day fixed for polling in the election or by-election.

### Subdivision B—Disclosure of donations by recipients of gifts made for a federal purpose

#### 303A Requirements for recipients of gifts

- (1) If a person or entity (the **recipient**) covered by column 1 of an item of the table at the end of this subsection receives a gift (the **relevant gift**), the person or entity covered by column 2 of the item (the **responsible person** for the recipient) must, in accordance with this section, give the Electoral Commission a written notice in relation to the relevant gift, if:
  - (a) the relevant gift is made to the recipient for a federal purpose; and

**Schedule 2** Expedited disclosure of donations  
**Part 1** Amendment of the Commonwealth Electoral Act 1918

- (b) either or both of the following apply:
- (i) the amount or value of the relevant gift is more than the disclosure threshold;
  - (ii) the total amount or value of all gifts received by the recipient, during the calendar year in which the relevant gift is received, from the person or entity who made the relevant gift is more than the disclosure threshold.

Note 1: The notice must be given before the end of the period worked out in accordance with the table in subsection (2).

Note 2: For the meaning of *federal purpose*, see subsection 287(1).

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 value, or an estimate of the amount or value, of the relevant gift—3 times that amount or value.

<b>Donation disclosure notices</b>		
<b>Item</b>	<b>Column 1 Recipient</b>	<b>Column 2 Responsible person</b>
1	A member of the House of Representatives or a Senator	Whichever of the following applies: (a) if the member or Senator is a member of a registered political party—the registered officer of the registered political party; (b) otherwise—the member or Senator
2	A candidate in an election or by-election	Whichever of the following applies: (a) if the candidate is endorsed by a registered political party—the registered officer of the registered political party; (b) otherwise—the agent of the candidate
3	A registered political party	The registered officer of the registered political party
4	A State branch of a registered	Whichever of the following applies:

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**Donation disclosure notices**

<b>Item</b>	<b>Column 1 Recipient</b>	<b>Column 2 Responsible person</b>
	political party	(a) the registered officer of the State branch; (b) if the State branch is not a registered political party—the agent of the State branch
5	A person or entity that, at the time the relevant gift is received, is registered as a significant third party, an associated entity or a nominated entity	The financial controller of the person or entity
6	A person or entity that, at the time the relevant gift is received, is a third party	The third party

Note: For the purposes of table item 2, the agent of a candidate in an election or by-election is either the candidate or a person appointed by the candidate (see section 289).

*Period for giving notice*

- (2) The notice in relation to the relevant gift must be given to the Electoral Commission before the end of the period worked out in accordance with the following table:

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**Time for giving notice**

<b>Item</b>	<b>Column 1 If the recipient is ...</b>	<b>Column 2 then the notice must be given before the end of ...</b>
1	A member of the House of Representatives or a Senator	(a) if the relevant gift is received at a time that occurs during the expedited notice period in relation to an election—the period of 24 hours beginning at the time the relevant gift is received; or (b) if the relevant gift is received at a time that occurs during the election period in relation to an election and paragraph (a) does not apply—the period of 7 days beginning on the day the relevant gift is received; or

**Schedule 2** Expedited disclosure of donations

**Part 1** Amendment of the Commonwealth Electoral Act 1918

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**Time for giving notice**

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<b>Item</b>	<b>Column 1</b> <b>If the recipient is ...</b>	<b>Column 2</b> <b>then the notice must be given before the end of ...</b>
		(c) if paragraphs (a) and (b) do not apply—the 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is received (subject to subsection (7))
2	A candidate in an election or by-election	(a) if the relevant gift is received at a time that occurs during the expedited notice period in relation to the election or by-election—the period of 24 hours beginning at the time the relevant gift is received; or (b) if the relevant gift is received at a time that occurs during the election period in relation to the election or by-election and paragraph (a) does not apply—the period of 7 days beginning on the day the relevant gift is received; or (c) if paragraphs (a) and (b) do not apply—the 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is received (subject to subsection (7))
3	A registered political party	(a) the period of 24 hours beginning at the time the relevant gift is received if the relevant gift is received at a time that occurs during the expedited notice period in relation to: (i) an election; or (ii) if a candidate in the by-election is endorsed by the registered political party—a by-election; or (b) if the relevant gift is received at a time that occurs during the election period in relation to the election or by-election mentioned in paragraph (a) and that paragraph does not apply—the period of 7 days beginning on the day the relevant gift is received; or (c) if paragraphs (a) and (b) do not apply—the 21st day of the calendar month that immediately follows the calendar month in

<b>Time for giving notice</b>		
<b>Item</b>	<b>Column 1</b> <b>If the recipient is ...</b>	<b>Column 2</b> <b>then the notice must be given before the end of ...</b>
		which the relevant gift is received (subject to subsection (7))
4	A State branch of a registered political party	(a) the period of 24 hours beginning at the time the relevant gift is received if the relevant gift is received at a time that occurs during the expedited notice period in relation to: <ul style="list-style-type: none"> <li>(i) an election; or</li> <li>(ii) if the State branch has incurred, or intends to incur, electoral expenditure in relation to the by-election—a by-election; or</li> </ul> (b) if the relevant gift is received at a time that occurs during the election period in relation to the election or by-election mentioned in paragraph (a) and that paragraph does not apply—the period of 7 days beginning on the day the relevant gift is received; or                     (c) if paragraphs (a) and (b) do not apply—the 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is received (subject to subsection (7))
5	A person or entity that, at the time the relevant gift is received is: <ul style="list-style-type: none"> <li>(a) either:                             <ul style="list-style-type: none"> <li>(i) registered as a significant third party, associated entity or nominated entity; or</li> <li>(ii) a third party; and</li> </ul> </li> <li>(b) not registered under the <i>Australian Charities and Not-for-profits Commission Act 2012</i></li> </ul>	(a) the period of 24 hours beginning at the time the relevant gift is received if the relevant gift is received at a time that occurs during the expedited notice period in relation to: <ul style="list-style-type: none"> <li>(i) an election; or</li> <li>(ii) if the recipient has incurred, or intends to incur, electoral expenditure in relation to the by-election—a by-election; or</li> </ul> (b) if the relevant gift is received at a time that occurs during the election period in relation to the election or by-election mentioned in paragraph (a) and that paragraph does not apply—the period of 7 days beginning on the day the relevant gift is received; or                     (c) if paragraphs (a) and (b) do not apply—the

**Schedule 2** Expedited disclosure of donations

**Part 1** Amendment of the Commonwealth Electoral Act 1918

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**Time for giving notice**

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<b>Item</b>	<b>Column 1</b> <b>If the recipient is ...</b>	<b>Column 2</b> <b>then the notice must be given before the end of ...</b>
		21st day of the calendar month that immediately follows the calendar month in which the relevant gift is received (subject to subsection (7))
6	A person or entity that, at the time the relevant gift is received is: (a) either: (i) registered as a significant third party; or (ii) a third party; and (b) registered under the <i>Australian Charities and Not-for-profits Commission Act 2012</i>	The 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is received (subject to subsection (8))

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Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the giving of the notice (see section 303C of this Act).

*Other requirements for notice*

- (3) The notice under subsection (1) must:
- (a) be in the approved form; and
  - (b) set out the details required by section 303B (content of donation disclosure notices).

*Notice on behalf of members and Senators who are not members of a registered political party*

- (4) A member of the House of Representatives or a Senator who is not a member of a registered political party is taken to have given a notice under subsection (1) in relation to a gift if the member or Senator causes another person to give the notice on behalf of the member or Senator.

Example: Assume Emma is a Senator who is not a member of a registered political party. Emma receives a gift where the amount of the gift is



more than the disclosure threshold. An agent is able to give the notice under subsection (1) on behalf of Emma.

*Bulk donation disclosure notices for registered political parties*

- (5) For the purposes of subsection (1), the responsible person for a registered political party or a State branch of a registered political party may give a single donation disclosure notice (a **bulk donation disclosure notice**) in relation to more than one gift received by the registered political party or the State branch.
- (6) The bulk donation disclosure notice must set out the details mentioned in section 303B in relation to each gift to which the bulk donation disclosure notice relates.

*Gifts received close to the start of an election period—recipient other than registered charity*

- (7) Despite subsection (2), if:
- (a) a recipient (other than a recipient covered by column 1 of item 6 of the table in subsection (2)) receives a gift before the start of the election period in relation to:
    - (i) an election; or
    - (ii) if the recipient is covered by subsection (9) in relation to the by-election—a by-election; and
  - (b) at the time the election period starts, the responsible person for the recipient has not given the Electoral Commission a notice under subsection (1) in relation to the gift;
- then the responsible person must give the Electoral Commission the notice on or before the end of the earlier of the following days:
- (c) the 21st day of the calendar month that immediately follows the calendar month in which the gift is received;
  - (d) the day before the day that is 12 days before polling day for the election or by-election (as the case requires).

*Gifts received by registered charity during an election period*

- (8) Despite subsection (2), if a recipient covered by column 1 of item 6 of the table in subsection (2) receives a gift:
- (a) after the start of the election period in relation to:
    - (i) an election; or

- (ii) if the recipient is covered by subsection (9) in relation to the gift—a by-election; and
  - (b) before the Thursday that immediately precedes the polling day for the election or by-election;
- then the responsible person for the recipient must give the Electoral Commission the notice on or before the earlier of the following days:
- (c) the 21st day of the calendar month that immediately follows the calendar month in which the gift is received;
  - (d) the Thursday mentioned in paragraph (b).
- (9) A recipient is covered by this subsection in relation to a by-election if:
- (a) the recipient is a candidate in the by-election; or
  - (b) the recipient is a registered political party, and a candidate in the by-election is endorsed by the recipient; or
  - (c) the recipient is a significant third party, an associated entity, a third party, a nominated entity or a State branch of a registered political party, and the recipient has incurred, or intends to incur, electoral expenditure in relation to the by-election.

*Special provision if recipient is more than one kind of person or entity*

- (10) Despite subsection (1), a person or entity is not required to give a notice under that subsection in relation to a gift if:
- (a) the recipient of the gift is covered by column 2 of more than one item in the table in that subsection; and
  - (b) a person or entity covered by column 1 of any one of those items has already given a notice under that subsection in relation to the gift.

### **303B Content of donation disclosure notices given by recipients**

A donation disclosure notice given under section 303A in relation to a gift must set out the following details:

- (a) the name of the recipient;
- (b) the amount or value of the gift;
- (c) the date on which the gift was received;

- (d) if the gift was made during the election period for a by-election or a Senate-only election and was for the purposes of the by-election or the Senate-only election—the name of the Division or the State or Territory (as applicable) to which the election relates;
- (e) if the person or entity who made the gift (the *donor*) made the gift on behalf of the members of an unincorporated association, other than a registered industrial organisation:
  - (i) the name of the association; and
  - (ii) the names and addresses of the members of the executive committee (however described) of the association;
- (f) if the donor is the trustee of a trust and the gift was purportedly made out of a trust fund or out of the funds of a foundation:
  - (i) the names and addresses of the trustees of the fund or of the foundation; and
  - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires;
- (g) if the donor is not covered by paragraph (e) or (f)—the name and address of the donor;
- (h) if the total amount or value of all gifts received by the recipient from the donor during the calendar year in which the gift is received is more than the disclosure threshold—the total amount or value of all gifts so far received by the recipient from the donor during the calendar year;
- (i) if the recipient is a candidate in an election or by-election, a registered political party or a State branch of a registered political party—the name of the responsible person for the recipient;
- (j) if the recipient is a candidate in an election or by-election, a member of the House of Representatives or a Senator—the registered political party (if any) that the recipient is related to (within the meaning of subsections 302BA(4) and (5));
- (k) if the recipient is a person or entity that is registered as a significant third party, an associated entity or a nominated entity at the time the gift is received—the name of the financial controller in relation to the person or entity;

- (l) if the person giving the donation disclosure notice to the Electoral Commission is not the recipient—the name of the person.

Note 1: A failure to include these details in a donation disclosure notice may contravene a civil penalty provision (see section 303A).

Note 2: A donation disclosure notice may be amended after it has been given to the Electoral Commission (see section 319A).

### 303C Relationship with other laws

Subsection 36(2) of the *Acts Interpretation Act 1901* (which deals with calculating time) does not apply to an act mentioned in this Subdivision.

### 303D No continuing contraventions

Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection 303A(1).

## Subdivision C—Disclosure of donations by donors of gifts made for a federal purpose

### 303E Requirements for donors of gifts

- (1) A person or entity (the *donor*) must, in accordance with this section, give the Electoral Commission a written notice in relation to a gift (the *relevant gift*) if:
- (a) the relevant gift is made by the donor to a person or entity (the *recipient*) covered by an item in the table at the end of this subsection; and
  - (b) the relevant gift is made to the recipient for a federal purpose; and
  - (c) either or both of the following apply:
    - (i) the amount or value of the relevant gift is more than the disclosure threshold;
    - (ii) the total amount or value of all gifts made to the recipient by the donor during the calendar year in which the relevant gift is made is more than the disclosure threshold.

Note 1: The notice must be given before the end of the period worked out in accordance with subsection (2).

Note 2: For the meaning of *federal purpose*, see subsection 287(1).

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 value, or an estimate of the amount or value, of the relevant gift—3 times that amount or value.

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**Donation disclosure notices**

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**Item    Recipient**

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1	A member of the House of Representatives or a Senator
2	A candidate in an election or by-election
3	A registered political party
4	A State branch of a registered political party
5	A person or entity that, at the time the relevant gift is made, is registered as: (a) a significant third party; or (b) an associated entity; or (c) a nominated entity
6	A person or entity that, at the time the relevant gift is made, is a third party

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*Period for giving notice*

- (2) The notice in relation to the relevant gift must be given to the Electoral Commission before the end of the period worked out in accordance with the following table:

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**Time for giving notice**

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<b>Item</b>	<b>If the recipient is ...</b>	<b>then the notice must be given before the end of ...</b>
1	A member of the House of Representatives or a Senator	(a) if the relevant gift is made at a time that occurs during the election period, or the expedited notice period, in relation to an election—the period of 7 days beginning on the day the relevant gift is made; or

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**Schedule 2** Expedited disclosure of donations

**Part 1** Amendment of the Commonwealth Electoral Act 1918

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<b>Time for giving notice</b>		
<b>Item</b>	<b>If the recipient is ...</b>	<b>then the notice must be given before the end of ...</b>
		(b) if paragraph (a) does not apply—the 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is made
2	A candidate in an election or by-election	(a) if the relevant gift is made at a time that occurs during the election period, or the expedited notice period, in relation to the election or by-election—the period of 7 days beginning on the day the relevant gift is made; or (b) if paragraph (a) does not apply—the 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is made
3	A registered political party	(a) the period of 7 days beginning on the day the relevant gift is made if the relevant gift is made at a time that occurs during the election period, or the expedited notice period, in relation to: (i) an election; or (ii) a by-election, if a candidate in the by-election is endorsed by the registered political party; or (b) if paragraph (a) does not apply—the 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is made
4	A State branch of a registered political party	(a) the period of 7 days beginning on the day the relevant gift is made if the relevant gift is made at a time that occurs during the election period, or the expedited notice period, in relation to: (i) an election; or (ii) a by-election, if the donor reasonably believes that the recipient has incurred, or intends to incur, electoral expenditure in relation to the by-election; or (b) if paragraph (a) does not apply—the 21st day of the calendar month that immediately

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<b>Time for giving notice</b>		
<b>Item</b>	<b>If the recipient is ...</b>	<b>then the notice must be given before the end of ...</b>
		follows the calendar month in which the relevant gift is made
5	<p>A person or entity that, at the time the relevant gift is made is:</p> <p>(a) either:</p> <p style="padding-left: 20px;">(i) registered as a significant third party, associated entity or nominated entity; or</p> <p style="padding-left: 20px;">(ii) a third party; and</p> <p>(b) not registered under the <i>Australian Charities and Not-for-profits Commission Act 2012</i></p>	<p>(a) the period of 7 days beginning on the day the relevant gift is made if the relevant gift is made at a time that occurs during the election period, or expedited notice period, in relation to:</p> <p style="padding-left: 20px;">(i) an election; or</p> <p style="padding-left: 20px;">(ii) a by-election, if the donor reasonably believes that the recipient has incurred, or intends to incur, electoral expenditure in relation to the by-election; or</p> <p>(b) if paragraph (a) does not apply—the 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is made</p>
6	<p>A person or entity that, at the time the relevant gift is made is:</p> <p>(a) either:</p> <p style="padding-left: 20px;">(i) registered as a significant third party; or</p> <p style="padding-left: 20px;">(ii) a third party; and</p> <p>(b) registered under the <i>Australian Charities and Not-for-profits Commission Act 2012</i></p>	<p>The 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is made</p>

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the giving of the notice (see section 303G of this Act).

*Requirements for notice*

- (3) The notice under subsection (1) must:
- (a) be in the approved form; and
  - (b) set out the details required by subsection 303F(1) (content of donation disclosure notices).

**303F Content of donation disclosure notices given by donors**

- (1) A donation disclosure notice given under section 303E in relation to a gift must set out the following details:
- (a) if the person or entity who made the gift (the *donor*) made the gift on behalf of the members of an unincorporated association, other than a registered industrial organisation:
    - (i) the name of the association; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the association;
  - (b) if the donor is the trustee of a trust and the gift was purportedly made out of a trust fund or out of the funds of a foundation:
    - (i) the names and addresses of the trustees of the fund or of the foundation; and
    - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires;
  - (c) if the donor is not covered by paragraph (a) or (b)—the name and address of the donor;
  - (d) the name of the person or entity (the *recipient*) to whom the donor made the gift;
  - (e) the amount or value of the gift;
  - (f) the date on which the gift was made;
  - (g) if the gift was made during the election period for a by-election or a Senate-only election and was for the purposes of the by-election or the Senate-only election—the name of the Division or the State or Territory (as applicable) to which the election relates;



- (h) if the total amount or value of all gifts made by the donor to the recipient during the calendar year in which the gift is made is more than the disclosure threshold—the total amount or value of all gifts so far made by the donor to the recipient during the calendar year;
- (i) the relevant details set out in subsection (2) of this section of any other gift (an *earlier gift*) received by the donor at any time if:
  - (i) the earlier gift was used wholly or partly to enable the donor to make the gift, or reimburse the donor for the gift, to which the donation disclosure notice relates; and
  - (ii) the amount or value of the earlier gift is more than the disclosure threshold.

Note 1: A failure to include these details in a donation disclosure notice may contravene a civil penalty provision (see section 303E).

Note 2: A donation disclosure notice may be amended after it has been given to the Electoral Commission (see section 319A).

- (2) For the purposes of paragraph (1)(i), the relevant details of the earlier gift are:
  - (a) the amount or value of the earlier gift; and
  - (b) the date on which the earlier gift was made; and
  - (c) in the case of an earlier gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation:
    - (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
  - (d) in the case of an earlier gift purportedly made out of a trust fund or out of the funds of a foundation:
    - (i) the names and addresses of the trustees of the fund or of the foundation; and
    - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; and
  - (e) if the person or entity who made the earlier gift is not covered by paragraph (c) or (d) of this subsection—the name and address of the person or entity.

### 303G Relationship with other laws

Subsection 36(2) of the *Acts Interpretation Act 1901* (which deals with calculating time) does not apply to an act mentioned in this Subdivision.

### 303H No continuing contraventions

Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection 303E(1) of this Act.

## Subdivision D—Publication of information about gifts made for a federal purpose

### 303J Electoral Commissioner must publish information

- (1) The Electoral Commissioner must publish on the Transparency Register the following information contained in a donation disclosure notice under subsection 303A(1) or 303E(1) in relation to a gift:
  - (a) the name of the person or entity (the *recipient*) that received the gift;
  - (b) the name of the registered political party (if any) included for the purposes of paragraph 303B(j);
  - (c) the information (other than an address) covered by whichever of the following is applicable in relation to the person or entity (the *donor*) that made the gift:
    - (i) for a notice given under section 303A—paragraphs 303B(e) to (g);
    - (ii) for a notice given under section 303E—paragraphs 303F(1)(a) to (c);
  - (d) the date on which the gift was:
    - (i) for a notice given under section 303A—received by the recipient; or
    - (ii) for a notice given under section 303E—made by the donor;
  - (e) the amount or value of the gift;
  - (f) if the total amount or value of all gifts received by the recipient from the donor during the calendar year in which

the gift was received is more than the disclosure threshold—  
the total amount or value of all gifts so far received.

Note: If a donation disclosure notice relates to more than one gift, the Electoral Commissioner must publish the information in this subsection in relation to each gift covered by the notice.

*Time for publishing information*

- (2) The Electoral Commissioner must publish the information before the end of:
- (a) the period of 24 hours beginning at the time the donation disclosure notice is received by the Electoral Commission if:
    - (i) the gift is received by the recipient during the period beginning on the day of issue of the writ for an election and ending at the end of the seventh day after polling day for the election; or
    - (ii) the gift is received by the recipient during the period beginning on the day of issue of the writ for a by-election and ending at the end of the seventh day after polling day for the by-election, and the recipient is covered by subsection (3) in relation to the by-election; or
    - (iii) the gift is covered by subsection 303A(7) (gifts received close to the start of an election period); or
    - (iv) the donation disclosure notice is otherwise received by the Electoral Commission during the election period in relation to an election; or
  - (b) in any other case—the period of 10 days beginning on the day the donation disclosure notice is received by the Electoral Commission.
- Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the publication of information under subsection (1) of this section (see section 303K of this Act).
- (3) A recipient is covered by this subsection in relation to a by-election if:
- (a) the recipient is a candidate in the by-election; or
  - (b) the recipient is a registered political party, and a candidate in the by-election is endorsed by the recipient; or

- (c) the recipient is a significant third party, an associated entity, a nominated entity, a third party or a State branch of a registered political party and, in the opinion of the Electoral Commissioner, the recipient has incurred, or intends to incur, electoral expenditure in relation to the by-election.

*False or misleading information*

- (4) Despite subsection (1), the Electoral Commissioner is not required to publish on the Transparency Register information contained in a donation disclosure notice if the Electoral Commissioner reasonably believes that the information is false or misleading in a material particular.

*Publication of other information where acceptable action taken*

- (5) If, in relation to a gift, the recipient referred to in paragraph (1)(a) advises the Electoral Commissioner that:
  - (a) acceptable recipient action, or action that would be acceptable recipient action if the gift had exceeded the annual gift cap for a calendar year; or
  - (b) acceptable donor action, or action that would be acceptable donor action if the gift had exceeded the annual gift cap for a calendar year; or
  - (c) acceptable action;has been taken in relation to the gift, the Electoral Commissioner must publish the following in the entry in the Transparency Register relating to the gift before the end of the period of 24 hours beginning at the time the recipient so advises the Electoral Commissioner:
  - (d) a statement that the recipient has advised the Electoral Commissioner that acceptable recipient action, acceptable donor action or acceptable action (as the case requires) has been taken in relation to the gift;
  - (e) such other information (if any) prescribed by regulations made for the purposes of this paragraph.

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the publication of a statement or information under this subsection (see section 303K of this Act).

### **303K Relationship with other laws**

Subsection 36(2) of the *Acts Interpretation Act 1901* (which deals with calculating time) does not apply to an act mentioned in this Subdivision.

### **Subdivision E—Disclosure of donations by recipients of certain other gifts**

#### **303L Requirements for recipients of gifts**

- (1) If a person or entity (the *recipient*) covered by column 1 of an item of the table at the end of this subsection receives a gift (the *relevant gift*), the person or entity covered by column 2 of the item (the *responsible person* for the recipient) must, in accordance with this section, give the Electoral Commission a written notice in relation to the relevant gift, if:
- (a) the relevant gift is credited to a federal account in relation to the recipient; and
  - (b) subsection 287AAB(4) applies to the relevant gift; and
  - (c) either or both of the following apply:
    - (i) the amount or value of the relevant gift is more than the disclosure threshold;
    - (ii) the total amount or value of all gifts credited in relation to the recipient, during the calendar year in which the relevant gift is credited, is more than the disclosure threshold.

Note 1: Under subsection 287AAB(4), certain amounts that are credited to a federal account by the financial controller are gifts.

Note 2: The notice must be given before the end of the period worked out in accordance with the table in subsection (2) of this section.

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 value, or an estimate of the amount or value, of the relevant gift—3 times that amount or value.

**Schedule 2** Expedited disclosure of donations

**Part 1** Amendment of the Commonwealth Electoral Act 1918

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**Donation disclosure notices**

<b>Item</b>	<b>Column 1 Recipient</b>	<b>Column 2 Responsible person</b>
1	A person or entity that, at the time the relevant gift is credited, is registered as: (a) a significant third party; or (b) an associated entity	The financial controller of the person or entity
2	A person or entity that, at the time the relevant gift is credited, is a third party	The third party

*Period for giving notice*

- (2) The notice in relation to the relevant gift must be given to the Electoral Commission before the end of the period worked out in accordance with the following table.

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**Time for giving notice**

<b>Item</b>	<b>Column 1 If the recipient is ...</b>	<b>Column 2 then the notice must be given before the end of ...</b>
1	A person or entity that, at the time the relevant gift is credited, is: (a) either: (i) registered as a significant third party or associated entity; or (ii) a third party; and (b) not registered under the <i>Australian Charities and Not-for-profits Commission Act 2012</i>	(a) the period of 24 hours beginning at the time the relevant gift is credited if the relevant gift is credited at a time that occurs during the expedited notice period in relation to: (i) an election; or (ii) a by-election, if the recipient has incurred, or intends to incur, electoral expenditure in relation to the by-election; or (b) if the relevant gift is credited at a time that occurs during the election period in relation to the election or by-election mentioned in paragraph (a) and that paragraph does not apply—the period of 7 days beginning on the day the relevant gift is credited; or (c) if paragraphs (a) and (b) do not apply—the 21st day of the calendar month that immediately follows the calendar month in

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**Time for giving notice**

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<b>Item</b>	<b>Column 1</b> <b>If the recipient is ...</b>	<b>Column 2</b> <b>then the notice must be given before the end of ...</b>
		which the relevant gift is credited (subject to subsection (4))
2	A person or entity that, at the time the relevant gift is credited, is: (a) either: (i) registered as a significant third party; or (ii) a third party; and (b) registered under the <i>Australian Charities and Not-for-profits Commission Act 2012</i>	The 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is credited (subject to subsection (5))

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the giving of the notice (see section 303N of this Act).

*Other requirements for notice*

- (3) The notice under subsection (1) must:
- (a) be in the approved form; and
  - (b) set out the details required by section 303M (content of donation disclosure notices).

*Gifts credited close to the start of an election period—recipient other than registered charity*

- (4) Despite subsection (2), if:
- (a) a gift is credited in relation to a recipient (other than a recipient covered by column 1 of item 2 of the table in subsection (2)) before the start of the election period in relation to:

- (i) an election; or
  - (ii) a by-election, if the recipient is covered by subsection (6) in relation to the by-election; and
- (b) at the time the election period starts, the responsible person for the recipient has not given the Electoral Commission a notice under subsection (1) in relation to the gift;
- then the responsible person must give the Electoral Commission the notice on or before the end of the earlier of the following days:
- (c) the 21st day of the calendar month that immediately follows the calendar month in which the gift is credited;
  - (d) the day before the day that is 12 days before polling day for the election or by-election (as the case requires).

*Gift credited by registered charity during an election period*

- (5) Despite subsection (2), if a gift is credited in relation to a recipient covered by column 1 of item 2 of the table in subsection (2):
- (a) after the start of the election period in relation to:
    - (i) an election; or
    - (ii) a by-election, if the recipient is covered by subsection (6) in relation to the by-election; and
  - (b) before the Thursday that immediately precedes the polling day for the election or by-election;
- then the responsible person for the recipient must give the Electoral Commission the notice on or before the earlier of the following days:
- (c) the 21st day of the calendar month that immediately follows the calendar month in which the relevant gift is credited;
  - (d) the Thursday mentioned in paragraph (b).
- (6) A recipient is covered by this subsection in relation to a by-election if the recipient:
- (a) is a significant third party, an associated entity or a third party; and
  - (b) has incurred, or intends to incur, electoral expenditure in relation to the by-election.



*Special provision if recipient is more than one kind of person or entity*

- (7) Despite subsection (1), a person or entity is not required to give a notice under that subsection in relation to a gift if:
- (a) the recipient of the gift is covered by column 1 of more than one item in the table in that subsection; and
  - (b) a person or entity covered by column 2 of any one of those items has already given a notice under that subsection in relation to the gift.

### **303M Content of donation disclosure notices given by recipients**

A donation disclosure notice given under section 303L in relation to a gift must set out the following details:

- (a) the name of the person or entity (the *recipient*) in relation to whom the gift is credited;
- (b) the amount or value of the gift;
- (c) the date on which the gift was credited to the federal account;
- (d) the number of memberships, subscriptions or other persons in respect of whom the gift was paid;
- (e) if the total amount or value of all gifts credited in relation to the recipient during the calendar year in which the gift is credited is more than the disclosure threshold—the total amount or value of all gifts so far credited in relation to the recipient during the calendar year;
- (f) if the federal account is not in the name of the person who gave the donation disclosure notice—the name of that person.

Note 1: A failure to include these details in a donation disclosure notice may contravene a civil penalty provision (see section 303L).

Note 2: A donation disclosure notice may be amended after it has been given to the Electoral Commission (see section 319A).

### **303N Relationship with other laws**

Subsection 36(2) of the *Acts Interpretation Act 1901* (which deals with calculating time) does not apply to an act mentioned in this Subdivision.

### 303P No continuing contraventions

Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection 303L(1) of this Act.

### Subdivision F—Publication of information about certain other gifts

#### 303Q Electoral Commissioner must publish information

- (1) The Electoral Commissioner must publish on the Transparency Register the following information contained in a donation disclosure notice under subsection 303L(1) in relation to a gift:
  - (a) the name of the person or entity (the *recipient*) in relation to whom the gift was credited;
  - (b) the date on which the gift was credited;
  - (c) the amount of the gift;
  - (d) if the total amount or value of all gifts to which that subsection applies credited in relation to the recipient during the calendar year in which the gift was credited is more than the disclosure threshold—the total amount or value of all gifts so far credited.

Note: If a donation disclosure notice relates to more than one gift, the Electoral Commissioner must publish the information in this subsection in relation to each gift covered by the notice.

#### *Time for publishing information*

- (2) The Electoral Commissioner must publish the information before the end of:
  - (a) the period of 24 hours beginning at the time the donation disclosure notice is received by the Electoral Commission, if:
    - (i) the gift is credited in relation to the recipient during the period beginning on the day of issue of the writ for an election and ending at the end of the seventh day after polling day for the election; or
    - (ii) the gift is credited in relation to the recipient during the period beginning on the day of issue of the writ for a by-election and ending at the end of the seventh day after polling day for the by-election, and the recipient is

- covered by subsection (3) in relation to the by-election;  
or
- (iii) the gift is covered by subsection 303L(4) (gifts credited close to the start of an election period); or
- (iv) the donation disclosure notice is otherwise received by the Electoral Commission during the election period in relation to an election; or
- (b) in any other case—the period of 10 days beginning on the day the donation disclosure notice is received by the Electoral Commission.

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the publication of information under subsection (1) of this section (see section 303R of this Act).

- (3) A recipient is covered by this subsection in relation to a by-election if the recipient is a significant third party, an associated entity or a third party and, in the opinion of the Electoral Commissioner, the recipient has incurred, or intends to incur, electoral expenditure in relation to the by-election.

*False or misleading information*

- (4) Despite subsection (1), the Electoral Commissioner is not required to publish on the Transparency Register information contained in a donation disclosure notice if the Electoral Commissioner reasonably believes that the information is false or misleading in a material particular.

*Publication of other information where acceptable action taken*

- (5) If, in relation to a gift, the recipient referred to in paragraph (1)(a) advises the Electoral Commissioner that acceptable action has been taken in relation to the gift, the Electoral Commissioner must publish the following in the entry in the Transparency Register relating to the gift before the end of the period of 24 hours beginning at the time the recipient so advises the Electoral Commissioner:
  - (a) a statement that the recipient has advised the Electoral Commissioner that acceptable action has been taken in relation to the gift;

(b) such other information (if any) prescribed by regulations made for the purposes of this paragraph.

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the publication of a statement or information under this subsection (see section 303R of this Act).

### **303R Relationship with other laws**

Subsection 36(2) of the *Acts Interpretation Act 1901* (which deals with calculating time) does not apply to an act mentioned in this Subdivision.

### **5 Before section 306A**

Insert:

### **Subdivision G—Loans and repayments of gifts etc.**

### **6 Paragraph 306A(3)(a)**

After “conditions of the loan”, insert “(including, without limitation, the total amount of the loan, the term of the loan, and the rate at which any interest is payable on the loan)”.

### **7 Subsections 306A(7A) and (7B)**

Repeal the subsections.

### **8 Subsections 306B(3) and (4)**

Repeal the subsections.

### **9 Section 307**

Repeal the section.

### **10 Paragraph 317(1)(a)**

Omit “return or claim”, substitute “return, claim or donation disclosure notice”.

### **11 After paragraph 317(2)(c)**

Insert:

(ca) if the record relates to a donation disclosure notice in relation to a gift—5 years after the day the gift is made; and

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**12 Section 318 (at the end of the heading)**

Add “or donation disclosure notices”.

**13 Subsection 318(1)**

Omit “furnish a return under Division 4, 5 or 5A”, substitute “give a donation disclosure notice under Division 4, or furnish a return under Division 5,”.

**14 Subsection 318(1)**

After “complete the return”, insert “or donation disclosure notice”.

**15 Subsection 318(1)**

After “preparation of the return”, insert “or donation disclosure notice”.

**16 Paragraphs 318(1)(a) to (c)**

After “return” (wherever occurring), insert “or donation disclosure notice”.

**17 Subsection 318(1)**

After “to have furnished a return”, insert “, or given a donation disclosure notice,”.

**18 Subsection 318(2)**

After “return”, insert “or donation disclosure notice”.

**19 Subsection 318(2A)**

Omit “a return under Division 4, 5 or 5A”, substitute “a donation disclosure notice under Division 4, or a return under Division 5,”.

**20 Subsection 318(2A)**

After “taken to be a return”, insert “or donation disclosure notice”.

**21 Subsection 318(3A)**

After “to have furnished a return”, insert “, or given a donation disclosure notice,”.

**22 Section 319A (heading)**

Omit “claims and returns”, substitute “claims, returns and disclosure donation notices”.

**23 Subsection 319A(1)**

Omit “claim or return” (wherever occurring), substitute “claim, return or donation disclosure notice”.

**24 Subsection 319A(2)**

After “furnished a return”, insert “or given a donation disclosure notice”.

**25 Subsection 319A(2)**

After “the return”, insert “or donation disclosure notice”.

**26 Subsection 319A(2A)**

After “the return was furnished”, insert “, or the donation disclosure notice was given,”.

**27 Paragraph 319A(2A)(d)**

After “the return”, insert “or gave the donation disclosure notice”.

**28 At the end of paragraph 319A(2A)(f)**

Add “or give a donation disclosure notice (as the case requires)”.

**29 Subsection 319A(4)**

After “the return” (wherever occurring), insert “or donation disclosure notice”.

**30 Subsection 319A(9)**

After “a return”, insert “or donation disclosure notice”.

**31 At the end of subsection 319A(9)**

Add “or the giving of the donation disclosure notice”.

**32 At the end of subsection 320(1)**

Add:

Note: For the publication of donation disclosure notices under Division 4, see sections 303J and 303Q.

**33 Section 321B (paragraph (g) of the definition of *disclosure entity*)**

Repeal the paragraph, substitute:

- (g) if that time occurs in a calendar year—a person or entity who:
- (i) made a gift at a time in that calendar year that occurs before the particular time; and
  - (ii) was required to give the Electoral Commission a notice under section 303E in relation to the making of the gift.

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

Repeal the note.

## **Part 2—Amendment of the Referendum (Machinery Provisions) Act 1984**

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

#### **35 Subsection 3(1)**

Insert:

*donation disclosure notice* means a notice under subsection 109GA(1).

*referendum gift period* means the period:

- (a) starting on the day that is 6 months before the writ for a referendum is issued; and
- (b) ending at the end of the seventh day after the voting day for the referendum.

*Transparency Register* means the register established and maintained by the Electoral Commissioner under section 287N of the *Commonwealth Electoral Act 1918*.

#### **36 Paragraph 109E(4)(b)**

Omit “approved form; and”, substitute “approved form.”.

#### **37 Paragraph 109E(4)(c)**

Repeal the paragraph.

#### **38 Section 109F**

Repeal the section.

#### **39 Paragraph 109G(1)(a)**

Omit “referendum expenditure period”, substitute “referendum gift period”.

#### **40 Subsection 109G(2)**

Omit “referendum expenditure period”, substitute “referendum gift period”.



**41 Paragraph 109G(3)(a)**

Omit “referendum expenditure period”, substitute “referendum gift period”.

**42 After Division 2 of Part VIIIA**

Insert:

**Division 2A—Expedited disclosure of referendum gifts**

**109GA Requirements for referendum entities**

- (1) A person or entity (the *recipient*) that is a referendum entity for a referendum expenditure period must, in accordance with this section, give the Electoral Commission a written notice in relation to a gift if:
  - (a) the recipient receives the gift from another person or entity (the *donor*) during the referendum gift period; and
  - (b) either or both of the following apply:
    - (i) the amount or value of the gift is more than the disclosure threshold;
    - (ii) the total amount or value of all gifts received by the recipient from the donor during the referendum gift period is more than the disclosure threshold; and
  - (c) either or both of the following apply:
    - (i) the recipient knows that the donor intends the gift to be used for the purposes of incurring referendum expenditure, or for the dominant purpose of creating or communicating referendum matter;
    - (ii) the recipient accepted the gift intending to use the gift for the purposes of incurring referendum expenditure, or for the dominant purpose of creating or communicating referendum matter.

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 value, or an estimate of the amount or value, of the

gift mentioned in paragraph (a)—3 times that amount or value.

- (2) Subsection (1) applies to gifts received by the recipient whether or not the recipient was a referendum entity for the referendum expenditure period at the time the gift was received.

*Time for giving notice*

- (3) The recipient must give the Electoral Commission the notice in relation to the gift before the end of the period of:
- (a) if the recipient receives the gift during the period:
    - (i) beginning on the Saturday that immediately precedes voting day for the referendum; and
    - (ii) ending at the end of the seventh day after voting day for the referendum;24 hours beginning at the time the gift is received; or
  - (b) if the recipient receives the gift during the referendum period for the referendum and paragraph (a) does not apply—7 days beginning on the later of the following:
    - (i) the day the gift is received;
    - (ii) the day the recipient becomes a referendum entity for the referendum expenditure period; or
  - (c) if paragraphs (a) and (b) do not apply—7 days beginning on the later of the following:
    - (i) the day the writ for the referendum is issued;
    - (ii) the day the recipient becomes a referendum entity for the referendum expenditure period.

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the giving of the notice (see section 109GD of this Act).

*Form and content of notice*

- (4) The notice in relation to the gift must be in the approved form and set out the details required by section 109GB (content of donation disclosure notices).

### **109GB Content of donation disclosure notices**

A donation disclosure notice in relation to a gift must set out the following details:

- (a) the name of the person or entity (the *recipient*) who received the gift;
- (b) the amount or value of the gift;
- (c) the date on which the gift was received;
- (d) if the person or entity who made the gift (the *donor*) made the gift on behalf of the members of an unincorporated association, other than a registered industrial organisation:
  - (i) the name of the association; and
  - (ii) the names and addresses of the members of the executive committee (however described) of the association;
- (e) if the donor is the trustee of a trust and the gift was purportedly made out of a trust fund or out of the funds of a foundation:
  - (i) the names and addresses of the trustees of the fund or of the foundation; and
  - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires;
- (f) if the donor is not covered by paragraph (d) or (e)—the name and address of the donor;
- (g) if the total amount or value of all gifts received by the recipient from the donor during the referendum gift period in which the gift is received is more than the disclosure threshold—the total amount or value of all gifts so far received by the recipient from the donor during the referendum gift period.

Note: A failure to include these details in a donation disclosure notice may contravene a civil penalty provision (see section 109GA).

### **109GC Electoral Commissioner must publish information**

- (1) The Electoral Commissioner must publish on the Transparency Register the following information contained in a donation disclosure notice in relation to a gift:

- (a) the name of the person or entity (the *recipient*) that received the gift;
- (b) the date on which the gift was received by the recipient;
- (c) the information (other than an address) covered by whichever of paragraphs 109GB(d) to (f) is applicable in relation to the person or entity (the *donor*) that made the gift;
- (d) the amount or value of the gift;
- (e) if the total amount or value of all gifts received by the recipient from the donor during the referendum gift period in which the gift was received is more than the disclosure threshold—the total amount or value of all gifts so far received.

*Time for publishing information*

- (2) The Electoral Commissioner must publish the information before the end of the period of 24 hours beginning at the time the donation disclosure notice is received by the Electoral Commission.

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* (calculating time) does not apply to the publication of information under this section (see section 109GD of this Act).

*False or misleading information*

- (3) Despite subsection (1), the Electoral Commissioner is not required to publish on the Transparency Register information contained in a donation disclosure notice if the Electoral Commissioner reasonably believes that the information is false or misleading in a material particular.

**109GD Relationship with other laws**

Subsection 36(2) of the *Acts Interpretation Act 1901* (which deals with calculating time) does not apply to an act mentioned in this Division.

**109GE No continuing contraventions**

Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection 109GA(1).

**43 Paragraph 109M(1)(b)**

Omit “109F, 109G,”, substitute “109G, 109GA,”.

**44 Paragraph 109U(1)(a)**

Omit “, 109F”.

**45 After paragraph 109U(1)(a)**

Insert:

(aa) records allowing the person to provide an accurate donation disclosure notice under section 109GA;

**46 Paragraph 109U(2)(b)**

After “a return”, insert “, or a donation disclosure notice,”.

**47 Section 109V (at the end of the heading)**

Add “or donation disclosure notices”.

**48 Subsection 109V(1)**

Omit “, 109F”.

**49 Subsection 109V(1)**

After “109G”, insert “, or give a donation disclosure notice under section 109GA,”.

**50 Subsection 109V(1)**

After “complete the return”, insert “or donation disclosure notice”.

**51 Subsection 109V(1)**

After “preparation of the return”, insert “or donation disclosure notice”.

**52 Paragraphs 109V(1)(a) to (c)**

After “return” (wherever occurring), insert “or donation disclosure notice”.

**53 Subsections 109V(2) and (3)**

After “return”, insert “or donation disclosure notice”.

**54 Subsection 109V(4)**

Omit “, 109F” (first occurring).

**55 Subsection 109V(4)**

After “109G” (first occurring), insert “, or in a donation disclosure notice under section 109GA,”.

**56 Subsection 109V(4)**

Omit “, 109F” (second occurring).

**57 Subsection 109V(4)**

After “109G” (second occurring), insert “or a donation disclosure notice given under section 109GA”.

**58 Subsection 109V(6)**

After “return”, insert “, or donation disclosure notice,”.

**59 Section 109X (at the end of the heading)**

Add “and donation disclosure notices”.

**60 Subsection 109X(1)**

Omit “, 109F”.

**61 Subsection 109X(1)**

After “109G”, insert “, or a donation disclosure notice under section 109GA,”.

**62 Subsection 109X(1)**

After “amend the return”, insert “or donation disclosure notice”.

**63 Subsections 109X(2), (4) and (9)**

After “return” (wherever occurring), insert “or donation disclosure notice”.

**64 Section 110A (paragraph (c) of the definition of *disclosure entity*)**

Repeal the paragraph, substitute:

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- (c) if that time occurs in a calendar year—a person or entity who:
- (i) made a gift at a time in that calendar year that occurs before the particular time; and
  - (ii) was required to give the Electoral Commission a notice under section 303E of that Act in relation to the making of the gift;

**65 Section 110A (note to the definition of *disclosure entity*)**

Repeal the note.

## Schedule 3—Gift caps

### Part 1—Amendments

#### *Commonwealth Electoral Act 1918*

##### 1 Section 302B

Insert:

***acceptable donor action*** is taken in relation to a gift that exceeds the annual gift cap for a calendar year, the overall gift cap for a calendar year, the State and Territory gift cap for a calendar year, the by-election gift cap or the Senate-only election gift cap (whichever is applicable) if the donor, in writing, requests the person or entity to which the gift was made to return to the donor:

- (a) the gift; or
- (b) an amount equal to the amount or value by which the gift exceeds the applicable gift cap.

***acceptable recipient action*** is taken in relation to a gift that exceeds the annual gift cap for a calendar year, the by-election gift cap or the Senate-only election gift cap (whichever is applicable) if:

- (a) the gift, or an amount equal to the amount or value by which the gift exceeds the applicable gift cap, is returned by, or on behalf of, the recipient to the donor; or
- (b) an amount equal to the amount or value of the gift, or the amount or value by which the gift exceeds the applicable gift cap, is transferred by, or on behalf of, the recipient to the Commonwealth, for the purposes of this Division.

***annual gift*** means a gift to which Subdivision AA applies under subsection 302CB(1).

***annual gift cap***, for a calendar year, means \$50,000.

Note 1: This amount is indexed under section 321A.

Note 2: The annual gift cap for a calendar year resets if a general election is held in the calendar year (see section 302CG).



***by-election gift*** means a gift to which Subdivision AA applies under subsection 302CB(2).

***by-election gift cap*** means \$50,000.

Note 1: This amount is indexed under section 321A.

Note 2: The by-election gift cap has effect only during the election period for a by-election (see subsection 302CB(2)).

Note 3: A gift made to a person or entity for the purposes of a by-election is not counted for the purposes of the annual gift cap, the overall gift cap or the State and Territory gift cap for the calendar year in which the by-election is held (see section 302CB).

***connected*** has the meaning given by subsection 302CJ(2).

***exceeds the annual gift cap*** has the meaning given by subsection 302BA(1).

***exceeds the by-election gift cap*** has the meaning given by subsection 302BA(2).

***exceeds the overall gift cap*** has the meaning given by subsections 302CI(2) and (3).

***exceeds the Senate-only election gift cap*** has the meaning given by subsection 302BA(3).

***exceeds the State and Territory gift cap*** has the meaning given by subsections 302CJ(3) and (4).

***overall gift cap*** for a calendar year means 32 times the annual gift cap for the calendar year.

Note: The overall gift cap for a calendar year resets if a general election is held in the calendar year (see section 302CK).

***Senate-only election gift*** means a gift to which Subdivision AA applies under subsection 302CB(3).

***Senate-only election gift cap*** means \$50,000.

Note 1: This amount is indexed under section 321A.

Note 2: The Senate-only election gift cap has effect only during the election period for the Senate-only election (see subsection 302CB(3)).

Note 3: A gift made to a person or entity for the purposes of a Senate-only election is not counted for the purposes of the annual gift cap, the

overall gift cap or the State and Territory gift cap for the calendar year in which the Senate-only election is held (see section 302CB).

***State and Territory gift cap*** means 5 times the annual gift cap.

Note: The State and Territory gift cap for a calendar year resets if a general election is held in the calendar year (see section 302CK).

## **2 After section 302B**

Insert:

### **302BA Meaning of *exceeds the annual gift cap* etc.**

*Meaning of exceeds the annual gift cap*

- (1) An annual gift ***exceeds the annual gift cap*** for a calendar year if:
- (a) the amount or value of the gift is more than the annual gift cap for the calendar year in which the gift is made; or
  - (b) the amount or value of the gift, when added to the amount or value of each previous annual gift (if any) that was made:
    - (i) to the same person or entity; and
    - (ii) by, or on behalf of, the same donor; and
    - (iii) in the same calendar year;results in an amount or value that is more than the annual gift cap for the calendar year; or
  - (c) the gift is made to a registered political party, or a person or entity related to a registered political party, and the amount or value of the gift, when added to the amount or value of each previous annual gift (if any) that was made:
    - (i) to the registered political party or any person or entity related to the registered political party; and
    - (ii) by, or on behalf of, the same donor; and
    - (iii) in the same calendar year;results in an amount or value that is more than the annual gift cap for the calendar year.

Note 1: See subsection (4) for when a person or entity is related to a registered political party.

Note 2: The annual gift cap for a calendar year resets if a general election is held in the calendar year (see section 302CG).

*Meaning of exceeds the by-election gift cap*

- (2) A by-election gift *exceeds the by-election gift cap* if:
- (a) the amount or value of the gift is more than the by-election gift cap; or
  - (b) the amount or value of the gift, when added to the amount or value of each previous by-election gift (if any) that was made:
    - (i) to the same person or entity; and
    - (ii) by, or on behalf of, the same donor; and
    - (iii) during the election period for the same by-election; results in an amount or value that is more than the by-election gift cap; or
  - (c) the gift is made to a registered political party, or a person or entity related to a registered political party, and the amount or value of the gift, when added to the amount or value of each previous by-election gift (if any) that was made:
    - (i) to the registered political party or any person or entity related to the registered political party; and
    - (ii) by, or on behalf of, the same donor; and
    - (iii) during the election period for the same by-election; results in an amount or value that is more than the by-election gift cap.

Note: See subsection (4) for when a person or entity is related to a registered political party.

*Meaning of exceeds the Senate-only election gift cap*

- (3) A Senate-only election gift *exceeds the Senate-only election gift cap* if:
- (a) the amount or value of the gift is more than the Senate-only election gift cap; or
  - (b) the amount or value of the gift, when added to the amount or value of each previous Senate-only election gift (if any) that was made:
    - (i) to the same person or entity; and
    - (ii) by, or on behalf of, the same donor; and
    - (iii) during the election period for the same Senate-only election;

results in an amount or value that is more than the Senate-only election gift cap; or

- (c) the gift is made to a registered political party, or a person or entity related to a registered political party, and the amount or value of the gift, when added to the amount or value of each previous Senate-only election gift (if any) that was made:
- (i) to the registered political party or any person or entity related to the registered political party; and
  - (ii) by, or on behalf of, the same donor; and
  - (iii) during the election period for the same Senate-only election;
- results in an amount or value that is more than the Senate-only election gift cap.

Note: See subsection (4) for when a person or entity is related to a registered political party.

*When a person or entity is related to a registered political party*

- (4) For the purposes of paragraphs (1)(c), (2)(c) and (3)(c), each of the following is **related** to a registered political party:
- (a) a member of the House of Representatives who is a member of the registered political party;
  - (b) a Senator who is a member of the registered political party;
  - (c) a candidate who is endorsed by the registered political party;
  - (d) the nominated entity (if any) registered as the registered political party's nominated entity, as set out in the Transparency Register at the time the relevant gift is made.

Note 1: For **registered political party**, see subsection 4(1).

Note 2: An effect of subsection (4) is that a registered political party is not **related** to another registered political party for the purposes of paragraph (1)(c), (2)(c) or (3)(c).

Example: The Quokka Party (ACT) is a registered political party, as is the Quokka Party (NSW).

The amounts of gifts received by the Quokka Party (ACT) will not be aggregated with the amounts of gifts received by the Quokka Party (NSW).

The amounts of gifts received by candidates endorsed by the Quokka Party (ACT) are aggregated only with the amounts of gifts received by

the Quokka Party (ACT), and not with the amounts of gifts received by candidates endorsed by the Quokka Party (NSW).

Note 3: See subsections 287(6) and (8) to (8D) for the treatment of related bodies corporate, and significant third parties, third parties, associated entities and their branches, for the purposes of this Part.

- (5) If (apart from this subsection), a person who is a member of the House of Representatives, a Senator or a candidate would be related to more than one registered political party for the purposes of paragraphs (1)(c), (2)(c) and (3)(c), then, despite subsection (4), the person is taken to be *related* only to:
- (a) if the person is a candidate—the registered political party that endorses the person; or
  - (b) if the person is a member of the House of Representatives or a Senator who is not a candidate:
    - (i) the registered political party that endorsed the person as a candidate in the election that most recently resulted in the person becoming a member of the House of Representatives or a Senator; or
    - (ii) if the person is a Senator who became a Senator other than as a result of an election—the registered political party that endorsed the person’s predecessor as a candidate for election to the Senate; or
  - (c) in any case, if the person has given the Electoral Commission a written notice in the approved form specifying another of the registered political parties—the registered political party most recently so specified.

### **3 Section 302C**

Repeal the section, substitute:

#### **302C Objects of this Division**

- (1) The objects of this Division are as follows:
- (a) to prevent Australian elections from being unfairly skewed by organisations or individuals with large amounts of money;
  - (b) to promote equal opportunity for all individuals and other entities to participate in political debate;
  - (c) to secure and promote the actual and perceived integrity of the Australian electoral process by reducing the risk of

persons and entities, including foreign persons and entities, exerting or being perceived to exert undue or improper influence in the outcomes of elections.

- (2) This Division aims to achieve these objects by:
- (a) limiting the amount or value of gifts for a federal purpose a single donor can make to the same recipient within a calendar year, or during an election period for a by-election or a Senate-only election; and
  - (b) restricting the receipt and use of gifts made by foreign persons or entities that do not have a legitimate connection to Australia.

#### **4 At the end of Subdivision A of Division 3A of Part XX**

Add:

##### **302CAA Gifts to Senate groups**

- (1) This section applies if a gift is made by or on behalf of a donor, to either of the following:
- (a) a group;
  - (b) an agent acting on behalf of a group.
- (2) For the purposes of this Part:
- (a) if the group is a single-party endorsed group—the party that endorsed the candidates in the group is taken to have received the gift; and
  - (b) if the group is a jointly endorsed group or none of the group's members is a candidate endorsed by a registered political party—each member of the group is taken to have received an equal share of the gift (rounded to the nearest dollar); and
  - (c) in any case—the group is taken not to have received the gift.

Note: Candidates may be subject to expedited disclosure requirements in relation to their share of the gift (see section 303A). Gifts received by endorsed candidates of a registered political party may be aggregated in certain circumstances for the purpose of determining whether a gift exceeds the relevant gift cap (see section 302BA).

#### **5 After Subdivision A of Division 3A of Part XX**

Insert:

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**Subdivision AA—Civil penalty provisions relating to annual gift cap, by-election gift cap and Senate-only election gift cap**

**302CB Gifts to which this Subdivision applies**

*Gifts made for a federal purpose—general*

- (1) This Subdivision applies to a gift (other than a gift to which subsection (2) or (3) applies) made for a federal purpose, by or on behalf of a donor, to any of the following:
- (a) a registered political party;
  - (b) a State branch of a registered political party;
  - (c) a member of the House of Representatives;
  - (d) a Senator;
  - (e) a candidate;
  - (f) an associated entity;
  - (g) a significant third party;
  - (h) a nominated entity;
  - (i) a third party.

Note: For *federal purpose*, see subsection 287(1).

*Gifts made for a federal purpose—by-election*

- (2) This Subdivision applies to a gift made for a federal purpose by, or on behalf of, a donor if the gift:
- (a) is to a person or entity referred to in any of paragraphs (1)(a) to (i); and
  - (b) is for the purposes of a by-election; and
  - (c) is made during the election period for the by-election.

*Gifts made for a federal purpose—Senate-only election*

- (3) This Subdivision applies to a gift made for a federal purpose by, or on behalf of, a donor if the gift:
- (a) is to a person or entity referred to in any of paragraphs (1)(a) to (i); and
  - (b) is for the purposes of a Senate-only election; and

(c) is made during the election period for the Senate-only election.

**302CC Responsible person for recipients of gifts to which this Subdivision applies**

For the purposes of this Subdivision, the person or entity specified in column 2 of an item in the following table is the *responsible person* for a person or entity (the *recipient*) specified in column 1 of that item.

<b>Responsible person for a recipient of an annual gift, a by-election gift or a Senate-only election gift</b>		
<b>Item</b>	<b>Column 1 Recipient</b>	<b>Column 2 Responsible person</b>
1	A registered political party	The registered officer of the registered political party
2	A State branch of a registered political party	Whichever of the following applies: (a) if the State branch is a registered political party—the registered officer of the State branch; (b) otherwise—the agent of the State branch
3	A member of the House of Representatives	Whichever of the following applies: (a) if the member is a member of a registered political party—the registered officer of the registered political party; (b) otherwise—the member
4	A Senator	Whichever of the following applies: (a) if the Senator is a member of a registered political party—the registered officer of the registered political party; (b) otherwise—the Senator
5	A candidate	Whichever of the following applies: (a) if the candidate is endorsed by a registered political party—the registered officer of the



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**Responsible person for a recipient of an annual gift, a by-election gift or a Senate-only election gift**

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<b>Item</b>	<b>Column 1 Recipient</b>	<b>Column 2 Responsible person</b>
		registered political party; (b) otherwise—the agent of the candidate
6	An associated entity	The financial controller of the associated entity
7	A significant third party	The financial controller of the significant third party
8	A nominated entity	The financial controller of the nominated entity
9	A third party	The third party

Note: For table item 5, the agent of a candidate in an election or by-election is either the candidate or a person appointed by the candidate (see section 289).

**302CD Gifts exceeding annual gift cap**

*Gifts received by a person or entity*

- (1) A person or entity contravenes this subsection if:
- (a) the person or entity is the responsible person for a person or entity referred to in any of paragraphs 302CB(1)(a) to (i) (the **recipient**); and
  - (b) the recipient receives an annual gift; and
  - (c) at the time the gift is made, the gift exceeds the annual gift cap for the calendar year in which the gift is made.

Note 1: For **exceeds the annual gift cap**, see subsections 302BA(1) and (4).

Note 2: The amount or value by which the annual gift exceeds the annual gift cap may be a debt due to the Commonwealth under section 302Q.

Note 3: See subsections 287(6) and (8) to (8D) for the treatment of related bodies corporate, and significant third parties, third parties, associated entities and their branches, for the purposes of this Part.

*Gifts made by a person or entity*

- (2) A person or entity (the **donor**) contravenes this subsection if:

- (a) the donor makes an annual gift; and
- (b) at the time the gift is made, the gift exceeds the annual gift cap for the calendar year in which the gift is made.

Note 1: For *exceeds the annual gift cap*, see subsections 302BA(1) and (4).

Note 2: The amount or value by which the annual gift exceeds the annual gift cap may be a debt due to the Commonwealth under section 302Q.

Note 3: See subsections 287(6) and (8) to (8D) for the treatment of related bodies corporate, and significant third parties, third parties, associated entities and their branches, for the purposes of this Part.

*Exception—no knowledge annual gift cap exceeded*

- (3) Subsection (1) does not apply if:

- (a) at the time the annual gift was received, the responsible person did not know, and could not reasonably have known, that the gift exceeded the annual gift cap for the calendar year; and
- (b) acceptable recipient action was taken in relation to the gift within 6 weeks after the responsible person became aware that the gift exceeded the annual gift cap for the calendar year.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

- (4) Subsection (2) does not apply if:

- (a) at the time the annual gift was made, the donor did not know, and could not reasonably have known, that the gift exceeded the annual gift cap for the calendar year; and
- (b) the donor took acceptable donor action in relation to the gift within 6 weeks after the donor became aware that the gift exceeded the annual gift cap for the calendar year.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

*Civil penalty*

- (5) A person or entity is liable to a civil penalty if the person or entity contravenes subsection (1) or (2).

Civil penalty:

The higher of the following amounts:

- (a) 200 penalty units;
- (b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, by which the annual gift exceeded the annual gift cap for the calendar year at the time the gift was made—3 times that amount or value.

### **302CE Gifts exceeding by-election gift cap**

*Gifts received by a person or entity*

- (1) A person or entity contravenes this subsection if:
  - (a) the person or entity is the responsible person for a person or entity referred to in any of paragraphs 302CB(1)(a) to (i) (the **recipient**); and
  - (b) the recipient receives a by-election gift; and
  - (c) at the time the gift is made, the gift exceeds the by-election gift cap.

Note 1: For **exceeds the by-election gift cap**, see subsections 302BA(2) and (4).

Note 2: The amount or value by which the by-election gift exceeds the by-election gift cap may be a debt due to the Commonwealth under section 302Q.

Note 3: See subsections 287(6) and (8) to (8D) for the treatment of related bodies corporate, and significant third parties, third parties, associated entities and their branches, for the purposes of this Part.

*Gifts made by a person or entity*

- (2) A person or entity (the **donor**) contravenes this subsection if:
  - (a) the donor makes a by-election gift; and
  - (b) at the time the gift is made, the gift exceeds the by-election gift cap.

Note 1: For **exceeds the by-election gift cap**, see subsections 302BA(2) and (4).

**Schedule 3** Gift caps  
**Part 1** Amendments

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Note 2: The amount or value by which the by-election gift exceeds the by-election gift cap may be a debt due to the Commonwealth under section 302Q.

Note 3: See subsections 287(6) and (8) to (8D) for the treatment of related bodies corporate, and significant third parties, third parties, associated entities and their branches, for the purposes of this Part.

*Exception—no knowledge by-election gift cap exceeded*

(3) Subsection (1) does not apply if:

- (a) at the time the by-election gift was received, the responsible person did not know, and could not reasonably have known, that the gift exceeded the by-election gift cap; and
- (b) acceptable recipient action was taken in relation to the gift within 6 weeks after the responsible person became aware that the gift exceeded the by-election gift cap.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

(4) Subsection (2) does not apply if:

- (a) at the time the by-election gift was made, the donor did not know, and could not reasonably have known, that the gift exceeded the by-election gift cap; and
- (b) the donor took acceptable donor action in relation to the gift within 6 weeks after the donor became aware that the gift exceeded the by-election gift cap.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

*Civil penalty*

(5) A person or entity is liable to a civil penalty if the person or entity contravenes subsection (1) or (2).

Civil penalty:

The higher of the following amounts:

- (a) 200 penalty units;
- (b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, by

which the by-election gift exceeded the by-election gift cap at the time the gift was made—3 times that amount or value.

### **302CF Gifts exceeding Senate-only election gift cap**

#### *Gifts received by a person or entity*

- (1) A person or entity contravenes this subsection if:
- (a) the person or entity is the responsible person for a person or entity referred to in any of paragraphs 302CB(1)(a) to (i) (the **recipient**); and
  - (b) the recipient receives a Senate-only election gift; and
  - (c) at the time the gift is made, the gift exceeds the Senate-only election gift cap.

Note 1: For **exceeds the Senate-only election gift cap**, see subsections 302BA(3) and (4).

Note 2: The amount or value by which the Senate-only election gift exceeds the Senate-only election gift cap may be a debt due to the Commonwealth under section 302Q.

Note 3: See subsections 287(6) and (8) to (8D) for the treatment of related bodies corporate, and significant third parties, third parties, associated entities and their branches, for the purposes of this Part.

#### *Gifts made by a person or entity*

- (2) A person or entity (the **donor**) contravenes this subsection if:
- (a) the donor makes a Senate-only election gift; and
  - (b) at the time the gift is made, the gift exceeds the Senate-only election gift cap.

Note 1: For **exceeds the Senate-only election gift cap**, see subsections 302BA(3) and (4).

Note 2: The amount or value by which the Senate-only election gift exceeds the Senate-only election gift cap may be a debt due to the Commonwealth under section 302Q.

Note 3: See subsections 287(6) and (8) to (8D) for the treatment of related bodies corporate, and significant third parties, third parties, associated entities and their branches, for the purposes of this Part.

#### *Exception—no knowledge Senate-only election gift cap exceeded*

- (3) Subsection (1) does not apply if:

- (a) at the time the Senate-only election gift was received, the responsible person did not know, and could not reasonably have known, that the gift exceeded the Senate-only election gift cap; and
- (b) acceptable recipient action was taken in relation to the gift within 6 weeks after the responsible person became aware that the gift exceeded the Senate-only election gift cap.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

(4) Subsection (2) does not apply if:

- (a) at the time the Senate-only election gift was made, the donor did not know, and could not reasonably have known, that the gift exceeded the Senate-only election gift cap; and
- (b) the donor took acceptable donor action in relation to the gift within 6 weeks after the donor became aware that the gift exceeded the Senate-only election gift cap.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

*Civil penalty*

- (5) A person or entity is liable to a civil penalty if the person or entity contravenes subsection (1) or (2).

Civil penalty:

The higher of the following amounts:

- (a) 200 penalty units;
- (b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, by which the Senate-only election gift exceeded the Senate-only election gift cap at the time the gift was made—3 times that amount or value.

### **302CG Annual gift cap resets if general election is held in calendar year**

- (1) If a general election is held in a calendar year, then, in determining for the purposes of a provision of this Part whether an annual gift exceeds the annual gift cap, the following periods in the calendar year are taken to be different calendar years:
  - (a) the period ending on the day that is 30 days after the writs for the general election are returned;
  - (b) the period starting immediately after that period ends.
- (2) Subsection (1) does not apply if the period mentioned in paragraph (1)(a) ends after the end of the calendar year.

### **Subdivision AB—Receipts for certain gifts**

#### **302CH Receipts for certain gifts**

- (1) This section applies in relation to an amount paid by a person as a contribution, entry fee or other payment to attend, or otherwise obtain a benefit from, a fundraising venture or function, if the amount is, or can reasonably be assumed to be, a gift:
  - (a) within the meaning of paragraph 287AAB(2)(a); and
  - (b) to which Subdivision AA applies.

Note: See section 302CB for gifts to which Subdivision AA applies.

- (2) The responsible person for the recipient of the gift must, as soon as practicable after receiving the gift, give the donor a receipt that specifies how much of the gift the responsible person reasonably believes forms part of the net proceeds of the venture or function.

Note: Expedited disclosure obligations may apply in relation to the gift depending on when it is made (see Subdivisions B and C of Division 4).

- (3) If the responsible person's reasonable belief changes, the responsible person must give the donor an updated receipt.
- (4) The donor is entitled to rely on a receipt given under this section for the purposes of the donor's disclosure obligations under Subdivision C of Division 4.

**Subdivision AC—Civil penalty provisions relating to overall gift cap and State and Territory gift cap**

**302CI Gifts exceeding overall gift cap**

- (1) A person or entity (the *donor*) contravenes this subsection if:
- (a) at a time in a calendar year, the donor makes an annual gift to any of the following (an *overall gift cap entity*):
    - (i) a registered political party;
    - (ii) a State branch of a registered political party;
    - (iii) a member of the House of Representatives;
    - (iv) a Senator;
    - (v) a candidate;
    - (vi) a nominated entity; and
  - (b) at that time, the gift exceeds the overall gift cap for the calendar year.

Note: The overall gift cap is 32 times the annual gift cap (see section 302B).

- (2) An annual gift *exceeds the overall gift cap* for a calendar year if the amount or value of the gift is more than the overall gift cap for the calendar year.
- (3) An annual gift also *exceeds the overall gift cap* for a calendar year if:
- (a) the gift is made:
    - (i) in the calendar year; and
    - (ii) by a person or entity; and
    - (iii) to an overall gift cap entity; and
  - (b) the amount or value of the gift, when added to the amount or value of each previous annual gift (if any) made:
    - (i) in that calendar year; and
    - (ii) by that person or entity; and
    - (iii) to any overall gift cap entity;results in an amount or value that is more than the overall gift cap for the calendar year.



*Exception—no knowledge overall gift cap exceeded*

- (4) Subsection (1) does not apply if:
- (a) at the time the annual gift was made, the donor did not know, and could not reasonably have been expected to know, that the gift exceeded the overall gift cap for the calendar year; and
  - (b) the donor took acceptable donor action in relation to the gift within 6 weeks after the donor became aware that the gift exceeded the overall gift cap for the calendar year.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

*Civil penalty*

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

Civil penalty:

The higher of the following amounts:

- (a) 200 penalty units;
- (b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, by which the gift exceeded the overall gift cap at the time the gift was made—3 times that amount or value.

**302CJ Gifts exceeding State and Territory gift cap**

- (1) A person or entity (the *donor*) contravenes this subsection if:
- (a) at a time in a calendar year, the donor makes an annual gift to a person or entity connected to a State or Territory (see subsection (2)); and
  - (b) at that time, the gift exceeds the State and Territory gift cap for the calendar year, in relation to the State or Territory that the person or entity is connected to.

Note: The State and Territory gift cap is 5 times the annual gift cap (see section 302B).

- (2) A person or entity is **connected** to a State or Territory if the person or entity is any of the following:
- (a) a political party that is a State branch in the State or Territory;
  - (b) a member of the House of Representatives for a Division in the State or Territory;
  - (c) a Senator for the State or Territory;
  - (d) a candidate in a general election for a Division in the State or Territory;
  - (e) a candidate in a Senate election for the State or Territory;
  - (f) a nominated entity of a registered political party covered by paragraph (a).
- (3) An annual gift made to a person or entity connected to a State or Territory **exceeds the State and Territory gift cap** for a calendar year, in relation to the State or Territory the person or entity is connected to, if the amount or value of the gift is more than the State and Territory gift cap for the calendar year.
- (4) An annual gift made to a person or entity connected to a State or Territory also **exceeds the State and Territory gift cap** for a calendar year, in relation to the State or Territory the person or entity is connected to, if:
- (a) the gift is made:
    - (i) in the calendar year; and
    - (ii) by a person or entity; and
  - (b) the amount or value of the gift, when added to the amount of value of each previous annual gift (if any) made:
    - (i) in that calendar year; and
    - (ii) by that person or entity; and
    - (iii) to any person or entity connected to that State or Territory;results in an amount or value that is more than the State and Territory gift cap for the calendar year.

*Exception—no knowledge State and Territory gift cap exceeded*

- (5) Subsection (1) does not apply if:
-

- (a) at the time the annual gift was made, the donor did not know, and could not reasonably have been expected to know, that the gift exceeded the State and Territory gift cap for the calendar year in relation to the State or Territory that the person or entity that received the gift is connected to; and
- (b) the donor took acceptable donor action in relation to the gift within 6 weeks after the donor became aware that the gift exceeded the State and Territory gift cap for the calendar year in relation to the State or Territory.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

*Civil penalty*

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

Civil penalty:

The higher of the following amounts:

- (a) 200 penalty units;
- (b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, by which the gift exceeded the State and Territory gift cap in relation to the State or Territory at the time the gift was made—3 times that amount or value.

**302CK Overall gift cap and State and Territory gift cap reset if general election is held in calendar year**

*Overall gift cap resets*

- (1) If a general election is held in a calendar year, then, in determining for the purposes of a provision of this Part whether an annual gift exceeds the overall gift cap, the following periods in the calendar year are to be treated as if they were different calendar years:
  - (a) the period ending on the day that is 30 days after the writs for the general election are returned;
  - (b) the period starting immediately after that period ends.

*State and Territory gift cap resets*

- (2) If a general election is held in a calendar year, then, in determining for the purposes of a provision of this Part whether an annual gift exceeds the State and Territory gift cap in relation to a State or Territory, the following periods in the calendar year are to be treated as if they were different calendar years:
- (a) the period ending on the day that is 30 days after the writs for the general election are returned;
  - (b) the period starting immediately after that period ends.

*Exception*

- (3) Subsections (1) and (2) do not apply if the period mentioned in paragraph (1)(a) or (2)(a) ends after the end of the calendar year.

**6 Subdivision D of Division 3A of Part XX (heading)**

Repeal the heading.

**7 Paragraph 302Q(1)(b)**

Omit all the words after “any other person”, substitute:  
contravened:

- (i) section 302CD, 302CE or 302CF in relation to the gift;  
or
- (ii) any of sections 302D to 302F in relation to the gift.

**8 Subsection 302Q(2)**

Repeal the subsection, substitute:

- (2) If subparagraph (1)(b)(i) applies, the amount or value by which the gift exceeds the annual gift cap, the by-election gift cap or the Senate-only election gift cap (as the case may be) (determined at the time the gift is made):
- (a) is payable by the gift recipient to the Commonwealth; and
  - (b) may be recovered by the Commonwealth as a debt due to the Commonwealth by action in a court of competent jurisdiction.
- (3) If subparagraph (1)(b)(ii) applies, the amount or value of the gift (determined at the time the gift is made):

- (a) is payable by the gift recipient to the Commonwealth; and
- (b) may be recovered by the Commonwealth as a debt due to the Commonwealth by action in a court of competent jurisdiction.

## 9 Section 321A

Repeal the section, substitute:

### 321A Indexation of gift cap amounts etc. each calendar year

- (1) This section applies to the dollar amounts specified in the following provisions (each of the amounts is an *indexable amount*):
  - (a) the definition of *annual gift cap* in section 302B;
  - (b) the definition of *by-election gift cap* in section 302B;
  - (c) the definition of *Senate-only election gift cap* in section 302B;
  - (d) the definition of *third party threshold* in subsection 287(1).
- (2) An indexable amount, for an indexation year the indexation factor for which is greater than 1, is replaced by the amount worked out using the following formula:  
$$\text{Indexable amount for the previous calendar year} \times \text{Indexation factor for the indexation year}$$
- (3) A dollar amount worked out for the purposes of subsection (2) is to be rounded to the nearest \$100 (rounding \$50 or more upwards).
- (4) The *indexation factor* for an indexation year is the number worked out using the following formula:  
$$\frac{\text{September quarter index number for the previous calendar year}}{\text{September quarter index number for the year before the previous calendar year}}$$
- (5) The indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the fourth decimal place is more than 4.
- (6) Calculations under subsection (4):

- (a) are to be made using only the September quarter index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
  - (b) are to be made disregarding September quarter index numbers that are published in substitution for previously published September quarter index numbers (except where the substituted numbers are published to take account of changes in the index reference period).
- (7) In this section:

***indexation year*** means each calendar year beginning on 1 January.

***September quarter index number*** means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of the 3 months ending on 30 September.

### 321AA Indexation of disclosure threshold after a general election

#### *Indexation of disclosure threshold*

- (1) This section applies to the dollar amount (an ***indexable amount***) specified in the definition of ***disclosure threshold*** in subsection 287(1).
- (2) If the indexation factor for the first 1 January after a general election (an ***indexation day***) is greater than 1, the indexable amount is, on that day, replaced by the amount worked out using the following formula:

$$\text{Indexable amount immediately before indexation day} \times \frac{\text{Indexation factor for the indexation day}}{\text{the indexation day}}$$

- (3) The amount worked out under subsection (2) is to be rounded to the nearest \$100 (rounding \$50 or more upwards).

#### *Indexation factor*

- (4) The ***indexation factor*** for an indexation day is the number worked out using the following formula:

$$\frac{\text{Index number for the reference quarter}}{\text{Index number for the base quarter}}$$

Where:

**base quarter** means the September quarter 2 years before the indexation day.

**index number**, for a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in for that quarter.

**reference quarter** means the September quarter immediately before the indexation day.

**September quarter** means the 3 months ending on 30 September.

- (5) The indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the fourth decimal place is more than 4.
- (6) Calculations under subsection (4):
  - (a) are to be made using only the index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
  - (b) are to be made disregarding index numbers that are published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).
- (7) The Electoral Commissioner must, as soon as practicable after each indexation day, publish on the Electoral Commission's website the disclosure threshold. However, a failure by the Electoral Commissioner to do so does not invalidate the indexation.

## 10 Application of amendment—indexation

Section 321A of the *Commonwealth Electoral Act 1918*, as substituted by this Schedule, applies in relation to the indexation year beginning on 1 January 2027 and each subsequent calendar year.

## **Part 2—Relationship of this Schedule with Schedule 4**

### **11 Relationship of this Schedule with Schedule 4**

- (1) It is the intention of the Parliament that the amendments made by this Schedule (gift caps) and by Schedule 4 (expenditure caps) are to operate together and not to be severed from each other.
- (2) Subitem (1) operates despite section 15A of the *Acts Interpretation Act 1901*.
- (3) To avoid doubt, subitem (1) does not apply in relation to any other amendments made by this Act.



## **Schedule 4—Expenditure caps**

### **Part 1—Amendments**

#### *Commonwealth Electoral Act 1918*

##### **1 Before paragraph 287E(a)**

Insert:

- (aa) the scheme established by Division 3AB relating to caps on electoral expenditure; and

##### **2 Before Division 3A of Part XX**

Insert:

### **Division 3AB—Requirements relating to electoral expenditure**

#### **Subdivision A—Preliminary**

##### **302AKA Simplified outline of this Division**

This Division deals with electoral expenditure incurred by the following persons and entities:

- (a) registered political parties and State branches of registered political parties;
- (b) candidates;
- (c) members of the House of Representatives;
- (d) Senators;
- (e) significant third parties;
- (f) associated entities;
- (g) nominated entities;
- (h) third parties.

They are all subject to caps on how much electoral expenditure they can incur in a calendar year. There are also separate caps on how much electoral expenditure they can incur for the purposes of

a by-election in a Division or a Senate-only election in a State or Territory.

### 302AKB Objects of this Division

- (1) The objects of this Division are as follows:
  - (a) to prevent Australian elections from being unfairly skewed by organisations or individuals with large amounts of money;
  - (b) to promote equal opportunity for all individuals and other entities to participate in political debate.
- (2) This Division aims to achieve these objects by:
  - (a) limiting the amount of electoral expenditure that can be incurred each calendar year, both federally and in relation to Divisions, States and Territories; and
  - (b) limiting the amount of electoral expenditure that can be incurred for the purposes of a by-election or a Senate-only election.

### Subdivision B—Interpretation

#### 302ALA Definitions

In this Division:

***acceptable expenditure action***: see section 302ALE.

***by-election cap***, for a by-election, is 120% of the Divisional cap that applies on the day the writ for the by-election is issued.

Note 1: The by-election cap applies separately to each by-election.

Note 2: The Divisional cap is indexed under section 321AB.

***by-election period***, for a by-election, means the period:

- (a) beginning on the day the writs for the by-election are issued;  
and
- (b) ending on the polling day for the by-election.

***capped entity by-election cap***, for a by-election, means 120% of the capped entity Divisional cap that applies on the day the writ for the by-election is issued.

***capped entity cap*** means \$11,250,000.

Note: This amount is indexed under section 321AB.

***capped entity Divisional cap*** means \$100,000.

Note: This amount is indexed under section 321AB.

***capped entity Senate base amount*** means \$25,000.

Note: This amount is indexed under section 321AB.

***capped entity Senate cap***, for a State or Territory, means the capped entity Senate base amount multiplied by the number of Divisions in the State or Territory.

***capped entity Senate-only election cap***, for a Senate-only election in a State or Territory, is 120% of the capped entity Senate cap for the State or Territory.

***capped expenditure entity*** means:

- (a) a significant third party; or
- (b) an associated entity; or
- (c) a third party.

***Divisional cap*** means \$800,000.

Note: This amount is indexed under section 321AB.

***expenditure covered by the by-election or Senate-only election caps***: see section 302ALD.

***express coverage matter***: see subsection 302ALC(3).

***Federal cap*** means \$90 million.

Note: This amount is indexed under section 321AB.

***Independent House candidate or member*** means:

- (a) a candidate for election to the House of Representatives, for a Division, at any time while the candidate is not endorsed by a registered political party; or
- (b) a member of the House of Representatives, for a Division, at any time while the member is not a member of a registered political party.

Note: A person who was not endorsed by a registered political party when elected, but who later becomes a member of a registered political party, ceases to be an *Independent House candidate or member* and instead becomes a member of a registered political party's expenditure group.

*Independent House of Representatives by-election cap*, for a by-election, means 120% of the Divisional cap that applies on the day the writ for the by-election is issued.

*Independent House of Representatives cap* means the Divisional cap.

*Independent Senate candidate or Senator* means:

- (a) a candidate for election to the Senate, for a State or Territory, at any time while the candidate is not endorsed by a registered political party; or
- (b) a Senator, for a State or Territory, at any time while the Senator is not a member of a registered political party.

Note: A person who was not endorsed by a registered political party when elected, but who later becomes a member of a registered political party, ceases to be an *Independent Senate candidate or Senator* and instead becomes a member of a registered political party's expenditure group.

*Independent Senate cap*, for a State or Territory, means the amount worked out by:

- (a) multiplying the Senate base amount by the number of Divisions in the State or Territory; and
- (b) dividing the result of paragraph (a) by:
  - (i) for a State—6; or
  - (ii) for a Territory—2.

*liable person*, for a member of a registered political party's expenditure group, means:

- (a) for a registered political party other than a State branch—the registered officer of the party; or
- (b) for a State branch of a registered political party—whichever of the following applies:
  - (i) if the State branch is a registered political party—the registered officer of the State branch;
  - (ii) otherwise—the agent of the State branch; or

- (c) for a political party not covered by paragraph (a) or (b)—the agent of the political party; or
- (d) for a candidate:
  - (i) if the candidate is endorsed by a registered political party—the registered officer of the registered political party; or
  - (ii) otherwise—the agent of the candidate; or
- (e) for a member of the House of Representatives or a Senator—whichever of the following applies:
  - (i) if the member or Senator is a member of a registered political party—the registered officer of the registered political party;
  - (ii) otherwise—the member or Senator; or
- (f) for a nominated entity—the financial controller of the nominated entity.

**Senate base amount** means \$200,000.

Note: This amount is indexed under section 321AB.

**Senate cap**, for a State or Territory, means the Senate base amount multiplied by the number of Divisions in the State or Territory.

**Senate-only election cap**, for a Senate-only election in a State or Territory, is 120% of the Senate cap for the State or Territory.

**Senate-only election Independent Senate cap**, for a State or Territory, means 120% of the Independent Senate cap for the State or Territory.

**Senate-only election period**, for a Senate-only election, means the period:

- (a) beginning on the day the writs for the election are issued; and
- (b) ending on the polling day for the election.

**targeted**: see section 302ALC.

### **302ALB Electoral expenditure incurred by Senate groups**

- (1) This section applies if either of the following incurs electoral expenditure:
  - (a) a group for a Senate election;

- (b) an agent acting on behalf of a group in a Senate election.
- (2) For the purposes of this Part:
  - (a) if the group is a single-party endorsed group—the registered political party that endorsed the candidates in the group is taken to have incurred the expenditure; and
  - (b) if the group is a jointly endorsed group—each registered political party that endorsed one or more candidates in the group is taken to have incurred a share of the expenditure (rounded to the nearest dollar) proportionate to the number of candidates the party has endorsed; and
  - (c) if none of the group’s members is a candidate endorsed by a registered political party—each member of the group is taken to have incurred an equal share of the expenditure (rounded to the nearest dollar); and
  - (d) in any case—the group is taken not to have incurred any of the expenditure.

Note: If paragraph (c) applies, each member of the group is required to report on the group member’s share of the expenditure and that share counts towards any expenditure caps that apply in relation to the group members.

### **302ALC Electoral expenditure targeted to a Division, State or Territory**

- (1) For the purposes of this Part, if a person or entity incurs electoral expenditure, the amount worked out under subsection (2) is **targeted** to a Division, State or Territory if:
  - (a) the expenditure is incurred for the dominant purpose of creating or communicating electoral matter; and
  - (b) the electoral matter is express coverage matter (see subsection (3)) for the Division, State or Territory; and
  - (c) either:
    - (i) for a Division—the electoral matter is not mainly communicated to electors enrolled outside Divisions for which it is express coverage matter; or
    - (ii) for a State or Territory—the electoral matter is not mainly communicated to electors enrolled outside States and Territories for which it is express coverage matter.

- (2) For the purposes of subsection (1), the amount that is targeted to the Division, State or Territory is:
- (a) unless paragraph (b) applies—the amount of the expenditure; or
  - (b) if the electoral matter to which the expenditure relates is express coverage matter for more than one Division, State or Territory—that share of the expenditure that the liable person or financial controller for the person or entity is reasonably satisfied reflects the distribution of the electoral matter in the Division, State or Territory.
- (3) Electoral matter is *express coverage matter* for a Division, State or Territory if the electoral matter:
- (a) is communicated to electors enrolled in the Division, State or Territory; and
  - (b) does either or both of the following:
    - (i) expressly mentions the name, or includes an image or likeness of, a candidate for election to the House of Representatives for the Division or the Senate for the State or Territory;
    - (ii) expressly mentions the Division or a Senate election for the State or Territory.
- (4) Despite subsection (1), an amount of electoral expenditure is not targeted to any Division, State or Territory if:
- (a) the electoral matter to which the expenditure relates is a how-to-vote card; and
  - (b) if the electoral matter contains matter additional to matter that satisfies paragraph (a), (b) or (c) of the definition of *how-to-vote card*—the dominant purpose of the matter is to convey matter that satisfies paragraph (a), (b) or (c) of the definition of *how-to-vote card*.

Note 1: Electoral expenditure that is not *targeted* to any Division, State or Territory will still (depending on who incurred it) count towards the Federal cap in section 302AMA or the capped entity cap in section 302APA.

Note 2: For the definition of *how-to-vote card*, see subsection 4(1).

### 302ALD Expenditure covered by the by-election or Senate-only election caps

Electoral expenditure incurred by a person or entity is *expenditure covered by the by-election or Senate-only election caps* if the expenditure is incurred by the person or entity:

- (a) in the by-election period for a by-election and for the purposes of the by-election; or
- (b) in the Senate-only election period for a Senate-only election and for the purposes of the Senate-only election.

Note: Expenditure covered by the by-election or Senate-only election caps does not count towards the calendar year expenditure caps (see section 302AQB).

### 302ALE Acceptable expenditure action

#### *Definition of acceptable expenditure action*

- (1) *Acceptable expenditure action* is taken in relation to an amount of electoral expenditure if:
  - (a) the expenditure of the amount is cancelled or reversed; or
  - (b) the recipient of the amount repays an equivalent amount to the person or entity that incurred the particular expenditure; or
  - (c) in relation to a cap mentioned in Subdivision C—the member of the expenditure group that incurred the expenditure, or another member of that group, transfers an equivalent amount to the Commonwealth for the purposes of this Division; or
  - (d) in relation to a cap mentioned in Subdivision D, E or F—the person or entity that incurred the expenditure transfers an equivalent amount to the Commonwealth for the purposes of this Division.

#### *Effect of acceptable expenditure action on total expenditure*

- (2) Nothing in this Division prevents the taking of acceptable expenditure action in relation to an amount that is not an excess amount (within the meaning of a civil penalty provision in Subdivision C, D, E or F).



- (3) However, for the purposes of such a civil penalty provision, the taking of acceptable expenditure action in relation to an amount, after a time at which the total electoral expenditure concerned has exceeded the cap concerned, does not reduce the total amount of expenditure incurred.

Note: This means that once a cap is exceeded, there is no way to subsequently reduce total expenditure to an amount that is below the cap (even if, by taking acceptable expenditure action, a penalty is avoided).

### **302ALF Expenditure group**

#### *Definition of expenditure group*

- (1) Each registered political party (a **group owner**) that is not itself a State branch of another registered political party or related to another registered political party in the way described in paragraph (b), has an **expenditure group** that is made up of:
- (a) the following **core members**:
    - (i) the group owner;
    - (ii) any State branch of the group owner;
    - (iii) any candidate endorsed by a registered political party covered by subparagraph (i) or (ii);
    - (iv) any member of the House of Representatives or Senator who is a member of a registered political party covered by subparagraph (i) or (ii);
    - (v) any nominated entity of a registered political party covered by subparagraph (i) or (ii); and
  - (b) any registered political party that, while not being a State branch of the group owner, is related to the group owner within the meaning of paragraph 123(2)(a) because it is part of the group owner; and
  - (c) any candidate endorsed by a registered political party covered by paragraph (b) of this subsection; and
  - (d) any member of the House of Representatives or Senator who is a member of a registered political party covered by paragraph (b) of this subsection; and
  - (e) any nominated entity of a registered political party covered by paragraph (b) of this subsection.

**Schedule 4** Expenditure caps  
**Part 1** Amendments

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- Note 1: Associated entities, significant third parties and third parties are not members of a registered political party's expenditure group for the purposes of this Division.
- Note 2: See subsections 287(8) to (8D) for the treatment of significant third parties, third parties, associated entities and their branches, for the purposes of this Part.

*Expenditure of member of multiple expenditure groups counts towards expenditure caps for each group*

- (2) If a person or entity is a member of more than one registered political party's expenditure group, then, for the purposes of Subdivision C, electoral expenditure incurred by the person or entity counts towards the total electoral expenditure of each such expenditure group.

Example: The Federal Quokka Party, the Quokka Party (WA), the Federal Wombat Party and the Wombat-Quokka Party (SA) are all registered political parties. The Quokka Party (WA) is a State branch of the Federal Quokka Party. The Wombat-Quokka Party (SA) is a State branch of the Federal Wombat Party. The Wombat-Quokka Party (SA) is not a State branch of the Federal Quokka Party but it is related to the Federal Quokka Party within the meaning of paragraph 123(2)(a) because it is a part of the Federal Quokka Party.

The Quokka Party (WA) is a member of the Federal Quokka Party's expenditure group.

The Wombat-Quokka Party (SA) is a member of the Federal Wombat Party's expenditure group. It is also a member of the Federal Quokka Party's expenditure group under paragraph (1)(b).

The Wombat-Quokka Party (SA) incurs \$50,000 of electoral expenditure. This expenditure will count towards the Federal cap for both of the expenditure groups that the Wombat-Quokka Party (SA) is a member of. If the expenditure is targeted to a Division, State or Territory within the meaning of section 302ALC, it will also count towards the Divisional cap or Senate cap for both of the expenditure groups.

**Subdivision C—Expenditure caps for registered political party expenditure groups**

**302AMA Federal cap**

- (1) A person contravenes this subsection if:

- (a) the person is the liable person for a member of a registered political party's expenditure group; and
- (b) at a time in a calendar year, the member incurs particular electoral expenditure; and
- (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the year by members of the expenditure group exceeds the Federal cap.

Note: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
  - (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the Federal cap—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) To avoid doubt, electoral expenditure targeted to a Division, State or Territory is also electoral expenditure that counts towards the Federal cap.

Note: However, expenditure covered by the by-election or Senate-only election caps does not count (see section 302AQB).

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

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302AMB Divisional cap**

- (1) A person contravenes this subsection if:

- (a) the person is the liable person for a member of a registered political party's expenditure group; and
- (b) at a time in a calendar year, the member incurs particular electoral expenditure targeted to a Division; and
- (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the year targeted to the Division, by members of the expenditure group, exceeds the Divisional cap.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of electoral expenditure *targeted* to a Division, see section 302ALC.

Example: The Federal Quokka Party and the Quokka Party (ACT) are registered political parties. The Quokka Party (ACT) is a State branch of the Federal Quokka Party. Candidate K. Roo is the Quokka Party (ACT)'s endorsed candidate for the Division of Canberra. The Quokka Party (ACT) and K. Roo, along with the Federal Quokka Party itself, are therefore all members of the Federal Quokka Party's expenditure group (see the definition of *expenditure group* in section 302ALF). The Quokka Party (ACT) and K. Roo each spend \$10,000 on advertisements promoting K. Roo as the Quokka Party candidate for Canberra for the upcoming federal election. That electoral expenditure of \$20,000 will count towards the Divisional cap, as well as the Federal cap, for the Federal Quokka Party's expenditure group as it was incurred by members of the expenditure group.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
  - (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the Divisional cap—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302AMC Senate cap**

- (1) A person contravenes this subsection if:
- (a) the person is the liable person for a member of a registered political party's expenditure group; and
  - (b) at a time in a calendar year, the member incurs particular electoral expenditure targeted to a State or Territory; and
  - (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the year targeted to the State or Territory, by members of the expenditure group, exceeds the Senate cap for the State or Territory.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of electoral expenditure *targeted* to a State or Territory, see section 302ALC.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the Senate cap for the State or Territory—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### 302AMD By-election cap

- (1) A person contravenes this subsection if:
- (a) the person is the liable person for a member of a registered political party's expenditure group; and
  - (b) at a time in the by-election period for a by-election, the member incurs particular electoral expenditure for the purposes of the by-election; and
  - (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the by-election period for the purposes of the by-election, by members of the expenditure group, exceeds the by-election cap for the by-election.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of *by-election period*, see section 302ALA.

Note 3: This cap is separate from, and additional to, the Federal cap, the Divisional cap and the Senate cap that apply under sections 302AMA, 302AMB and 302AMC.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the by-election cap for the by-election—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302AME Senate-only election cap**

- (1) A person contravenes this subsection if:
- (a) the person is the liable person for a member of a registered political party's expenditure group; and
  - (b) at a time in the Senate-only election period for a Senate-only election in a State or Territory, the member incurs particular electoral expenditure for the purposes of the election in the State or Territory; and
  - (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the Senate-only election period for the purposes of the election in the State or Territory, by members of the expenditure group, exceeds the Senate-only election cap for the election in the State or Territory.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of *Senate-only election period*, see section 302ALA.

Note 3: This cap is separate from, and additional to, the Federal cap, the Divisional cap and the Senate cap that apply under sections 302AMA, 302AMB and 302AMC.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the Senate-only election cap for the election in the State or Territory—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **Subdivision D—Expenditure caps for Independent House candidates or members**

#### **302ANA Independent House of Representatives cap**

- (1) A person contravenes this subsection if:
  - (a) at a time in a calendar year, the person:
    - (i) is an Independent House candidate or member for a Division; and
    - (ii) incurs particular electoral expenditure; and
  - (b) as at the time (and including the particular expenditure), total electoral expenditure incurred in the year by the person, while the person is an Independent House candidate or member for the Division, exceeds the Independent House of Representatives cap.

Note: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
  - (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(b) was less than the Independent House of Representatives cap—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.



### **302ANB Independent House of Representatives by-election cap**

- (1) A person contravenes this subsection if:
- (a) at a time in the by-election period for a by-election for a Division, the person:
    - (i) is an Independent House candidate or member for the Division; and
    - (ii) incurs particular electoral expenditure for the purposes of the by-election; and
  - (b) as at the time (and including the particular expenditure), total electoral expenditure incurred in the by-election period for the purposes of the by-election by the person, while the person is an Independent House candidate or member for the Division, exceeds the Independent House of Representatives by-election cap for the by-election.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of *by-election period*, see section 302ALA.

Note 3: This cap is separate from, and additional to, the Independent House of Representatives cap that applies under section 302ANA.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(b) was less than the Independent House of Representatives by-election cap for the by-election—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;

(b) 3 times the excess amount of the particular expenditure.

### **302ANC Application of caps in this Subdivision**

- (1) This section applies in relation to references in this Subdivision to electoral expenditure incurred by an Independent House candidate or member in a period.
- (2) To avoid doubt, electoral expenditure incurred by an Independent House candidate or member is counted only once, even if the person satisfies both paragraphs (a) and (b) of the definition of *Independent House candidate or member* at the same time.
- (3) To avoid doubt, if, at a time in the period, an Independent House candidate or member who satisfies one paragraph of the definition of *Independent House candidate or member* starts to satisfy the other paragraph instead, a reference to electoral expenditure incurred by the person in the period includes electoral expenditure incurred by the person before the time.

### **Subdivision E—Expenditure caps for Independent Senate candidates or Senators**

#### **302AOA Independent Senate cap**

- (1) A person contravenes this subsection if:
  - (a) at a time in a calendar year, the person:
    - (i) is an Independent Senate candidate or Senator for a State or Territory; and
    - (ii) incurs particular electoral expenditure; and
  - (b) as at the time (and including the particular expenditure), total electoral expenditure incurred in the year by the person, while the person is an Independent Senate candidate or Senator for the State or Territory, exceeds the Independent Senate cap for the State or Territory.

Note: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(b) was less than the Independent Senate cap for the State or Territory—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302AOB Senate-only election Independent Senate cap**

- (1) A person contravenes this subsection if:
- (a) at a time in the Senate-only election period for a Senate-only election in a State or Territory, the person:
    - (i) is an Independent Senate candidate or Senator for a State or Territory; and
    - (ii) incurs particular electoral expenditure for the purposes of the election in the State or Territory; and
  - (b) as at the time (and including the particular expenditure), total electoral expenditure incurred in the Senate-only election period for the purposes of the election by the person, while the person is an Independent Senate candidate or Senator, exceeds the Senate-only election Independent Senate cap for the State or Territory.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of *Senate-only election period*, see section 302ALA.

Note 3: This cap is separate from, and additional to, the Independent Senate cap in section 302AOA.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(b) was less than the Senate-only election Independent Senate cap for the State or Territory—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302AOC Application of caps in this Subdivision**

- (1) This section applies in relation to references in this Subdivision to electoral expenditure incurred by an Independent Senate candidate or Senator in a period.
- (2) To avoid doubt, electoral expenditure incurred by an Independent Senate candidate or Senator is counted only once, even if the person satisfies both paragraphs (a) and (b) of the definition of ***Independent Senate candidate or Senator*** at the same time.
- (3) To avoid doubt, if, at a time in a period, an Independent Senate candidate or Senator who satisfies one paragraph of the definition of ***Independent Senate candidate or Senator*** starts to satisfy the other paragraph instead, a reference to electoral expenditure incurred by the person in the period includes electoral expenditure incurred by the person before the time.

**Subdivision F—Expenditure caps for significant third parties,  
associated entities and third parties**

**302APA Capped entity cap**

- (1) A person contravenes this subsection if:
- (a) the person is the financial controller of an entity; and
  - (b) at a time in a calendar year, the entity:
    - (i) is a capped expenditure entity; and
    - (ii) incurs particular electoral expenditure; and
  - (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the year by the entity exceeds the capped entity cap.

Note: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the capped entity cap—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) To avoid doubt, electoral expenditure targeted to a Division, State or Territory is also electoral expenditure that counts towards the capped entity cap.

Note: However, expenditure covered by the by-election or Senate-only election caps does not count (see section 302AQB).

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

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;

- (b) 3 times the excess amount of the particular expenditure.

### 302APB Capped entity Divisional cap

- (1) A person contravenes this subsection if:
- (a) the person is the financial controller of an entity; and
  - (b) at a time in a calendar year, the entity:
    - (i) is a capped expenditure entity; and
    - (ii) incurs particular electoral expenditure targeted to a Division; and
  - (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the year targeted to the Division by the entity exceeds the capped entity Divisional cap.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of electoral expenditure *targeted* to a Division, see section 302ALC.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the capped entity Divisional cap—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302APC Capped entity Senate cap**

- (1) A person contravenes this subsection if:
- (a) the person is the financial controller of an entity; and
  - (b) at a time in a calendar year, the entity:
    - (i) is a capped expenditure entity; and
    - (ii) incurs particular electoral expenditure targeted to a State or Territory; and
  - (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the year targeted to the State or Territory by the entity exceeds the capped entity Senate cap for the State or Territory.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of electoral expenditure *targeted* to a State or Territory, see section 302ALC.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
- (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the capped entity Senate cap for the State or Territory—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302APD Capped entity by-election cap**

- (1) A person contravenes this subsection if:
-

- (a) the person is the financial controller of an entity; and
- (b) at a time in the by-election period for a by-election, the entity:
  - (i) is a capped expenditure entity; and
  - (ii) incurs particular electoral expenditure for the purposes of the by-election; and
- (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the by-election period for the purposes of the by-election, by the entity, exceeds the capped entity by-election cap for the by-election.

Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.

Note 2: For the meaning of *by-election period*, see section 302ALA.

Note 3: This cap is separate from, and additional to, the capped entity cap, the capped entity Divisional cap and the capped entity Senate cap that apply under sections 302APA, 302APB and 302APC.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
  - (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the capped entity by-election cap for the by-election—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302APE Capped entity Senate-only election cap**

- (1) A person contravenes this subsection if:
-



- (a) the person is the financial controller of an entity; and
- (b) at a time in the Senate-only election period for a Senate-only election in a State or Territory, the entity:
  - (i) is a capped expenditure entity; and
  - (ii) incurs particular electoral expenditure for the purposes of the election in the State or Territory; and
- (c) as at the time (and including the particular expenditure), total electoral expenditure incurred in the Senate-only election period for the purposes of the election, by the entity, exceeds the capped entity Senate-only election cap for the election in the State or Territory.

- Note 1: See Subdivision G for expenditure that does not count towards the cap, and for an exception for acceptable expenditure action. In addition, section 95 of the Regulatory Powers Act deals with mistake of fact.
- Note 2: For the meaning of *Senate-only election period*, see section 302ALA.
- Note 3: This cap is separate from, and additional to, the capped entity cap, the capped entity Divisional cap and the capped entity Senate cap that apply under sections 302APA, 302APB and 302APC.

- (2) For the purposes of this section, the excess amount of the particular expenditure is:
  - (a) unless paragraph (b) of this subsection applies—the amount of the particular expenditure; or
  - (b) if, immediately before the particular expenditure was incurred, total electoral expenditure incurred as mentioned in paragraph (1)(c) was less than the capped entity Senate-only election cap for the election in the State or Territory—so much of the particular expenditure as results in total expenditure exceeding that cap.
- (3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following:

- (a) 1,000 penalty units;
- (b) 3 times the excess amount of the particular expenditure.

### **302APF Application of caps in this Subdivision**

- (1) This section applies in relation to references in this Subdivision to electoral expenditure incurred by a capped expenditure entity in a period.
- (2) To avoid doubt, if, at a time in the period, a capped expenditure entity that satisfies one paragraph of the definition of *capped expenditure entity* starts to satisfy another paragraph instead, a reference to electoral expenditure incurred by the entity in the period includes electoral expenditure incurred by the entity before the time.
- (3) If an entity was not a capped expenditure entity at the start of the period but starts to be one at a time during the period:
  - (a) a reference to electoral expenditure incurred by the entity in the period includes electoral expenditure incurred by the entity before that time; and
  - (b) any electoral expenditure incurred by the entity before that time is taken to have been incurred at the time the entity started to be a capped expenditure entity.
- (4) This Subdivision does not apply in relation to electoral expenditure incurred by a capped expenditure entity at any time while the entity is a nominated entity of a registered political party.

Note: The nominated entity of a registered political party is a member of a registered political party's expenditure group and so its electoral expenditure is covered by Subdivision C.

### **Subdivision G—Exceptions**

#### **302AQA Exception—acceptable expenditure action**

A civil penalty provision in Subdivision C, D, E or F does not apply to a person, in relation to the excess amount of particular expenditure within the meaning of the provision, if:

- (a) at the time the particular expenditure was incurred, the person did not know, and could not reasonably have been expected to know, that the total expenditure concerned exceeded the cap concerned; and

- (b) before the end of the period of 6 weeks starting on the day the person first became aware of the matter, acceptable expenditure action is taken in relation to the excess amount.

Note: A person who wishes to rely on this section bears an evidential burden in relation to the matters in this section (see section 96 of the Regulatory Powers Act).

**302AQB Exception—expenditure covered by the by-election or Senate-only election caps**

A civil penalty provision in Subdivision C, D, E or F that applies in relation to a calendar year does not apply in relation to expenditure covered by the by-election or Senate-only election caps.

Note 1: A person who wishes to rely on this section bears an evidential burden in relation to the matters in this section (see section 96 of the Regulatory Powers Act).

Note 2: For the meaning of *expenditure covered by the by-election or Senate-only election caps*, see section 302ALD.

**302AQC Exception—travel and translation expenses**

- (1) A civil penalty provision in Subdivision C does not apply in relation to electoral expenditure incurred by a member of a registered political party's expenditure group in the period concerned in relation to:
- (a) travel by a candidate who is a member of the expenditure group, or by the candidate's staff, or travel-related accommodation for the candidate or staff, undertaken for the dominant purpose of the candidate's campaign; or
  - (b) translation or interpretation services used for the dominant purpose of the candidate's campaign.

Note 1: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

Note 2: This exception does not apply in relation to contraventions of provisions in Subdivision F.

Note 3: A candidate's staff includes any volunteers.

- (2) A civil penalty provision in Subdivision D or E does not apply in relation to electoral expenditure incurred by a person who is a candidate in the period concerned in relation to:
- (a) travel by the candidate or by the candidate's staff, or travel-related accommodation for the candidate or staff, undertaken for the dominant purpose of the candidate's campaign; or
  - (b) translation or interpretation services used for the dominant purpose of the candidate's campaign.
- Note 1: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).
- Note 2: This exception does not apply in relation to contraventions of provisions in Subdivision F.
- Note 3: A candidate's staff includes any volunteers.
- (3) Paragraphs (1)(a) and (2)(a) do not include expenditure incurred in connection with a vessel, aircraft or vehicle which displays advertising or electoral matter for a candidate or registered political party.

### **302AQD Exception—salaries and allowances**

A civil penalty provision in Subdivision C, D or E does not apply in relation to electoral expenditure incurred in the period concerned that is an amount of salary or allowance paid to a member of the Parliament, or a member of the staff of a member of the Parliament, including an amount of salary, remuneration, allowance or expenses payable under any of the following:

- (a) the Constitution;
- (b) the *Parliamentary Business Resources Act 2017*;
- (c) an agreement for employment or engagement referred to in the *Members of Parliament (Staff) Act 1984*.

Note 1: A person who wishes to rely on this section bears an evidential burden in relation to the matters in this section (see section 96 of the Regulatory Powers Act).

Note 2: This exception does not apply in relation to contraventions of provisions in Subdivision F.

**302AQE Exception—campaign office accommodation**

- (1) A civil penalty provision in Subdivision C does not apply in relation to so much of any electoral expenditure incurred by members of a registered political party's expenditure group in the period concerned as:
- (a) is incurred on a campaign office for the party (including the party's campaign headquarters) or for a member of the expenditure group who is a candidate; and
  - (b) does not result in the members of the expenditure group incurring electoral expenditure exceeding:
    - (i) for a campaign office that is the party's campaign headquarters—\$20,000; or
    - (ii) for a campaign office for a Division—\$20,000 total for each Division; or
    - (iii) for a campaign office for a State and Territory—\$20,000 total for each State or Territory.

Note 1: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

Note 2: The amounts in subparagraphs (1)(b)(i), (ii) and (iii) are indexed under section 321AB.

Note 3: There is an equivalent exception in subsection (3) in relation to contraventions of provisions in Subdivisions D and E. There is not an equivalent exception in relation to contraventions of provisions in Subdivision F.

- (2) To avoid doubt, an amount mentioned in subparagraph (1)(b)(ii) or (iii) applies regardless of the number of campaign offices for the Division, State or Territory.
- (3) A civil penalty provision in Subdivision D or E does not apply in relation to so much of any electoral expenditure incurred by the person in the period concerned as is both:
- (a) incurred on a campaign office for the person; and
  - (b) not more than \$20,000.

Note 1: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

Note 2: The amount in paragraph (3)(b) is indexed under section 321AB.

Note 3: There is an equivalent exception in subsection (1) in relation to contraventions of provisions in Subdivision C. There is not an equivalent exception in relation to contraventions of provisions in Subdivision F.

**302AQF Exception—design and printing costs for certain how-to-vote cards**

A civil penalty provision in Subdivision D or E does not apply in relation to so much of any expenditure incurred by the person in the period concerned as is both:

- (a) expenditure incurred on the design or printing of a how-to-vote card; and
- (b) not more than \$20,000.

Note 1: A person who wishes to rely on this section bears an evidential burden in relation to the matters in this section (see section 96 of the Regulatory Powers Act).

Note 2: For the definition of *how-to-vote card*, see subsection 4(1).

Note 3: The amount in paragraph (b) is indexed under section 321AB.

Note 4: This exception does not apply in relation to contraventions of provisions in Subdivision C or F.

**Subdivision H—Miscellaneous**

**302ARA Notification if expenditure reaches a cap**

*Expenditure caps for registered political parties*

- (1) If:
- (a) a person is the registered officer of a registered political party that has an expenditure group (see section 302ALF); and
  - (b) total electoral expenditure incurred in a period by members of the registered political party's expenditure group, that counts towards a cap mentioned in Subdivision C that applies to the period, reaches the cap;

the person must give the Electoral Commissioner a written notice in accordance with this section.

Civil penalty: 60 penalty units.

*Expenditure caps for Independent House candidates or members*

- (2) If:
- (a) a person is an Independent House candidate or member; and
  - (b) total electoral expenditure incurred in a period by the person, that counts towards a cap mentioned in Subdivision D that applies to the period, reaches the cap;
- the person must give the Electoral Commissioner a written notice in accordance with this section.
- Civil penalty: 60 penalty units.

*Expenditure caps for Independent Senate candidates or Senators*

- (3) If:
- (a) a person is an Independent Senate candidate or Senator; and
  - (b) total electoral expenditure incurred in a period by the person, that counts towards a cap mentioned in Subdivision E that applies to the period, reaches the cap;
- the person must give the Electoral Commissioner a written notice in accordance with this section.
- Civil penalty: 60 penalty units.

*Expenditure caps for significant third parties, associated entities, nominated entities and third parties*

- (4) If:
- (a) a person is the financial controller of a capped expenditure entity; and
  - (b) total electoral expenditure incurred in a period by the entity, that counts towards a cap mentioned in Subdivision F that applies to the period, reaches the cap;
- the person must give the Electoral Commissioner a written notice in accordance with this section.
- Civil penalty: 60 penalty units.

*Requirements for notice*

- (5) The person must give the Electoral Commissioner the notice:

- (a) as soon as practicable after becoming aware that the total electoral expenditure has reached the cap; and
- (b) in the approved form (if any).

**302ARB Electoral Commissioner must publish amounts and periods**

- (1) As soon as practicable after 1 January each calendar year, the Electoral Commissioner must publish, on the Electoral Commission's website, the following for the year:
  - (a) the capped entity cap;
  - (b) the capped entity Divisional cap;
  - (c) the capped entity Senate base amount;
  - (d) the capped entity Senate cap, for each State and Territory;
  - (e) the Divisional cap;
  - (f) the Federal cap;
  - (g) the Senate base amount;
  - (h) the Senate cap, for each State and Territory;
  - (i) the amounts for the purposes of subparagraphs 302AQE(1)(b)(i), (ii) and (iii) and paragraph 302AQE(3)(b) (exceptions for campaign office accommodation);
  - (j) the amount for the purposes of paragraph 302AQF(b) (exception for design and printing costs for certain how-to-vote cards).

Note: These amounts are indexed on 1 January each year under section 321AB.

- (2) As soon as practicable after the writs are issued for a by-election, the Electoral Commissioner must publish, on the Electoral Commission's website, the following for the by-election:
  - (a) the by-election cap;
  - (b) the by-election period;
  - (c) the capped entity by-election cap;
  - (d) the Independent House of Representatives by-election cap.
- (3) As soon as practicable after the writs are issued for a Senate-only election in a State or Territory, the Electoral Commissioner must publish, on the Electoral Commission's website, the following for the Senate election:



- (a) the capped entity Senate-only election cap for the State or Territory;
- (b) the Senate-only election cap for the State or Territory;
- (c) the Senate-only election period;
- (d) the Senate-only election Independent Senate cap for the State or Territory.

### **302ARC Resetting of certain expenditure caps when multiple elections in a calendar year**

- (1) This section applies if:
  - (a) a general election is held in a calendar year; and
  - (b) after the polling day for the general election, another general election is, or is to be, held in the same calendar year; and
  - (c) the writs for the other general election have been issued.
- (2) The civil penalty provisions in Subdivisions C, D, E and F that apply in relation to calendar years apply as if the part of the calendar year that occurred before the day the writs were issued for the other general election, and the part of the calendar year that occurred on and after that day, were different calendar years.

Note: This means new and separate caps apply for electoral expenditure incurred for the remainder of the year on and after the day the writs for the other general election were issued.

### **3 Section 319 (heading)**

After “Part”, insert “(other than Division 3AB)”.

### **4 Subsection 319(1)**

After “Part”, insert “(other than Division 3AB)”.

### **5 At the end of Division 6 of Part XX**

Add:

### **321AB Indexation of amounts relating to electoral expenditure**

- (1) This section applies to the dollar amounts (each of which is an *indexable amount*) mentioned in the following provisions:
  - (a) the following definitions in section 302ALA:

- (i) definition of *capped entity cap*;
  - (ii) definition of *capped entity Divisional cap*;
  - (iii) definition of *capped entity Senate base amount*;
  - (iv) definition of *Divisional cap*;
  - (v) definition of *Federal cap*;
  - (vi) definition of *Senate base amount*;
  - (b) subparagraphs 302AQE(1)(b)(i), (ii) and (iii) and paragraph 302AQE(3)(b) (exceptions for campaign office accommodation);
  - (c) paragraph 302AQF(b) (exception for design and printing costs for certain how-to-vote cards).
- (2) An indexable amount, for an indexation year whose indexation factor is greater than 1, is replaced by the amount worked out using the following formula:
- $$\text{Indexable amount for the previous calendar year} \times \frac{\text{Indexation factor for the indexation year}}{\text{Indexation factor for the previous calendar year}}$$
- (3) A dollar amount worked out for the purposes of subsection (2) is to be rounded to the nearest \$100 (rounding \$50 or more upwards).
- (4) The *indexation factor* for an indexation year is the number worked out using the following formula:
- $$\frac{\text{September quarter index number for the previous calendar year}}{\text{September quarter index number for the year before the previous calendar year}}$$
- (5) The indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the fourth decimal place is more than 4.
- (6) Calculations under subsection (4):
- (a) are to be made using only the September quarter index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
  - (b) are to be made disregarding September quarter index numbers that are published in substitution for previously published September quarter index numbers (except where

the substituted numbers are published to take account of changes in the index reference period).

(7) In this section:

*indexation year* means each calendar year beginning on 1 January.

*September quarter index number* means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of the 3 months ending on 30 September.

## **6 Application of amendment—indexation**

Section 321AB of the *Commonwealth Electoral Act 1918*, as inserted by this Schedule, applies in relation to the indexation year beginning on 1 January 2027 and each subsequent calendar year.

## **Part 2—Relationship of this Schedule with Schedule 3**

### **7 Relationship of this Schedule with Schedule 3**

- (1) It is the intention of the Parliament that the amendments made by this Schedule (expenditure caps) and by Schedule 3 (gift caps) are to operate together and not to be severed from each other.
- (2) Subitem (1) operates despite section 15A of the *Acts Interpretation Act 1901*.
- (3) To avoid doubt, subitem (1) does not apply in relation to any other amendments made by this Act.

## **Schedule 5—Returns**

### **Part 1—Main amendments**

#### *Commonwealth Electoral Act 1918*

##### **1 Subsection 287A(1)**

Omit “, 5 and 5A”, substitute “and 5”.

##### **2 Paragraph 287E(b)**

Omit “, 5 and 5A relating to the disclosure of donations or electoral expenditure,”, substitute “and 5 relating to the disclosure of donations”.

##### **3 Subparagraph 287N(2)(a)(iii)**

Omit “section 314AEB (annual returns by third parties)”, substitute “section 310F (third party returns)”.

##### **4 Subparagraph 287N(2)(a)(iii)**

Omit “financial years”, substitute “calendar years”.

##### **5 Section 287V (simplified outline)**

Omit “to 5A”, substitute “and 5”.

##### **6 Paragraph 292B(a)**

Omit “, 5 or 5A”, substitute “or 5”.

##### **7 Division 5 of Part XX (heading)**

Repeal the heading, substitute:

#### **Division 5—Annual disclosure of donations and electoral expenditure etc.**

##### **8 Sections 307A and 309**

Repeal the sections, substitute:

## Subdivision A—Preliminary

### 307A Simplified outline of this Division

Registered political parties, State branches of registered political parties, candidates, members of the House of Representatives, Senators, significant third parties, associated entities, nominated entities and third parties must provide annual returns to the Electoral Commission in respect of a calendar year. New significant third parties and associated entities must provide annual returns to the Electoral Commission in respect of the previous calendar year.

Broadly, the returns must set out details of amounts received (including as gifts) and amounts paid (including electoral expenditure incurred) during the year, as well as amounts of outstanding debts.

Commonwealth Departments must attach a statement of amounts paid to advertising agencies and other organisations to annual reports.

Information in returns provided under this Division is published by the Electoral Commissioner, on the Transparency Register, under section 320.

### 308 Interpretation

In this Division:

**amount** includes the value of a gift (within the ordinary meaning of that expression) or loan.

Note: In this definition **gift** has its ordinary meaning so it is not limited to gifts as defined in section 287AAB.

**by-election period** has the same meaning as in Division 3AB.

**discretionary benefit** means a benefit (including a grant, a benefit under a contract, or any other kind of benefit) that is not a statutory entitlement.

*Senate-only election period* has the same meaning as in Division 3AB of this Part.

*targeted* has the same meaning as in Division 3AB.

### **309 Nil returns**

- (1) If:
- (a) a provision in this Division requires that a return be provided for a period, with respect to a person or entity; and
  - (b) the provision requires the return to set out an amount paid, incurred or received during the period; and
  - (c) the person or entity did not pay, incur or receive such an amount during the period;
- the return must include a statement that there is no such amount to be set out for the period.
- (2) Subsection (1) does not require a candidate, or a member of the House of Representatives or a Senator, to provide a return if, because of subsection 310A(5) or 310B(1), none is required.

## **Subdivision B—Annual disclosure obligations**

### **310 Registered political party and State branch returns**

- (1) The agent of an entity that is:
- (a) a registered political party; or
  - (b) a State branch of a registered political party;
- at any time during a calendar year must provide the Electoral Commission a return for the calendar year in accordance with this section.

Note 1: A return must be provided even if no amounts were received, paid or incurred (see section 309).

Note 2: An obligation imposed on an agent applies to each member of the executive committee of a political party or State branch if there is no agent of the party or branch, as applicable (see section 292B).

Civil penalty:

The higher of the following:

- (a) 120 penalty units;

- (b) if an amount is not disclosed in accordance with subsection (1) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (2) The return must:
  - (a) be provided to the Electoral Commission within 8 weeks of the end of the calendar year; and
  - (b) be in the approved form.

*Content of return*

- (3) The return must set out the following information:
  - (a) the total amount received by or on behalf of the entity during the calendar year, together with the details (if any) required by section 310J;
  - (b) the total amount of gifts made for a federal purpose that were received by the entity during the calendar year, together with the details required by section 310K;
  - (c) the total amount paid by or on behalf of the entity during the calendar year;
  - (d) the total electoral expenditure incurred by the entity during the calendar year, together with the details required by section 310M;
  - (e) the total outstanding amount, as at the end of the calendar year, of all debts incurred by or on behalf of the entity, together with the details (if any) required by section 310N;
  - (f) details of any discretionary benefits received by or on behalf of the entity from the Commonwealth during the calendar year;
  - (g) if the entity is a registered political party that is paid administrative assistance funding under Division 3AA during the calendar year—the details required by section 310P;
  - (h) if the entity is a registered political party and an entity is registered, at any time during the calendar year, as the nominated entity of the party—the name of the nominated entity.

Note 1: For the meaning of *federal purpose*, see subsection 287(1).



Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.

Example: The Federal Quokka Party was registered as a registered political party on 1 October. The Federal Quokka Party is therefore required to provide a return for that calendar year in accordance with this section. The return must set out the information required by this section for the entire calendar year, not only the portion of the calendar year on and from 1 October.

*Returns for State branches that are not registered political parties*

- (4) For the purposes of paragraphs (3)(a), (c) and (e), if:
- (a) the agent of an entity that is a State branch of a registered political party is required by this section to provide a return with respect to the entity for a calendar year; and
  - (b) there is no time during the year at which the entity was a registered political party;
- the return is required to set out amounts received, paid or incurred only to the extent the amounts were received, paid or incurred for a federal purpose.

*Details of federal administrative accounts*

- (4A) The return must set out details of any federal administrative accounts kept in relation to the entity at any time in the calendar year.

*Audit of administrative assistance funding and expenditure*

- (5) If the entity is a registered political party that is paid administrative assistance funding under Division 3AA during the calendar year, the return must include a certificate that meets the requirements in section 311.
- (6) A return is taken not to have been provided to the Electoral Commission unless the return includes such a certificate (subject to section 318).

*Exception—information provided in another return*

- (7) This section does not apply to the agent of a State branch of a registered political party if the agent of the registered political

party provides a return under this section that sets out the information required by this section in relation to the State branch.

*No continuing contraventions*

- (8) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

### **310A Candidate returns**

- (1) The agent of a person who is a candidate for any period of time during a calendar year must provide the Electoral Commission a return for the period in accordance with this section.

Note 1: For when a person starts to be a candidate, see subsection 287(9).

Note 2: If the person is also a member of the House of Representatives or a Senator for any period of time during the calendar year, a return may also be required under section 310B.

Civil penalty:

The higher of the following:

- (a) 120 penalty units;
- (b) if an amount is not disclosed in accordance with subsection (1) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (2) The return must:
- (a) be provided to the Electoral Commission within 8 weeks of the end of the calendar year; and
  - (b) be in the approved form.

*Content of return*

- (3) The return must set out the following information:
- (a) if the election in which the person is a candidate is held in the calendar year—the name of the candidate as it appeared on the ballot paper;

- (b) the total amount of gifts made for a federal purpose that were received by the candidate, together with the details required by section 310K;
- (c) the total electoral expenditure incurred by the candidate, together with the details required by section 310M;
- (d) details of any discretionary benefits received by or on behalf of the candidate from the Commonwealth during the calendar year.

Note 1: For the meaning of *federal purpose*, see subsection 287(1).

Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.

*Details of federal administrative accounts*

- (3A) The return must set out details of any federal administrative accounts kept in relation to the candidate at any time in the calendar year.

*Exception—information provided in another return*

- (4) This section does not apply if:
  - (a) the candidate is endorsed by a registered political party; and
  - (b) the agent of the registered political party provides a return under section 310 that sets out the information required by subsection (3) of this section.

*Exception—no gifts, electoral expenditure or discretionary benefits*

- (5) This section does not apply if:
  - (a) a gift made for a federal purpose was not received by the candidate during the calendar year; and
  - (b) the candidate did not incur electoral expenditure during the calendar year; and
  - (c) discretionary benefits were not received by, or on behalf of, the candidate from the Commonwealth during the calendar year.

*Agent of person who ceased to be a candidate*

- (6) If a person has ceased to be a candidate before the end of a calendar year, subsection (1) applies to the person who was the

agent of the candidate immediately before the candidate ceased to be a candidate.

- (7) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

### **310B Members of the House of Representatives and Senator returns**

- (1) A person who is a member of the House of Representatives or a Senator for any period of time during a calendar year must provide the Electoral Commission a return for that period in accordance with this section if, during that period, the member or Senator:
- (a) received a gift made for a federal purpose; or
  - (b) incurred electoral expenditure; or
  - (c) was paid administrative assistance funding.

Note: If the person is also a candidate for any period of time during the calendar year, a return may also be required under section 310A.

Civil penalty:

The higher of the following:

- (a) 120 penalty units;
- (b) if an amount is not disclosed in accordance with subsection (1) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (2) The return must:
- (a) be provided to the Electoral Commission within 8 weeks of the end of the calendar year; and
  - (b) be in the approved form.

*Content of return*

- (3) The return must set out the following information:
- (a) the total amount of gifts made for a federal purpose that were received by the member or Senator, together with the details required by section 310K;

- (b) the total electoral expenditure incurred by the member or Senator during the calendar year, together with the details required by section 310M;
- (c) if the member or Senator is paid administrative assistance funding under Division 3AA during the calendar year—the details required by section 310P.

Note 1: For the meaning of *federal purpose*, see subsection 287(1).

Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.

*Details of federal administrative accounts*

- (3A) The return must set out details of any federal administrative accounts kept in relation to the member or Senator at any time in the calendar year.

*Audit of administrative assistance funding and expenditure*

- (4) If the member or Senator is paid administrative assistance funding under Division 3AA during the calendar year, the return must include a certificate that meets the requirements in section 311.
- (5) A return is taken not to have been provided to the Electoral Commission unless the return includes such a certificate (subject to section 318).

*Exception—information provided in another return*

- (6) If the agent of a registered political party, of which the member or Senator was a member at any time during the calendar year, provides a return under section 310 that sets out information required by subsection (3) of this section in relation to the member or Senator:
  - (a) that information is not required to be set out in a return under this section; and
  - (b) no return under this section is required if, because of paragraph (a), no information is required to be set out in a return under this section.

*No continuing contraventions*

- (7) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

**310C Significant third party returns**

- (1) The financial controller of a person or entity that is a significant third party at any time during a calendar year must provide the Electoral Commission a return for the calendar year in accordance with this section.

Note 1: See section 310G for additional disclosure obligations for persons or entities that become registered as a significant third party in a calendar year.

Note 2: A return must be provided even if no amounts were received, paid or incurred (see section 309).

**Civil penalty:**

The higher of the following:

- (a) 120 penalty units;
- (b) if an amount is not disclosed in accordance with subsection (1) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (2) The return must:
- (a) be provided to the Electoral Commission within 8 weeks of the end of the calendar year; and
  - (b) be in the approved form.

*Content of return*

- (3) The return must set out the following information:
- (a) the total amount received by or on behalf of the person or entity during the calendar year, together with the details (if any) required by section 310J;

- (b) the total amount of gifts made for a federal purpose that were received by the person or entity during the calendar year, together with the details required by section 310K;
- (c) the total amount paid by or on behalf of the person or entity during the calendar year;
- (d) the total electoral expenditure incurred by the person or entity during the calendar year, together with the details required by section 310M;
- (e) the total outstanding amount, as at the end of the calendar year, of all debts incurred by or on behalf of the person or entity, together with the details (if any) required by section 310N;
- (f) details of any discretionary benefits received by or on behalf of the person or entity from the Commonwealth during the calendar year.

Note 1: For the meaning of *federal purpose*, see subsection 287(1).

Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.

*Details of federal administrative accounts*

- (3A) The return must set out details of any federal administrative accounts kept in relation to the person or entity at any time in the calendar year.

*Expenditure incurred when not registered but required to be so*

- (4) The financial controller of a person or entity that is taken to have incurred an amount of electoral expenditure in a calendar year (the *later calendar year*) under section 287J must provide:
  - (a) a return for the calendar year in which the expenditure was actually incurred that includes that expenditure; and
  - (b) a separate return for the later calendar year that does not include the expenditure that was taken under section 287J to have been incurred in the later calendar year.

*Financial controller of deregistered significant third party*

- (5) If a significant third party is deregistered before the end of the period for providing the return as mentioned in paragraph (2)(a),

subsection (1) applies to the person who was the financial controller of the significant third party immediately before that deregistration.

*Exception—amounts received in personal capacity*

- (6) Any return provided under this section in respect of a person 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 person in a purely personal capacity;
  - (b) any amounts paid by, or on behalf of, the person 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 person in a purely personal capacity.

*Exception—amounts received by registered charities*

- (7) This section does not apply in relation to an amount if:
- (a) the amount was received by, or on behalf of, a person or entity that was registered under the *Australian Charities and Not-for-profits Commission Act 2012*; and
  - (b) no part of the amount was used during the calendar year by the person or entity:
    - (i) to enable the person or entity to incur electoral expenditure, or create or communicate electoral matter; or
    - (ii) to reimburse the person or entity for incurring electoral expenditure, or creating or communicating electoral matter.

*Exception—information provided in another return*

- (8) This section does not apply to the financial controller of an entity for a calendar year if:
- (a) the financial controller is required to provide a return under section 310D (associated entity returns) or section 310E (nominated entity returns) with respect to the entity for the year; and



- (b) the return the financial controller provides under that section:
  - (i) states that the entity was also a significant third party in the year; and
  - (ii) sets out the information required by this section with respect to the entity for the year.

Note: An entity that is registered as both a significant third party and an associated entity at a time is, for the purposes of this Part, to be treated at that time as if it were only an associated entity: see subsection 287(8A).

*No continuing contraventions*

- (9) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

### **310D Associated entity returns**

- (1) The financial controller of an entity that is an associated entity at any time during a calendar year must provide the Electoral Commission a return for a calendar year in accordance with this section.

Note 1: All nominated entities are required to be registered as associated entities: see paragraphs 287H(1)(b) and 287MB(1)(c).

Note 2: See section 310H for additional disclosure obligations for entities that become registered as an associated entity in a calendar year.

Note 3: A return must be provided even if no amounts were received, paid or incurred (see section 309).

**Civil penalty:**

The higher of the following:

- (a) 120 penalty units;
- (b) if an amount is not disclosed in accordance with subsection (1) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (2) The return must:

- (a) be provided to the Electoral Commission within 8 weeks of the end of the calendar year; and
- (b) be in the approved form.

*Content of return*

- (3) The return must set out the following information:
  - (a) the total amount received by or on behalf of the entity during the calendar year, together with the details (if any) required by section 310J;
  - (b) the total amount of gifts made for a federal purpose that were received by the entity during the calendar year, together with the details required by section 310K;
  - (c) the total amount paid by or on behalf of the entity during the calendar year, together with the details (if any) required by section 310L;
  - (d) the total electoral expenditure incurred by the entity during the calendar year, together with the details required by section 310M;
  - (e) the total outstanding amount, as at the end of the calendar year, of all debts incurred by or on behalf of the entity, together with the details (if any) required by section 310N;
  - (f) details of any discretionary benefits received by or on behalf of the entity from the Commonwealth during the calendar year.

Note 1: For the meaning of *federal purpose*, see subsection 287(1).

Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.

*Details of federal administrative accounts*

- (3A) The return must set out details of any federal administrative accounts kept in relation to the entity at any time in the calendar year.

*Financial controller of deregistered associated entity*

- (4) If an associated entity is deregistered before the end of the period for providing the return as mentioned in paragraph (2)(a), subsection (1) applies to the person who was the financial

controller of the associated entity immediately before that deregistration.

*Exception—information provided in another return*

- (5) Subsection (1) does not apply to the financial controller of an entity for a calendar year if:
- (a) the entity is also a nominated entity at a time in the year; and
  - (b) a return is provided under section 310E (nominated entity returns) that:
    - (i) sets out the information required by this section for the entity for the year; and
    - (ii) specifies any period in the year during which the entity was an associated entity and not also a nominated entity; and
    - (iii) for any such period—makes clear which information relates to the period.

*No continuing contraventions*

- (6) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

### **310E Nominated entity returns**

- (1) The financial controller of an entity that is a nominated entity at any time during a calendar year must provide the Electoral Commission a return for a calendar year in accordance with this section.

Civil penalty:

The higher of the following:

- (a) 120 penalty units;
- (b) if an amount is not disclosed in accordance with subsection (1) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (2) The return must:
- (a) be provided to the Electoral Commission within 8 weeks of the end of the calendar year; and
  - (b) be in the approved form.

*Content of return*

- (3) The return must set out the following information:
- (a) the total amount received by or on behalf of the entity during the calendar year, together with the details (if any) required by section 310J;
  - (b) the total amount of gifts made for a federal purpose that were received by the entity during the calendar year, together with the details required by section 310K;
  - (c) the total amount paid by or on behalf of the entity during the calendar year, together with the details (if any) required by section 310L;
  - (d) the total electoral expenditure incurred by the entity during the calendar year, together with the details required by section 310M;
  - (e) the total outstanding amount, as at the end of the calendar year, of all debts incurred by or on behalf of the entity, together with the details (if any) required by section 310N;
  - (f) details of any discretionary benefits received by or on behalf of the entity from the Commonwealth during the calendar year.

Note 1: For the meaning of *federal purpose*, see subsection 287(1).

Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.

*Details of federal administrative accounts*

- (3A) The return must set out details of any federal administrative accounts kept in relation to the entity at any time in the calendar year.

*Financial controller of deregistered nominated entity*

- (4) If the registration of the entity as a nominated entity is cancelled before the end of the period for providing the return as mentioned in paragraph (2)(a), subsection (1) applies to the person who was the financial controller of the entity immediately before that cancellation.

*No continuing contraventions*

- (5) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

**310F Third party returns**

- (1) A person or entity who is a third party at any time during a calendar year must provide the Electoral Commission a return for the calendar year in accordance with this section.

Civil penalty:

The higher of the following:

- (a) 120 penalty units;  
(b) if an amount is not disclosed in accordance with subsection (1) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (2) The return must:
- (a) be provided to the Electoral Commission within 8 weeks of the end of the calendar year; and
- (b) be in the approved form.

*Content of return*

- (3) The return must set out the following information:
- (a) the total amount of gifts made for a federal purpose that were received by the person or entity during the calendar year, together with the details required by section 310K;

- (b) the total electoral expenditure incurred by the person or entity during the calendar year, together with the details required by section 310M.

- Note 1: For the meaning of *federal purpose*, see subsection 287(1).
- Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.
- Note 3: To avoid doubt, a registered charity under the *Australian Charities and Not-for-profits Commission Act 2012* does not need to report amounts that were not received, paid, or incurred for a federal purpose.

*Details of federal administrative accounts*

- (3A) The return must set out details of any federal administrative accounts kept in relation to the person or entity at any time in the calendar year.

*Exception—information provided in another return*

- (4) This section does not apply to a person or entity for a calendar year if:
- (a) the financial controller of the person or entity is required to provide a return under section 310C (significant third party returns), section 310D (associated entity returns) or section 310E (nominated entity returns) with respect to the person or entity (as applicable) for the year; and
  - (b) the return the financial controller provides under that section:
    - (i) states that the person or entity was also a third party in the year; and
    - (ii) sets out the information required by this section with respect to the person or entity for the year.

*No continuing contraventions*

- (5) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

## **Subdivision C—Disclosure obligations for new significant third parties and associated entities**

### **310G New significant third party returns**

- (1) This section applies if:
  - (a) a person or entity is registered as a significant third party at any time during a calendar year; and
  - (b) the person or entity was neither registered, nor required to be registered, as a significant third party in the previous calendar year.
- (2) The financial controller of the person or entity must provide to the Electoral Commission a return for the previous calendar year in accordance with this section.

Civil penalty:

The higher of the following:

- (a) 120 penalty units;
- (b) if an amount is not disclosed in accordance with subsection (4) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (3) A return under this section must:
  - (a) be provided to the Electoral Commission within 30 days beginning on the day the entity is registered as a significant third party; and
  - (b) be in the approved form.

*Content of return*

- (4) The return must set out the following information:
  - (a) the total amount received by or on behalf of the person or entity during the previous calendar year, together with the details (if any) required by section 310J;

- (b) the total amount of gifts made for a federal purpose that were received by the person or entity during the previous calendar year, together with the details required by section 310K;
- (c) the total amount paid by or on behalf of the person or entity during the previous calendar year;
- (d) the total electoral expenditure incurred by the person or entity during the previous calendar year, together with the details required by section 310M;
- (e) the total outstanding amount, as at the end of the previous calendar year, of all debts incurred by or on behalf of the person or entity, together with the details (if any) required by section 310N;
- (f) details of any discretionary benefits received by or on behalf of the person or entity from the Commonwealth during the previous calendar year.

Note 1: For the meaning of *federal purpose*, see subsection 287(1).

Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.

Note 3: A return must be provided even if no amounts were received, paid or incurred (see section 309).

*No continuing contraventions*

- (5) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (2) of this section.

**310H New associated entity returns**

- (1) This section applies if:
  - (a) an entity is registered as an associated entity at any time during a calendar year; and
  - (b) the entity was neither registered, nor required to be registered, as an associated entity at any time in the previous calendar year.

Note: All nominated entities are required to be registered as associated entities: see paragraphs 287H(1)(b) and 287MB(1)(c).

- (2) The financial controller of the entity must provide to the Electoral Commission a return for the previous calendar year in accordance with this section.



Civil penalty:

The higher of the following:

- (a) 120 penalty units;
- (b) if an amount is not disclosed in accordance with subsection (4) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

*Timing of return etc.*

- (3) A return under this section must:
  - (a) be provided to the Electoral Commission within 30 days beginning on the day the entity is registered as an associated entity; and
  - (b) be in the approved form.

*Content of return*

- (4) The return must set out the following information:
  - (a) the total amount received by or on behalf of the entity during the previous calendar year, together with the details (if any) required by section 310J;
  - (b) the total amount of gifts made for a federal purpose that were received by the entity during the previous calendar year, together with the details required by section 310K;
  - (c) the total amount paid by or on behalf of the entity during the previous calendar year, together with the details (if any) required by section 310L;
  - (d) the total electoral expenditure incurred by the entity during the previous calendar year, together with the details required by section 310M;
  - (e) the total outstanding amount, as at the end of the previous calendar year, of all debts incurred by or on behalf of the entity, together with the details (if any) required by section 310N;
  - (f) details of any discretionary benefits received by or on behalf of the entity from the Commonwealth during the previous calendar year;

(g) if subsection (5) applies in relation to any information—a statement to that effect.

Note 1: For the meaning of *federal purpose*, see subsection 287(1).

Note 2: See Division 4 (disclosure of donations) for additional disclosure obligations in relation to certain gifts.

Note 3: A return must be provided even if no amounts were received, paid or incurred (see section 309).

*Exception—information provided in a previous return*

(5) Despite subsection (4), the return is not required to set out information mentioned in any of paragraphs (4)(a) to (f) that has already been set out in a return provided with respect to the entity under Subdivision B or section 310G.

*No continuing contraventions*

(6) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (2) of this section.

## Subdivision D—Details required etc.

### 310J Details of amount received

(1) This section applies for the purposes of a provision in Subdivision B or C that refers to the details required by this section in relation to the total amount received by or on behalf of a person or entity during a calendar year.

Note: Amounts may be received in different ways, including as gifts in kind (see the definition of *amount* in section 308).

(2) The details set out in subsection (3) are required if the sum of all amounts received by or on behalf of the person or entity during the calendar year is more than the disclosure threshold.

(3) The details are the following:

- (a) if an amount was received from an unincorporated association, other than a registered industrial organisation:
  - (i) the name of the association; and

- (ii) the names and addresses of the members of the executive committee (however described) of the association;
- (b) if the sum was purportedly paid out of a trust fund or out of the funds of a foundation:
  - (i) the names and addresses of the trustees of the fund or of the foundation; and
  - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires;
- (c) if the sum was received as a result of a loan—the information required to be kept under subsection 306A(3), or the name of the financial institution, as the case requires;
- (d) in any other case—the name and address of the person or organisation.

### **310K Details of gifts made for a federal purpose**

- (1) This section applies for the purposes of a provision in Subdivision B or C that refers to the details required by this section in relation to the total amount of gifts made for a federal purpose received by a person or entity during a calendar year.
- (2) The details are the following:
  - (a) the total amount of the gifts that are not required to be disclosed under section 303A (requirements for recipients of gifts);
  - (b) the total amount of those gifts received during a by-election period for a by-election;
  - (c) the total amount of those gifts received during a Senate-only election period for a Senate-only election.

### **310L Details of amounts paid out of funds generated from capital**

- (1) This section applies for the purposes of a provision in Subdivision B or C that refers to the details required by this section in relation to amounts paid by or on behalf of an entity during a calendar year.
- (2) The details set out in subsection (3) are required for each person who contributed to capital of the entity after the commencement of this section if:

- (a) any amount paid by or on behalf of the entity during the calendar year was paid to, or for the benefit of, one or more registered political parties; and
  - (b) the payment was made out of funds generated from that capital.
- (3) The details are:
- (a) the name and address of the person; and
  - (b) the total amount of the person's contributions to the entity's capital, up to the end of the calendar year.
- (4) Subsection (2) does not apply to contributions that have been set out in a previous return under subsection (1).

### **310M Details of electoral expenditure**

- (1) This section applies for the purposes of a provision in Subdivision B or C that refers to the details required by this section in relation to the total electoral expenditure incurred by a person or entity during a calendar year.
- (2) The details are the following:
- (a) the total electoral expenditure that counts towards a cap mentioned in the following provisions:
    - (i) subsection 302AMA(1) (Federal cap);
    - (ii) subsection 302ANA(1) (Independent House of Representatives cap);
    - (iii) subsection 302AOA(1) (Independent Senate cap);
    - (iv) subsection 302APA(1) (capped entity cap);
  - (b) for any electoral expenditure targeted to a Division:
    - (i) the name of the Division; and
    - (ii) the total expenditure that counts towards the cap mentioned in subsection 302AMB(1) (Divisional cap) or 302APB(1) (capped entity Divisional cap) in relation to the Division;
  - (c) for any electoral expenditure targeted to a State or Territory:
    - (i) the name of the State or Territory; and
    - (ii) the total expenditure that counts towards the cap mentioned in subsection 302AMC(1) (Senate cap) or

302APC(1) (capped entity Senate cap) in relation to the State or Territory;

- (d) for any electoral expenditure incurred in the by-election period for a by-election, for the purposes of the by-election:
  - (i) the name of the Division to which the by-election relates; and
  - (ii) the total expenditure that counts towards the cap mentioned in subsection 302AMD(1) (by-election cap), 302ANB(1) (Independent House of Representatives by-election cap) or 302APD(1) (capped entity by-election cap), in relation to the by-election;
- (e) for any electoral expenditure incurred in the Senate-only election period for a Senate-only election in a State or Territory, for the purposes of the election:
  - (i) the name of the State or Territory; and
  - (ii) the total expenditure that counts towards the cap mentioned in subsection 302AME(1) (Senate-only election cap), 302AOB(1) (Senate-only election Independent Senate cap) or 302APE(1) (capped entity Senate-only election cap) in relation to the election;
- (f) the total electoral expenditure covered by section 302AQC (exception—travel and translation expenses);
- (g) the total electoral expenditure covered by section 302AQE (exception—campaign office accommodation);
- (h) the total electoral expenditure covered by section 302AQF (exception—design and printing costs for certain how-to-vote cards).

Note 1: Electoral expenditure does not count towards to a particular cap if it is covered by an exception for the cap (for the exceptions, see Subdivision G of Division 3AB).

Note 2: For electoral expenditure targeted to a Division, State or Territory, see section 302AD.

### **310N Details of outstanding amounts**

- (1) This section applies for the purposes of a provision in Subdivision B or C that refers to the details required by this section in relation to the total outstanding amount, as at the end of a calendar year, of all debts incurred by a person or entity.

- (2) The details set out in subsection (3) are required if the sum of the debts is more than the disclosure threshold.
- (3) The details are the following, for the amount outstanding in relation to each debt:
  - (a) if the amount was owed to an unincorporated association, other than a registered industrial organisation:
    - (i) the name of the association; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the association;
  - (b) if the amount was purportedly incurred as a debt to a trust fund or to a foundation:
    - (i) the names and addresses of the trustees of the fund or of the foundation; and
    - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires;
  - (c) in any other case—the name and address of the person or organisation.

### **310P Details of administrative expenditure**

- (1) This section applies for the purposes of a provision in Subdivision B that refers to the details required by this section in relation to administrative assistance funding paid to a person or entity.
- (2) The details are the following:
  - (a) a statement specifying whether the person or entity incurred administrative expenditure during the calendar year that is less than, the same as, or more than the administrative assistance funding paid to the person or entity during that year;
  - (b) if the person or entity incurred administrative expenditure during the calendar year that is less than the administrative assistance funding paid to the person or entity during that year—the amount of the difference between the amount incurred and the amount paid.

### **311 Audit requirements in relation to administrative expenditure**

- (1) This section applies for the purposes of a provision in Subdivision B that refers to the requirements that must be met by a certificate in relation to a person or entity paid administrative assistance funding during a calendar year.
- (2) A certificate meets the requirements in this section if:
  - (a) it is issued by a registered company auditor (within the meaning of the *Corporations Act 2001*); and
  - (b) the auditor has audited any administrative expenditure incurred by the person or entity during the calendar year; and
  - (c) the audit was conducted in accordance with any applicable Auditing Standards; and
  - (d) the certificate states that the auditor:
    - (i) was given full and free access at all reasonable times to all accounts, records, documents and papers relating directly or indirectly to the information required to be set out in the return; and
    - (ii) examined that material for the purpose of giving the certificate; and
    - (iii) received all information and explanations that the auditor requested in respect of that material; and
    - (iv) has no reason to believe that any information required to be set out in the return is not correct.

### **Subdivision E—Commonwealth annual reports: statement of amounts paid**

#### **9 Subsection 311A(2)**

Omit “disclosure threshold”, substitute “third party threshold”.

#### **10 Sections 313 and 314**

Repeal the sections, substitute:

## Subdivision F—Miscellaneous

### 312 Returns not to include lists of party membership

Returns provided in accordance with this Division are not to include lists of party membership.

### 313 Regulations

- (1) The regulations may prescribe:
  - (a) additional information to be set out in returns; or
  - (b) additional details to be provided for information already required by this Division to be set out in returns.
- (2) Without limiting paragraph (1)(b), the regulations may require that the total amounts referred to in this Division be broken down in the way specified in the regulations.

## 11 Division 5A of Part XX

Repeal the Division.

## 12 Subsection 320(1) (table items 4, 5 and 6)

Repeal the items, substitute:

4	return information (other than an address or details of federal administrative accounts) provided under Subdivision B of Division 5	before the end of 10 weeks after the end of the calendar year to which the return relates.
5	return information (other than an address) provided under section 310G (new significant third party returns)	before the end of 10 weeks after the day the entity is registered as a significant third party.
5A	return information (other than an address) provided under section 310H (new associated entity returns)	before the end of 10 weeks after the day the entity is registered as an associated entity.
6	return information (other than an address) provided under Division 2 of Part VIIIA of the <i>Referendum (Machinery Provisions) Act 1984</i>	before the end of 10 weeks after the voting day for the referendum to which the return relates.

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

**13 Subsection 109E(1) (note)**

Omit “Returns”, substitute “Return information”.

**14 Paragraph 109E(4)(a)**

Omit “15 weeks”, substitute “28 days”.

**15 Subsection 109G(2)**

Omit “15 weeks”, substitute “28 days”.

**16 Subsection 109G(3) (note)**

Omit “Returns”, substitute “Return information”.

## Part 2—Amendments relating to publication of personal information

### *Commonwealth Electoral Act 1918*

#### 17 Paragraph 287N(2)(d)

After “return”, insert “information”.

#### 18 Section 320 (heading)

Omit “returns”, substitute “return information”.

#### 19 Subsection 320(1) (table heading)

Omit “returns”, substitute “return information”.

#### 20 Subsection 320(1) (table items 4, 5 and 6)

Repeal the items, substitute:

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4	return information (other than an address) provided under Division 4 or 5	before the end of 24 weeks after the polling day in the election to which the return relates.
5	return information (other than an address) provided under Division 5A	before the end of the first business day in February in the calendar year after the return is provided.
6	return information (other than an address) provided under Division 2 of Part VIIIA of the <i>Referendum (Machinery Provisions) Act 1984</i>	before the end of 24 weeks after the voting day for the referendum to which the return relates.

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#### 21 After subsection 320(1)

Insert:

(1A) Despite subsection (1), the Electoral Commissioner may:

- (a) redact or remove personal information (within the meaning of the *Privacy Act 1988*) required to be published in item 4 or 5 of the table in subsection (1) from the Register; or
- (b) decide not to include the information in the Register;

if the Commissioner is satisfied that the publication of the information places, or would place, the personal safety of a person, or of members of the person's family, at risk.

**22 Subsection 320(2)**

After "return" (wherever occurring), insert "information".

## Schedule 6—Commonwealth campaign accounts

### *Commonwealth Electoral Act 1918*

#### **1 After paragraph 126(2)(d)**

Insert:

- (da) set out details of each federal account (within the meaning of Part XX) of the party; and

#### **2 Subsection 287(1) (at the end of the definition of *federal account*) (before the example)**

Add:

- ; and (c) the account is with an ADI within the meaning of the *Banking Act 1959*; and
- (d) the account is kept in Australia.

Note: ADI is short for authorised deposit-taking institution.

#### **3 At the end of subsection 287K(2)**

Add:

- ; and (c) set out details of each federal account of the person or entity.

#### **4 After Division 2 of Part XX**

Insert:

### **Division 2A—Use of federal accounts**

#### **292FA Use of federal accounts**

##### *Obligation in relation to electoral expenditure*

- (1) A person or entity covered by column 1 of an item in this table must ensure that all electoral expenditure that is incurred:
  - (a) by the person or entity covered by column 2 of that item; and
  - (b) during the period (the *relevant period*) covered by column 3 of that item;

is paid for with money from a federal account kept for the purposes of this Part in relation to the person or entity covered by column 2 of that item.

<b>Federal accounts</b>			
<b>Item</b>	<b>Column 1 Person or entity subject to obligation</b>	<b>Column 2 Person or entity incurring electoral expenditure or receiving gift</b>	<b>Column 3 Relevant period</b>
1	Agent of a candidate in an election	The candidate	The period the candidate is a candidate in the election
2	The agent of a registered political party	The registered political party	The period the party is a registered political party
3	The agent of a State branch of a registered political party	The State branch	The period the State branch is a State branch of the registered political party
4	A person who is a member of the House of Representatives or a Senator	The member or Senator	The period the person is a member of the House of Representatives or a Senator
5	The financial controller in relation to a person or entity that is a significant third party	The significant third party	The period the person or entity is a significant third party
6	The financial controller in relation to an entity that is an associated entity	The associated entity	The period the entity is an associated entity
7	The financial controller in relation to an entity that is a nominated entity	The nominated entity	The period the entity is a nominated entity
8	A person or entity	The third party	The period beginning

**Schedule 6** Commonwealth campaign accounts

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<b>Federal accounts</b>			
<b>Item</b>	<b>Column 1 Person or entity subject to obligation</b>	<b>Column 2 Person or entity incurring electoral expenditure or receiving gift</b>	<b>Column 3 Relevant period</b>
	that is a third party		on the day in the calendar year the person or entity becomes a third party and ending at the end of the calendar year

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*Obligation in relation to gifts*

- (2) A person or entity covered by column 1 of an item in the table in subsection (1) must take all reasonable steps to ensure that each gift of money that satisfies the following requirements is credited, during the relevant period, to a federal account kept for the purposes of this Part in relation to the person or entity covered by column 2 of that item:
- (a) the gift is received by the person or entity covered by column 2 of that item in the relevant period;
  - (b) the gift is made for a federal purpose.

*Additional obligation for agents of registered political parties*

- (3) If, under subsection 299A(1), the Electoral Commission pays an amount under section 298D or 298E by cheque payable to a registered political party, the agent of the party must, before the end of the period of 7 days beginning on the day the agent receives the cheque, ensure that the amount of the cheque is credited to a federal account kept for the purposes of this Part in relation to the party.

*Obligation to credit only required or permitted amounts*

- (4) A person or entity covered by column 1 of an item in the table in subsection (1) must take all reasonable steps to ensure that the only amounts that are credited to a federal account kept for the purposes

of this Part in relation to the person or entity covered by column 2 of the item are the following:

- (a) amounts required to be credited to a federal account kept for the purposes of that person or entity under subsection (2) or (3) of this section or another provision of this Act;
- (b) amounts that are:
  - (i) to be used for a federal purpose; and
  - (ii) permitted to be credited to a federal account kept for the purposes of that person or entity under section 292FAA, 292FAB, 292FAC, 292FAD or 292FAE or another provision of this Act.

*Action in relation to amounts incorrectly credited*

- (7) If a person or entity covered by column 1 of an item in the table in subsection (1) becomes aware that an amount (the **relevant amount**) has been credited to a federal account kept for the purposes of this Part, in relation to the person or entity covered by column 2 of that item, in circumstances not permitted by this section, the person or entity covered by column 1 of that item:
  - (a) must ensure that an amount equal to the relevant amount is withdrawn or transferred from that account; and
  - (b) must do so before the end of the period of 6 weeks beginning on the day the person or entity becomes so aware.

*Civil penalty*

- (8) A person or entity contravenes this subsection if:
  - (a) the person or entity is subject to an obligation under this section; and
  - (b) the person or entity fails to comply with the obligation.

Civil penalty:           200 penalty units.

**292FAA Permitted credits to federal account for registered political party, State branch or nominated entity**

For the purposes of subparagraph 292FA(4)(b)(ii), the following amounts may be credited to a federal account kept for the purposes of this Part in relation to a person or entity (the **account**

**beneficiary**) covered by column 2 of item 2, 3 or 7 of the table in subsection 292FA(1):

- (a) interest earned on money standing to the credit of the account;
- (b) a loan;
- (c) a bequest;
- (d) an amount paid from another federal account kept for the purposes of this Part in relation to another person or entity that is a core member of the same expenditure group as the account beneficiary;
- (e) if the account beneficiary is a registered political party or a State branch of a registered political party—an amount paid from another federal account kept for the purposes of this Part in relation to another political party if:
  - (i) the account beneficiary and the other political party are related to each other within the meaning of paragraph 123(2)(a) because one is a part of the other (while not being a State branch of the other); and
  - (ii) the one that is a part of the other is a registered political party;
- (f) an amount of a kind prescribed by the regulations for the purposes of this paragraph.

Note 1: The effect of paragraph (b) is that a commercial loan or a non-commercial loan can be credited to a federal account.

Note 2: The effect of paragraph (d) is that any amount can be credited to the federal account of a registered political party, a State branch or a nominated entity if the amount is paid from the federal account of a candidate, a member of the House of Representatives, a Senator, or another registered political party, State branch or nominated entity, and both the recipient and the payer are core members of the same expenditure group.

Note 3: There are penalties for crediting an amount to a federal account if the amount is not required or permitted to be credited: see subsections 292FA(4) and (8).

**292FAB Permitted credits to federal account for registered political parties: contributions by candidates and sitting members**

- (1) For the purposes of subparagraph 292FA(4)(b)(ii), an amount may be credited to a federal account kept for the purposes of this Part in



relation to a person or entity (the *account beneficiary*) covered by column 2 of item 2 or 3 of the table in subsection 292FA(1) if all of the following apply:

- (a) the account beneficiary is a registered political party;
- (b) the amount is credited to the federal account by a person (the *payer*) at a time in a calendar year and is an amount of the payer's own money;
- (c) at the time the amount is credited, the payer is either or both of the following:
  - (i) a candidate endorsed by the account beneficiary;
  - (ii) a member of the House of Representatives, or a Senator, who is a member of the account beneficiary;
- (d) if the payer is a candidate at the time the amount is credited—the amount is credited to the federal account for the purposes of the payer's election campaign in the calendar year.

Note: An amount may only be credited under this section if it is for a federal purpose. The amount will be a gift (see subsection 287AAB(3A)).

- (2) However, the sum of the following amounts must not exceed the annual gift cap (within the meaning of Division 3A) for the calendar year:
  - (a) amounts paid by the payer that are covered by subsection (1) and credited in the calendar year to federal accounts kept for the purposes of this Part in relation to the account beneficiary;
  - (b) amounts paid by the payer that are covered by subsection 292FAC(4) and credited in the calendar year to federal accounts kept for the purposes of this Part in relation to the payer.

Note: There are penalties for crediting an amount to a federal account if the amount is not required or permitted to be credited: see subsections 292FA(4) and (8).

## 292FAC Permitted credits to federal account for candidate, member or Senator

### *General*

- (1) For the purposes of subparagraph 292FA(4)(b)(ii), the following amounts may be credited to a federal account kept for the purposes of this Part in relation to a person (the ***account beneficiary***) covered by column 2 of item 1 or 4 of the table in subsection 292FA(1):
- (a) interest earned on money standing to the credit of the account;
  - (b) a loan;
  - (c) a bequest;
  - (d) an amount paid from another federal account kept for the purposes of this Part in relation to another person or entity, if both the other person or entity and the account beneficiary are core members of the same expenditure group;
  - (e) an amount of a kind prescribed by the regulations for the purposes of this paragraph.

Note 1: The effect of paragraph (b) is that a commercial loan or a non-commercial loan can be credited to a federal account.

Note 2: The effect of paragraph (d) is that any amount can be credited to the federal account of a candidate, a member of the House of Representatives or a Senator if the amount is paid from the federal account of another candidate, member of the House of Representatives or Senator, or a registered political party, a State branch or nominated entity, and both the recipient and the payer are core members of the same expenditure group.

Note 3: There are penalties for crediting an amount to a federal account if the amount is not required or permitted to be credited: see subsections 292FA(4) and (8).

### *Contributions by independent candidates and members*

- (2) For the purposes of subparagraph 292FA(4)(b)(ii), an amount may be credited to a federal account kept for the purposes of this Part in relation to a person (the ***account beneficiary***) covered by column 2 of item 1 or 4 of the table in subsection 292FA(1) if all of the following apply:

- 
- (a) the amount is credited to the federal account by the account beneficiary at a time in a calendar year and is an amount of the account beneficiary's own money;
  - (b) at the time the amount is credited, the account beneficiary is either or both of the following:
    - (i) a candidate who is not endorsed by a registered political party;
    - (ii) a member of the House of Representatives, or a Senator, who is not a member of a registered political party;
  - (c) if the account beneficiary is a candidate at the time the amount is credited—the amount is credited to the federal account for the purposes of the account beneficiary's election campaign in the calendar year.

Note: For an amount to be a gift, it must be a disposition of property from one person to another person (see subsection 287AAB(1)).

- (3) However, the sum of amounts that are covered by subsection (2) and credited in a calendar year to federal accounts kept for the purposes of this Part in relation to the account beneficiary must not exceed the annual gift cap (within the meaning of Division 3A) for the calendar year.

Note: There are penalties for crediting an amount to a federal account if the amount is not required or permitted to be credited: see subsections 292FA(4) and (8).

*Contributions by other candidates and sitting members*

- (4) For the purposes of subparagraph 292FA(4)(b)(ii), an amount may be credited to a federal account kept for the purposes of this Part in relation to a person (the **account beneficiary**) covered by column 2 of item 1 or 4 of the table in subsection 292FA(1) if all of the following apply:
  - (a) the amount is credited to the federal account by the account beneficiary at a time in a calendar year and is an amount of the account beneficiary's own money;
  - (b) at the time the amount is credited, the account beneficiary is either or both of the following:
    - (i) a candidate who is endorsed by a registered political party;

- (ii) a member of the House of Representatives, or a Senator, who is a member of a registered political party;
- (c) if the account beneficiary is a candidate at the time the amount is credited—the amount is credited to the federal account for the purposes of the account beneficiary’s election campaign in the calendar year.

Note: For an amount to be a gift, it must be a disposition of property from one person to another person (see subsection 287AAB(1)).

- (5) However, the sum of the following amounts must not exceed the annual gift cap (within the meaning of Division 3A) for the calendar year:
  - (a) amounts that are covered by subsection (4) and credited in the calendar year to federal accounts kept for the purposes of this Part in relation to the account beneficiary;
  - (b) amounts that are covered by subsection 292FAB(1) and credited in the calendar year to federal accounts kept for the purposes of this Part in relation to:
    - (i) the registered political party that endorsed the account beneficiary; or
    - (ii) the registered political party that the account beneficiary is a member of.

Note: There are penalties for crediting an amount to a federal account if the amount is not required or permitted to be credited: see subsections 292FA(4) and (8).

**292FAD Permitted credits to federal account for significant third party, associated entity or third party**

For the purposes of subparagraph 292FA(4)(b)(ii), the following amounts may be credited to a federal account kept for the purposes of this Part in relation to a person or entity covered by column 2 of item 5, 6 or 8 of the table in subsection 292FA(1):

- (a) interest earned on money standing to the credit of the account;
- (b) a loan;
- (c) a bequest;
- (d) an amount of a kind prescribed by the regulations for the purposes of this paragraph.

Note 1: The effect of paragraph (b) is that a commercial loan or a non-commercial loan can be credited to a federal account.

Note 2: There are penalties for crediting an amount to a federal account if the amount is not required or permitted to be credited: see subsections 292FA(4) and (8).

**292FAE Permitted credits to federal account for significant third party, associated entity or third party: capped amounts of subscriptions etc.**

- (1) For the purposes of subparagraph 292FA(4)(b)(ii), the following amounts paid by a person or entity (the *payer*) may be credited in a calendar year to a federal account kept for the purposes of this Part in relation to a person or entity (the *account beneficiary*) covered by column 2 of item 5, 6 or 8 of the table in subsection 292FA(1):
- (a) a subscription paid in respect of the payer's membership of the account beneficiary;
  - (b) an amount paid in respect of the payer's affiliation with the account beneficiary;
  - (c) if the payer is an elected official or employee of the account beneficiary—an annual levy paid by the payer to the account beneficiary.

Note: Amounts covered by paragraphs (a) to (c) that are credited to a federal account are gifts: see subsection 287AAB(4). Subdivision E of Division 4 imposes disclosure obligations in relation to gifts.

- (2) However, the sum of amounts paid by the payer that are covered by subsection (1) and credited in a calendar year to federal accounts kept for the purposes of this Part in relation to the account beneficiary must not exceed:
- (a) if the significant third party, associated entity or third party is a peak representative body—4 times the annual gift cap (within the meaning of Division 3A) for the calendar year; or
  - (b) otherwise—the annual gift cap (within the meaning of Division 3A) for the calendar year.

Note: Amounts covered by subsection (1) that are credited to a federal account are gifts: see subsection 287AAB(4). Subdivision E of Division 4 imposes disclosure obligations in relation to gifts.

**292FB Kinds of federal accounts to be used**

A person or entity covered by column 1 of an item in the table in subsection 292FA(1) must ensure that the federal account referred to in subsection 292FA(1) or (2) in relation to the person or entity covered by column 2 of that item is:

- (a) for the agent of a candidate in an election:
  - (i) a federal account that is kept for the purposes of this Part in relation to a registered political party; or
  - (ii) a new federal account that is opened for the purposes of this Part in relation to the candidate; or
  - (iii) a federal account in relation to which the matters prescribed by the regulations for the purposes of this subparagraph are satisfied; or
- (b) for the agent of a registered political party:
  - (i) a federal account that was in existence immediately before the commencement of this section and was kept for the purposes of this Part in relation to the party; or
  - (ii) a new federal account that is opened for the purposes of this Part in relation to the party; or
  - (iii) a federal account in relation to which the matters prescribed by the regulations for the purposes of this subparagraph are satisfied; or
- (c) for the agent of a State branch of a registered political party:
  - (i) a federal account that was in existence immediately before the commencement of this section and was kept for the purposes of this Part in relation to the State branch; or
  - (ii) a new federal account that is opened for the purposes of this Part in relation to the State branch; or
  - (iii) a federal account in relation to which the matters prescribed by the regulations for the purposes of this subparagraph are satisfied; or
- (d) for a person who is a member of the House of Representatives or a Senator:
  - (i) a federal account that is kept for the purposes of this Part in relation to a registered political party; or
  - (ii) a federal account that was kept for the purposes of this Part while the person was a candidate in an election that

- 
- resulted in the person becoming a member of the House of Representatives or a Senator; or
- (iii) a new federal account that is opened for the purposes of this Part in relation to the member or Senator; or
  - (iv) a federal account in relation to which the matters prescribed by the regulations for the purposes of this subparagraph are satisfied; or
- (e) for the financial controller in relation to a person or entity that is a significant third party:
- (i) a federal account that was in existence immediately before the commencement of this section and was kept for the purposes of this Part in relation to the significant third party; or
  - (ii) a new federal account that is opened for the purposes of this Part in relation to the significant third party; or
  - (iii) a federal account in relation to which the matters prescribed by the regulations for the purposes of this subparagraph are satisfied; or
- (f) for the financial controller in relation to an entity that is an associated entity:
- (i) a federal account that was in existence immediately before the commencement of this section and was kept for the purposes of this Part in relation to the associated entity; or
  - (ii) a new federal account that is opened for the purposes of this Part in relation to the associated entity; or
  - (iii) a federal account in relation to which the matters prescribed by the regulations for the purposes of this subparagraph are satisfied; or
- (g) for the financial controller in relation to an entity that is a nominated entity:
- (i) a federal account that was in existence immediately before the commencement of this section and was kept for the purposes of this Part in relation to the entity in the entity's capacity as an associated entity; or
  - (ii) a new federal account that is opened for the purposes of this Part in relation to the nominated entity; or

- (iii) a federal account in relation to which the matters prescribed by the regulations for the purposes of this subparagraph are satisfied; or
- (h) for a person or entity that is a third party:
  - (i) a federal account that was in existence immediately before the commencement of this section and was kept for the purposes of this Part in relation to the third party; or
  - (ii) a new federal account that is opened for the purposes of this Part in relation to the third party; or
  - (iii) a federal account in relation to which the matters prescribed by the regulations for the purposes of this subparagraph are satisfied.

Civil penalty: 200 penalty units.

### **292FC Notification of federal accounts used**

- (1) A person or entity covered by column 1 of an item in the table in subsection 292FA(1) must, in accordance with this section, give the Electoral Commission a notice in writing during the period beginning on the day (the *start day*) after the earlier of the following days and ending at the end of the seventh day after the start day:
  - (a) the first day on which expenditure that is incurred by the person or entity covered by column 2 of that item is paid for with money from a federal account;
  - (b) the first day on which a gift of money received by the person or entity covered by column 2 of that item is credited to a federal account.

Civil penalty: 200 penalty units.

- (2) The notice must:
  - (a) set out details of that federal account; and
  - (b) if the federal account is opened on or after the day on which this section commences and has a balance of at least \$20,000 on the day before the notice is given—include a statement to that effect.



*Investigation*

- (3) If a notice under this section includes a statement as mentioned in paragraph (2)(b) in relation to a federal account, one or more authorised officers (within the meaning of Division 5C) must conduct an investigation in relation to that federal account.

Note: See section 314AN for the powers available to an authorised officer conducting the investigation.

**5 After paragraph 298A(c)**

Insert:

- (ca) except if the claim is made by the agent of a registered political party—specify the federal account in which the election funding is to be paid; and

**6 At the end of section 298A**

Add:

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

**7 Subsection 298D(2)**

Omit “and (d)”, substitute “to (d)”.

**8 Subsection 298D(2) (note 1)**

Repeal the note, substitute:

Note 1: Section 298A deals with matters to be specified in a claim, including (except if the claim is made by the agent of a registered political party) the federal account in which the election funding is to be paid.

**9 Subsection 298E(2)**

Omit “and (d)”, substitute “to (d)”.

**10 Subsection 298E(2) (note 1)**

Repeal the note, substitute:

Note 1: Section 298A deals with matters to be specified in a claim, including (except if the claim is made by the agent of a registered political party) the federal account in which the election funding is to be paid.

**11 Paragraphs 299A(2)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) the account must be a federal account kept for the purposes of this Part;

## **Schedule 6A—Federal administrative accounts**

### ***Commonwealth Electoral Act 1918***

#### **1 Subsection 287(1)**

Insert:

***federal administrative account*** means an account where:

- (a) the only amounts deposited into the account are amounts to be used only for a federal administrative purpose; and
- (b) the only amounts withdrawn or transferred from the account are amounts:
  - (i) withdrawn or transferred for a federal administrative purpose; or
  - (ii) transferred to another federal administrative account; and
- (c) the account is with an ADI within the meaning of the *Banking Act 1959*; and
- (d) the account is kept in Australia.

Note: ADI is short for authorised deposit-taking institution.

Example: A federal administrative account of a federal party may be established by the federal party or a State branch of the federal party.

***federal administrative purpose*** means the purpose of incurring:

- (a) administrative expenditure; or
- (b) expenditure to the extent that it would be administrative expenditure if references in subsection 287AAA(1) to a registered political party included references to a political entity, a member of the House of Representatives or a Senator, a third party, or a person or an entity that is (or is required to be registered as) a significant third party, an associated entity or a nominated entity.

Note: See section 287AAA for the definition of ***administrative expenditure***.

**2 Subsection 287(1) (at the end of the definition of *regulated entity*)**

Add:

- ; and (c) in sections 314C and 314D—a political entity, a member of the House of Representatives or a Senator, a significant third party, a third party, an associated entity or nominated entity.

**3 After section 314B**

Insert:

**314C Gifts made etc. for federal administrative purposes**

*Offering gifts*

- (1) Despite any State or Territory electoral law, a person or entity may offer to give a gift to, or for the benefit of, a regulated entity if the gift is expressly offered for federal administrative purposes.

*Seeking gifts*

- (2) Despite any State or Territory electoral law, a regulated entity, or a person on behalf of a regulated entity, may seek a gift if the gift is expressly sought for use for federal administrative purposes.

*Giving gifts*

- (3) Despite any State or Territory electoral law, a person or entity may give a gift to, or for the benefit of, a regulated entity if the gift is expressly given for federal administrative purposes.

*Receiving or keeping gifts—money*

- (4) Despite any State or Territory electoral law, a regulated entity, or a person on behalf of a regulated entity, may receive a gift of money if:
- (a) the money is deposited into a federal administrative account as soon as practicable after the money is received; and
  - (b) the money is not transferred or withdrawn out of the account except:
    - (i) to use the money for federal administrative purposes; or

- 
- (ii) to transfer the money to another federal administrative account.
- (5) Despite any State or Territory electoral law, a regulated entity, or a person on behalf of a regulated entity, may keep a gift of money if:
- (a) the money is kept in a federal administrative account; and
  - (b) the money is not transferred or withdrawn out of the account except:
    - (i) to use the money for federal administrative purposes; or
    - (ii) to transfer the money to another federal administrative account.
- (6) To avoid doubt, subsections (4) and (5) are taken never to have applied if, at any time, the money is transferred or withdrawn out of the account, or any other federal administrative account, except as provided by subparagraph (4)(b)(i) or (ii) or (5)(b)(i) or (ii).

*Receiving or keeping gifts—gifts other than money*

- (7) Despite any State or Territory electoral law and despite subsection 302CA(5), a regulated entity, or a person on behalf of a regulated entity, may receive or keep a gift that is not money unless the regulated entity keeps the gift for use for, or uses the gift for, purposes other than federal purposes or federal administrative purposes.
- (8) To avoid doubt, subsection (7) is taken never to have applied if, at any time, the regulated entity keeps the gift for use for, or uses the gift for, purposes other than federal administrative purposes.

*Receiving or keeping gifts—additional operation*

- (9) Subsections (4), (5) and (6) also have the effect they would have if a reference to a gift were confined to a gift expressly given for federal administrative purposes.

*Using gifts—money*

- (10) Despite any State or Territory electoral law, a regulated entity may use, or authorise the use of, a gift of money for federal administrative purposes if the gift has been continuously kept in a federal administrative account since it was deposited in that

account, or any other federal administrative account, in accordance with subsection (4).

*Using gifts—gifts other than money*

- (11) Despite any State or Territory electoral law, a regulated entity may use, or authorise the use of, a gift, that is not money, for federal administrative purposes if the gift has been continuously kept for federal administrative purposes since it was received.

*Using gifts—relationship with State or Territory electoral laws*

- (12) To avoid doubt, the fact that, as a result of subsection (10) or (11), a State or Territory electoral law does not prohibit the use of a gift does not prevent that law from prohibiting the offering, seeking, giving, receiving or keeping of the gift.

*Gifts not otherwise prohibited by this Part*

- (13) To avoid doubt, this section applies to a gift only if this Part does not prohibit the giving, receiving or keeping of the gift.

*Parts of gifts*

- (14) For the purposes of this section, if a part of a gift is offered, sought, given, received, kept or used for a particular purpose, and that same action is taken in relation to another part of the gift for a different purpose, each part of the gift is taken to be a separate gift.

*Extended meaning of gift*

- (15) Disregard subsection 287AAB(3) in working out whether something is a gift for the purposes of this section.

**314D Disclosure of amounts given etc. for federal administrative purposes**

*Disclosure of amounts and benefits given etc.*

- (1) Despite any State or Territory electoral law, a person or entity is not required to disclose under that law an amount of money, or information relating to an amount of money, (including a gift or

loan) if the person or entity expressly gives the amount to, or for the benefit of, a regulated entity for federal administrative purposes.

- (2) Despite any State or Territory electoral law, a person or entity is not required to disclose under that law the value of a non-monetary benefit, or information relating to a non-monetary benefit, if the person or entity expressly provides the benefit to, or for the benefit of, a regulated entity for federal administrative purposes.

Note: For the definition of *non-monetary benefit*, see subsection (11).

*Disclosure of amounts and other benefits received*

- (3) Despite any State or Territory electoral law, a regulated entity is not required to disclose under that law an amount of money, or information relating to an amount of money, (including a gift or loan) that is received by or on behalf of the regulated entity if:
- (a) the amount is deposited into a federal administrative account as soon as practicable after the amount is received; and
  - (b) the amount is not transferred or withdrawn out of the account except:
    - (i) to use the amount for federal administrative purposes; or
    - (ii) to transfer the amount to another federal administrative account.
- (4) To avoid doubt, subsection (3) is taken never to have applied if, at any time, the amount is transferred or withdrawn out of the account, or any other federal administrative account, except as provided by subparagraph (3)(b)(i) or (ii).
- (5) Despite any State or Territory electoral law and despite subsection 314B(2), a regulated entity is not required to disclose under that law the value of a non-monetary benefit, or information relating to a non-monetary benefit, that is received by or on behalf of the regulated entity unless the regulated entity keeps the benefit for use for, or uses the benefit for, purposes other than federal purposes or federal administrative purposes.
- (6) To avoid doubt, subsection (5) is taken never to have applied if, at any time, the regulated entity keeps the benefit for use for, or uses the benefit for, purposes other than federal administrative purposes.

- (7) Subsections (3) and (5) also have the effect they would have if a reference to an amount or benefit were confined to an amount or benefit expressly given or provided for federal administrative purposes.

*Disclosure of administrative expenditure*

- (8) Despite any State or Territory electoral law, a regulated entity is not required to disclose under that law an amount, or information relating to an amount, of expenditure if the expenditure is administrative expenditure.

*Disclosure of debts*

- (9) Despite any State or Territory electoral law, a regulated entity is not required to disclose under that law an amount, or information relating to an amount, of a debt (except a debt incurred as a result of a loan) if the debt is incurred for federal administrative purposes.

*Interpretation*

- (10) Despite any State or Territory electoral law, if, as a result of this section, a person or entity is not required to disclose under that law an amount, information or value referred to in this section (the **federal information**), then:
- (a) it is immaterial whether the federal information is required to be included in a return provided under this Part; and
  - (b) a total amount, or information relating to a total amount, that is required to be disclosed under that law is not required to include the federal information.
- (11) A **non-monetary benefit** is a gift, or a good or service that is lent, that is not money.
- (12) For the purposes of this section, if an action (such as giving or using) is taken in relation to a part of an amount or non-monetary benefit for a particular purpose, and that same action is taken in relation to another part of the amount or benefit for a different purpose, each part of the amount or benefit is taken to be a separate amount or benefit.



- (13) Disregard subsection 287AAB(3) in working out whether something is a gift for the purposes of this section.

*Compulsory production provisions excluded*

- (14) This section does not apply in relation to any compulsory production provision in a State or Territory electoral law.
- (15) A **compulsory production provision** in a State or Territory electoral law is a provision that confers a power on a person or body (the **regulator**) to compel a particular person to disclose information (including an amount or value) for the purposes of the regulator investigating a potential contravention of that or any other law.

Note: A provision that confers a power for a person or body to give a notice to produce to a regulated entity is an example of a compulsory production provision.

**4 After subsection 302AE(3)**

Insert:

- (3A) The account may be a federal administrative account.

**5 After subsection 302AE(8)**

Insert:

- (8A) The account may be a federal administrative account.

**6 After subsection 302AF(3)**

Insert:

- (3A) The account may be a federal administrative account.

**7 Subsection 317(1A)**

Omit “or 314B”, substitute “, 314B, 314C or 314D”.

**8 Subsection 317(1A) (example)**

After “federal account”, insert “or federal administrative account”.

**9 Paragraph 317(2)(e)**

Omit “or 314B”, substitute “, 314B, 314C or 314D”.

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## Schedule 7—Administrative assistance funding and election funding

### Part 1—Administrative assistance funding

#### *Commonwealth Electoral Act 1918*

##### 1 Subsection 287(1)

Insert:

*administrative expenditure* has the meaning given by section 287AAA.

*House of Representatives qualifying day*, for a person and a registered political party, has the meaning given by section 302AB.

*independent member*: a person is an *independent member* if the person:

- (a) is a member of the House of Representatives or a Senator;  
and
- (b) is not a member of a registered political party.

*quarter* means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

*Senate qualifying day*, for a person and a registered political party, has the meaning given by section 302AB.

##### 2 After section 287

Insert:

#### 287AAA Definition of *administrative expenditure*

- (1) Subject to subsection (2), *administrative expenditure*, by a registered political party or an independent member, means the following expenditure to the extent that the expenditure relates, directly or indirectly, to a matter under this Act:
  - (a) expenditure for the administration or management of the activities of the registered political party or independent member;

- (b) expenditure for conferences, seminars, meetings or similar functions at which the policies of the registered political party or independent member are discussed or formulated;
- (c) expenditure in respect of auditing of the financial accounts of, or auditing in connection with claims or disclosures under this Part in relation to, the registered political party or independent member;
- (d) expenditure on the remuneration of staff engaged in one or more of the matters referred to in paragraphs (a), (b) and (c) for the registered political party or independent member, to the extent that the expenditure relates to the time that the staff are engaged in those matters;
- (e) expenditure on the training of staff of the registered political party or independent member in relation to one or more of the matters referred to in paragraphs (a), (b) and (c);
- (f) expenditure on equipment (including information technology equipment) or vehicles used by staff whilst engaged in one or more of the matters referred to in paragraphs (a), (b) and (c) for the registered political party or independent member, to the extent that the expenditure related to the use of the equipment or vehicles by the staff whilst engaged in those matters;
- (g) expenditure on office accommodation for the staff and equipment referred to in paragraphs (d) and (f);
- (h) expenditure on interest payments on loans, to the extent that the loans are in connection with one or more of the matters referred to in paragraphs (a) to (g);
- (i) expenditure in relation to complying with obligations under this Act;
- (j) expenditure of a kind prescribed by the regulations for the purposes of this paragraph.

Note 1: If expenditure is partially for a matter covered by subsection (1) and partially for another purpose or purposes, then, subject to subsection (2), the expenditure to the extent it is for the matter covered by subsection (1) is administrative expenditure.

Note 3: The sharing of staff between core members of a registered political party's expenditure group is not a gift (see subparagraph 287AAB(3)(m)(i)).

*Exceptions*

- (2) **Administrative expenditure** does not include the following:
- (a) expenditure incurred for the dominant purpose of creating or communicating particular electoral matter or electoral matter generally;
  - (b) expenditure to the extent that it is of a kind that is payable or reimbursable by the Commonwealth (except under Division 3AA) to or in relation to a person who is or was a member of the House of Representatives, a Senator or a Minister, because that person is or was such a member, Senator or Minister;
  - (c) expenditure for a State or Territory electoral purpose;
  - (d) expenditure of a kind prescribed by the regulations for the purposes of this paragraph.

Note: For the definition of *State or Territory electoral purpose*, see section 287.

**3 After Division 3 of Part XX**

Insert:

**Division 3AA—Administrative assistance funding**

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

**302AA Simplified outline of this Division**

Administrative assistance funding may be payable to a registered political party or an independent member for quarters in a calendar year.

The amount of the funding for a registered political party for a quarter is \$7,500 for each member of the party who was a member of the House of Representatives, and \$3,750 for each member of the party who was a Senator, for the whole of the immediately preceding quarter.

The amount of the funding for a person who is an independent member for a quarter is \$7,500 if the person was a member of the

House of Representatives, and \$3,750 if the person was a Senator, for the whole of the immediately preceding quarter.

In some circumstances, the amount of the funding is worked out on a pro-rata basis.

The dollar amounts of funding are indexed each 1 July.

## **Subdivision B—Entitlement to administrative assistance funding**

### **302AB Administrative assistance funding for registered political parties**

#### *Entitlement to funding*

- (1) A registered political party is entitled to administrative assistance funding for a quarter if:
  - (a) the registered political party was registered under Part XI for the whole or a part of the immediately preceding quarter; and
  - (b) at least one member of the political party was a member of the House of Representatives or a Senator for the whole or a part of the immediately preceding quarter.

#### *Amount of funding*

- (2) The amount of administrative assistance funding the registered political party is entitled to for a quarter is the sum of the following amounts:
  - (a) for each person in respect of whom all of the days in the immediately preceding quarter are House of Representatives qualifying days for the person and the party—\$7,500;
  - (b) for each person in respect of whom all of the days in the immediately preceding quarter are Senate qualifying days for the person and the party—\$3,750;
  - (c) for each person in respect of whom some, but not all, of the days in the immediately preceding quarter are House of Representatives qualifying days for the person and the party—the amount worked out by:

- (i) multiplying \$7,500 by the number of days in the immediately preceding quarter that were House of Representatives qualifying days for the person and the party; and
- (ii) then dividing the result by the number of days in the immediately preceding quarter;
- (d) for each person in respect of whom some, but not all, of the days in the immediately preceding quarter are Senate qualifying days for the person and the party—the amount worked out by:
  - (i) multiplying \$3,750 by the number of days in the immediately preceding quarter that were Senate qualifying days for the person and the party; and
  - (ii) then dividing the result by the number of days in the immediately preceding quarter.

Note: The dollar amounts specified are indexed each 1 July under section 321AC.

- (3) The amount worked out under subsection (2) is to be rounded to the nearest whole dollar (rounding 50 cents upwards).

*Qualifying days*

- (4) A day in a quarter is a ***House of Representatives qualifying day*** for a person and a registered political party if all of the following apply on that day:
  - (a) the party was a registered political party;
  - (b) the person was a member of the party;
  - (c) the person was a member of the House of Representatives.
- (5) A day in a quarter is a ***Senate qualifying day*** for a person and a registered political party if all of the following apply on that day:
  - (a) the party was a registered political party;
  - (b) the person was a member of the party;
  - (c) the person was a Senator.

*Application of this section to State branches of federal parties and to federal parties*

- (6) A registered political party that is a State branch of a federal party is not entitled to administrative assistance funding under this section. However, if a member of that State branch:
- (a) is a member of the House of Representatives or a Senator;  
and
  - (b) is not a member of the federal party;
- then that member of that State branch is taken to be a member of the federal party for the purposes of this Division.

Example: Josh is a Senator and a member only of the Quokka Party (NSW), which is a State branch of the Federal Quokka Party. Both parties are registered political parties.

The Federal Quokka Party is entitled to administrative assistance funding in respect of Josh, but the Quokka Party (NSW) is not entitled to administrative assistance funding.

*Multiple party memberships*

- (7) If an individual is a member of more than one registered political party, then, for the purposes of subsection (1):
- (a) only the party nominated by the member may rely on the individual as a member; and
  - (b) no party may rely on the individual as a member if, after the Electoral Commission has given the individual at least 30 days to do so, the individual has not nominated a party.

**302AC Administrative assistance funding for independent members**

*Entitlement to funding*

- (1) An individual is entitled to administrative assistance funding for a quarter if the individual was an independent member for the whole or a part of the immediately preceding quarter.

*Amount of funding*

- (2) The amount of administrative assistance funding the individual is entitled to for a quarter is the following amount:

- (a) if the individual was an independent member because of being a member of the House of Representatives for the whole of the immediately preceding quarter—\$7,500;
- (b) if the individual was an independent member because of being a Senator for the whole of the immediately preceding quarter—\$3,750;
- (c) if the individual was an independent member because of being a member of the House of Representative for some, but not all, of the days in the immediately preceding quarter—the amount worked out by:
  - (i) multiplying \$7,500 by the number of days in the immediately preceding quarter in which the individual was an independent member and a member of the House of Representatives; and
  - (ii) then dividing the result by the number of days in the immediately preceding quarter;
- (d) if the individual was an independent member because of being a Senator for some, but not all, of the days in the immediately preceding quarter—the amount worked out by:
  - (i) multiplying \$3,750 by the number of days in the immediately preceding quarter in which the individual was an independent member and a Senator; and
  - (ii) then dividing the result by the number of days in the immediately preceding quarter.

Note: The dollar amounts specified are indexed each 1 July under section 321AC.

- (3) The amount worked out under subsection (2) is to be rounded to the nearest whole dollar (rounding 50 cents upwards).

### **302AD Period a person is a member of the House of Representatives or a Senator**

For the purposes of this Division, a person is a member of the House of Representatives or a Senator for the period the person is to be paid remuneration, as a member of the House of Representatives or a Senator, in accordance with sections 14 and 49 of the *Parliamentary Business Resources Act 2017*.



## **Subdivision C—Payment and spending of administrative assistance funding**

### **302AE Payment of administrative assistance funding to registered political party**

- (1) If a registered political party is entitled to administrative assistance funding under section 302AB for a quarter, the Electoral Commission must pay the amount of the funding to the registered political party before the end of the seventh day in that quarter. This subsection is subject to subsections (5) and (10).
- (2) The Electoral Commission must pay the amount to the credit of an account nominated by the registered political party for the purposes of this section.
- (3) The account must be:
  - (a) maintained by the registered political party; and
  - (b) with an ADI within the meaning of the *Banking Act 1959*; and
  - (c) kept in Australia.
- (4) The account must not be a federal account kept for the purposes of this Part.

#### *Payment to parliamentarians if political party no longer registered*

- (5) If:
  - (a) at the time the Electoral Commission proposes to pay the amount referred to in subsection (1), the political party is no longer a registered political party; and
  - (b) at that time, at least one individual covered by paragraph 302AB(1)(b) in respect of whom the entitlement referred to in subsection (1) of this section arose is a member of the House of Representatives or a Senator;then the Electoral Commission must:
  - (c) if paragraph (b) applies to one individual—pay that amount to that individual; or
  - (d) if paragraph (b) applies to more than one individual—pay that amount in equal shares to those individuals.

- (6) An amount paid to an individual under subsection (5) is taken to be an amount of administrative assistance funding paid to the individual.

*Method of payment*

- (7) The Electoral Commission must pay an amount to an individual under subsection (5) to the credit of an account nominated by the individual for the purposes of this section.
- (8) The account must be:
- (a) maintained by the individual; and
  - (b) with an ADI within the meaning of the *Banking Act 1959*; and
  - (c) kept in Australia.
- (9) The account must not be a federal account kept for the purposes of this Part.

*Circumstances in which no payment is made*

- (10) If:
- (a) at the time the Electoral Commission proposes to pay the amount referred to in subsection (1), the political party is no longer a registered political party; and
  - (b) at that time, none of the individuals covered by paragraph 302AB(1)(b) in respect of whom the entitlement referred to in subsection (1) of this section arose is a member of the House of Representatives or a Senator;
- then the Electoral Commission must not pay that amount to any person.

**302AF Payment of administrative assistance funding to independent member**

- (1) If an individual is entitled to administrative assistance funding under section 302AC for a quarter, the Electoral Commission must pay the amount of the funding to the individual before the end of the seventh day in that quarter (whether or not the individual is still an independent member).

*Method of payment*

- (2) The Electoral Commission must pay the amount to the credit of an account nominated by the individual for the purposes of this section.
- (3) The account must be:
  - (a) maintained by the individual; and
  - (b) with an ADI within the meaning of the *Banking Act 1959*; and
  - (c) kept in Australia.
- (4) The account must not be a federal account kept for the purposes of this Part.

**302AG Spending of administrative assistance funding**

*Registered political parties*

- (1) Subject to subsections (2) and (3), if a political party that is a registered political party is paid administrative assistance funding under this Division in a calendar year, the following person must ensure that the funding is used only to incur administrative expenditure:
  - (a) the agent of that party while that party is a registered political party;
  - (b) if that party ceases to be a registered political party after that administrative assistance funding is paid—the person (the **former agent**) who was the agent of that party immediately before that party so ceased.

Civil penalty: 200 penalty units.

- (2) If:
  - (a) paragraph (1)(b) applies in relation to the former agent of a political party; and
  - (b) the Electoral Commission notifies the former agent, in writing, that it is satisfied that the total amount of administrative assistance funding that was payable to that political party in that calendar year does not exceed the total

amount of administrative expenditure incurred by that party in that year;

then subsection (1) ceases to apply in relation to the former agent and that funding after the former agent receives that notification.

- (3) If the former agent receives a notification under subsection (2), the former agent must ensure that, after receiving that notification, the administrative assistance funding paid under this Division to that political party in that calendar year is not used to incur expenditure of a kind covered by paragraph 287AAA(2)(a), (b), (c) or (d).

Civil penalty: 200 penalty units.

*Individuals*

- (4) Subject to subsections (5) and (6), if an individual is paid administrative assistance funding under this Division in a calendar year, the individual must ensure that the funding is used only to incur administrative expenditure.

Civil penalty: 200 penalty units.

- (5) If:

- (a) that individual is not an independent member; and  
(b) the Electoral Commission notifies that individual, in writing, that it is satisfied that the total amount of administrative assistance funding that was payable to that individual in that calendar year does not exceed the total amount of administrative expenditure incurred by that individual in that year;

then subsection (4) ceases to apply in relation to that individual and that funding after that individual receives that notification.

- (6) If that individual receives a notification under subsection (5), that individual must ensure that, after receiving that notification, the administrative assistance funding paid under this Division to that individual in that calendar year is not used to incur expenditure of a kind covered by paragraph 287AAA(2)(a), (b), (c) or (d).

Civil penalty: 200 penalty units.

## **Subdivision D—Recovery of amounts**

### **302AH Recovery of amounts that are not payable**

- (1) If:
  - (a) a registered political party or an individual is paid an amount of administrative assistance funding under this Division; and
  - (b) the whole or a part of the amount paid was not payable to that party or individual;the Electoral Commission may set off an amount equal to the amount that was not payable against one or more payments the Electoral Commission must make under this Division to that party or individual.
- (2) If the Electoral Commission is not able to do so, the amount the Electoral Commission is not able to set off is a debt due to the Commonwealth and may be recovered by the Commonwealth by action in a court of competent jurisdiction.

### **302AI Recovery of amounts where administrative expenditure incurred less than administrative assistance funding**

#### *Registered political parties*

- (1) If:
  - (a) a registered political party is paid administrative assistance funding under this Division for one or more quarters in a calendar year; and
  - (b) the Electoral Commission is satisfied that the total amount of administrative assistance funding that was payable to the party for those one or more quarters exceeds the total amount of administrative expenditure incurred by the party in that year;the Electoral Commission may set off an amount equal to the excess against one or more payments the Electoral Commission must make under this Division to the party.
- (2) If the Electoral Commission is not able to do so, the amount the Electoral Commission is not able to set off is a debt due to the

Commonwealth and may be recovered by the Commonwealth by action in a court of competent jurisdiction.

*Individuals*

- (3) If:
- (a) an individual is paid administrative assistance funding under this Division for one or more quarters in a calendar year; and
  - (b) the Electoral Commission is satisfied that the total amount of administrative assistance funding that was payable to the individual for those one or more quarters exceeds the total amount of administrative expenditure incurred by the individual in that year;
- the Electoral Commission may set off an amount equal to the excess against one or more payments the Electoral Commission must make under this Division to the individual.
- (4) If the Electoral Commission is not able to do so, the amount the Electoral Commission is not able to set off is a debt due to the Commonwealth and may be recovered by the Commonwealth by action in a court of competent jurisdiction.

**302AJ Recovery of amounts where failure to provide information about administrative expenditure**

*Registered political parties*

- (1) If:
- (a) a registered political party is paid administrative assistance funding under this Division for one or more quarters in a calendar year; and
  - (b) in relation to a return given under section 310 in relation to that party and that calendar year, the Electoral Commission reasonably believes that information of a kind covered by paragraph 310(3)(g) that is included in that return is not correct;
- the Electoral Commission may, by notice in writing given to the auditor who completed the certificate that accompanied the return, request the auditor to provide specified information to the Electoral

Commission before the end of the period of 14 days beginning on the day the notice is given.

- (2) If the auditor does not comply with the request under subsection (1), the Electoral Commission may, by notice in writing given to the agent of the registered political party, request the agent to provide specified information to the Electoral Commission before the end of the period of 14 days beginning on the day the notice is given.
- (3) If the agent of the registered political party does not comply with the request under subsection (2), the Electoral Commission may set off an amount equal to the total amount of administrative assistance funding paid to that party during the calendar year covered by paragraph (1)(a) against one or more payments the Electoral Commission must make under this Division to that party.
- (4) If the Electoral Commission is not able to do so, the amount the Electoral Commission is not able to set off is a debt due to the Commonwealth and may be recovered by the Commonwealth by action in a court of competent jurisdiction.

*Individuals*

- (5) If:
  - (a) an individual is paid administrative assistance funding under this Division for one or more quarters in a calendar year; and
  - (b) in relation to a return given under section 310B in relation to that individual and that calendar year, the Electoral Commission reasonably believes that information of a kind covered by paragraph 310B(3)(c) that is included in that return is not correct;the Electoral Commission may, by notice in writing given to the auditor who completed the certificate that accompanied the return, request the auditor to provide specified information to the Electoral Commission before the end of the period of 14 days beginning on the day the notice is given.
- (6) If the auditor does not comply with the request under subsection (5), the Electoral Commission may, by notice in writing given to the individual, request the individual to provide specified

information to the Electoral Commission before the end of the period of 14 days beginning on the day the notice is given.

- (7) If the individual does not comply with the request under subsection (6), the Electoral Commission may set off an amount equal to the total amount of administrative assistance funding paid to that individual during the calendar year covered by paragraph (5)(a) against one or more payments the Electoral Commission must make under this Division to that individual.
- (8) If the Electoral Commission is not able to do so, the amount the Electoral Commission is not able to set off is a debt due to the Commonwealth and may be recovered by the Commonwealth by action in a court of competent jurisdiction.

#### **4 At the end of Division 6 of Part XX**

Add:

##### **321AC Indexation of administrative assistance funding amount**

- (1) If the indexation factor for an indexation day is greater than 1, the indexable amount is, on that day, replaced by the amount worked out using this formula:

The indexable amount immediately before the indexation day  $\times$  Indexation factor for the indexation day

- (2) The amount worked out under subsection (1) is to be rounded to the nearest whole dollar (rounding 50 cents upwards).

*Indexation factor*

- (3) The *indexation factor* for an indexation day is the number worked out using this formula:

$$\frac{\text{Index number for the reference quarter}}{\text{Index number for the base quarter}}$$

- (4) The indexation factor is to be worked out to 3 decimal places (rounding up if the fourth decimal place is 5 or more).



*Changes to CPI index reference period and publication of substituted index numbers*

- (5) Amounts are to be worked out under this section:
- (a) using only the index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
  - (b) disregarding index numbers published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

*Definitions*

- (6) In this section:

**base quarter** means the last March quarter before the reference quarter.

**indexable amount** means the dollar amount applicable under the following:

- (a) paragraph 302AB(2)(a) or (b);
- (b) subparagraph 302AB(2)(c)(i) or (d)(i);
- (c) paragraph 302AC(2)(a) or (b);
- (d) subparagraph 302AC(2)(c)(i) or (d)(i).

**indexation day** means the first 1 July to occur after the commencement of this section and each later 1 July.

**index number**, for a quarter, means the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

**March quarter** means a period of 3 months starting on 1 January.

**reference quarter** means the last March quarter before the indexation day.

## **Part 2—Election funding**

### *Commonwealth Electoral Act 1918*

#### **5 Subsection 287(1) (definition of *group amount*)**

Omit “\$2.801”, substitute “\$5”.

#### **6 Subparagraph 293(2)(a)(i)**

Omit “\$2.801”, substitute “\$5”.

#### **7 Paragraph 294(2)(a)**

Omit “\$2.801”, substitute “\$5”.

#### **8 Paragraph 295(2)(a)**

Omit “\$2.801”, substitute “\$5”.

## **Part 3—Advance payment of election funding**

### *Commonwealth Electoral Act 1918*

#### **9 Subsection 287(1)**

Insert:

*qualifying election* has the meaning given by subsection 298J(2).

#### **10 At the end of section 292G**

Add:

The regulations may also provide for an amount to be paid as an advance on election funding that may become payable in respect of a future election. Any such advance can only be paid to a registered political party, or candidate, entitled to election funding in the most recently held election. If an advance exceeds the election funding that ultimately becomes payable, the excess becomes a debt to the Commonwealth.

#### **11 After Subdivision C of Division 3 of Part XX**

Insert:

### **Subdivision CA—Advance payment of election funding**

#### **298J Advance payment of election funding**

- (1) The regulations may provide for an amount to be paid, after a qualifying election is held, as an advance on election funding that may become payable (a *future entitlement*):
  - (a) under section 293 in relation to a registered political party for an election to be held in the future; or
  - (b) under section 294 in relation to a candidate in an election to be held in the future.
- (2) Either of the following is a *qualifying election*:
  - (a) a general election;

- (b) a Senate election for all States and Territories.
- (3) The regulations must not provide for an amount to be paid as an advance on a future entitlement under section 293 in relation to a registered political party unless:
  - (a) an amount was payable to the registered political party under section 293 for the qualifying election and the advance amount does not exceed that amount; and
  - (b) a claim is made in respect of the registered political party in accordance with the regulations.
- (4) The regulations must not provide for an amount to be paid in advance of a future entitlement under section 294 in relation to a candidate unless:
  - (a) either:
    - (i) an amount was payable to the candidate under section 294 as a candidate in the qualifying election and the advance amount does not exceed that amount; or
    - (ii) an amount was payable to a group in the qualifying election under section 295, the candidate was a member of the group and the advance amount does not exceed the amount determined under subsection (5); and
  - (b) a claim is made in respect of the candidate in accordance with the regulations.
- (5) For the purposes of subparagraph (4)(b)(ii), the amount is the lower of:
  - (a) the amount payable to the group in the qualifying election as mentioned in the subparagraph; and
  - (b) the proportion of that amount prescribed by or worked out in accordance with the regulations.
- (6) The regulations must not provide for more than one amount to be paid as an advance on any particular future entitlement. This does not prevent the regulations providing for an amount to be paid in instalments.
- (7) If an amount paid as an advance on a future entitlement exceeds the future entitlement, the regulations (together with this Division) must have the effect that the excess may be recovered by the

Commonwealth as a debt due to the Commonwealth by action against the recipient in a court of competent jurisdiction.

- (8) The regulations must require the Electoral Commissioner to publish determinations made by the Electoral Commissioner of claims for advance amounts.
- (9) The regulations may make provision for any or all of the following matters:
  - (a) the making of claims for advance amounts;
  - (b) the amount, or methods to work out the amount, of advance amounts;
  - (c) when and how advance amounts are payable;
  - (d) how recipients are to deal with advance amounts;
  - (e) the reduction of amounts to be paid in respect of any future entitlement in recognition of an amount having been paid as an advance on the entitlement;
  - (f) reporting obligations in relation to advance amounts;
  - (g) any other matters necessary or convenient to be prescribed for carrying out or giving effect to advance amounts provided for in accordance with subsection (1).
- (10) For the purposes of sections 299 (recovery of amounts that are not payable) and 302 (appropriation) and Division 6 (miscellaneous):
  - (a) an advance amount paid under regulations made for the purposes of this section is a payment made under this Division; and
  - (b) a claim made in accordance with regulations made for the purposes of this section is a claim under this Part.
- (11) The references in section 314AN (power of authorised officers to obtain information—compliance) to this Part include references to regulations made for the purposes of this Part.

## Schedule 8—Senate groups

### Part 1—Main amendments

#### *Commonwealth Electoral Act 1918*

##### **1 Subsection 4(1) (definition of *political entity*)**

Repeal the definition (including the note), substitute:

*political entity* means any of the following:

- (a) a registered political party;
- (b) a State branch (within the meaning of Part XX) of a registered political party;
- (c) a candidate (within the meaning of Part XX) in an election (including a by-election).

Note: For candidates, see subsection 287(9).

##### **2 Subsection 287(1) (note to the definition of *group*)**

Repeal the note.

##### **3 At the end of subsection 287AB(1)**

Add:

Note 4: For electoral expenditure incurred by a group in a Senate election, see section 302ALB.

##### **4 Paragraph 298(3)(a)**

Repeal the paragraph, substitute:

- (a) incurred by the candidates who are members of the group in relation to the election; and

##### **5 Section 302B (definition of *acceptable action period*)**

Repeal the definition, substitute:

*acceptable action period*, in relation to a gift, means:

- (a) if the gift is made to, or for the benefit of, a person who is a candidate in an election or by-election—the period of 6 weeks beginning on the later of the following days:

- (i) the day the gift is made;
- (ii) the earlier of the day the person announced that the person would be a candidate in the election or by-election and the day the person nominated as a candidate in the election or by-election; or
- (b) otherwise—the period of 6 weeks beginning on the day the gift is made.

**6 Section 302D (heading)**

Omit “Senate groups,”.

**7 Subsection 302D(6)**

Repeal the subsection (including the note).

**8 Subsection 302F(8)**

Repeal the subsection (including the note).

## **Part 2—Contingent amendments**

### *Commonwealth Electoral Act 1918*

#### **9 Subsection 302D(5) (heading)**

Omit “*and groups*”.

#### **10 Subsection 302F(7) (heading)**

Omit “*and groups*”.



## **Schedule 9—Compliance and enforcement powers**

### **Part 1—Compliance and enforcement powers**

#### *Commonwealth Electoral Act 1918*

##### **1 Subsection 17(2C)**

Repeal the subsection, substitute:

- (2C) Subject to section 17A, the Commission must include in any report referred to in this section particulars of the operation of section 314AN since the preparation of the last report referred to in this section that included particulars of the operation of that section.

##### **2 Subsection 17A(1)**

Repeal the subsection, substitute:

(1) If:

- (a) a notice is given to a prescribed person, or an officer of a prescribed person, under subsection 314AN(2); and
- (b) information is given, or documents or things are produced, in compliance with that notice;

a report referred to in section 17 must not include particulars of any such information given or contained in such documents or other things, unless, in the opinion of the Electoral Commission, the information relates to a contravention or potential contravention of a civil penalty provision in this Act.

##### **3 After Division 5B of Part XX**

Insert:

## Division 5C—Compliance and enforcement powers

### Subdivision A—Preliminary

#### 314AKA Simplified outline of this Division

This Division is about compliance and enforcement.

Subdivision B deals with the appointment and powers of authorised officers. Authorised officers may:

- (a) require a person to give information or produce documents, or appear and answer questions, relevant to the enforcement of this Part or the *Criminal Code* to the extent that it relates to this Part; and
- (b) enter and search premises, and seize documents or other things, under a warrant; and
- (c) make and retain copies of documents produced to the authorised officer; and
- (d) retain documents produced to, or seized by, the authorised officer; and
- (e) retain other things seized by the authorised officer.

An authorised officer's decision to require a person to give information or produce documents, or to appear and answer questions, is subject to internal review.

#### 314AL Definitions

In this Division:

***authorised officer*** means a person authorised by the Electoral Commissioner under section 314AM.

### Subdivision B—Investigations etc.

#### 314AM Appointment of authorised officers

- (1) The Electoral Commission may, in writing signed by the Electoral Commissioner on behalf of the Electoral Commission, authorise a

person or a person included in a class of persons to exercise a power under this Subdivision.

- (2) Before authorising a person or a class of persons to exercise a power under this Subdivision, the Electoral Commission must consider whether the person or class of persons has appropriate expertise to exercise the power.

### **314AN Power of authorised officers to obtain information— compliance**

- (1) This section applies if an authorised officer reasonably believes that a person is capable of giving information, or producing a document or other thing, that is relevant for the purposes of ensuring compliance with:
  - (a) this Part; or
  - (b) the *Criminal Code* to the extent that it relates to this Part.

*Notice to give information, produce document or thing or appear*

- (2) The authorised officer may, by written notice given to the person, require the person:
  - (a) to give to the authorised officer, within the period and in the manner and form specified in the notice, any such information; or
  - (b) to produce to the authorised officer, within the period and in the manner and form specified in the notice, any such document or other thing; or
  - (c) to answer questions asked by the authorised officer, at the date and time, and by the means, specified in the notice.

Note: This may include a requirement to produce information or documents relating to a federal account or federal administrative account kept for the purposes of this Part.

- (3) If paragraph (2)(a) or (b) applies, the period specified in the notice must be at least 14 days, but not longer than 30 days, after the notice is given.
- (4) If paragraph (2)(c) applies, the date specified in the notice must be at least 14 days after the notice is given.

- (5) A notice given to a person under subsection (2) must set out the effect of:
- (a) subsection (6) of this section (right to request review); and
  - (b) subsections (14), (15) and (16) of this section (failure to comply with notice); and
  - (c) sections 137.1 and 137.2 of the *Criminal Code* (false or misleading information or documents).

*Electoral Commission review*

- (6) A person who is given a notice under subsection (2) may request that the Electoral Commission review the decision to issue the notice. The request must be:
- (a) in writing; and
  - (b) given to the Electoral Commission before the end of the period or before the date for complying with the notice (or if both a period and a date are specified, before whichever is later).
- (7) The Electoral Commission must:
- (a) review the decision as soon as practicable after receiving the request; and
  - (b) affirm, vary or set aside the decision; and
  - (c) if the Electoral Commission affirms or varies the decision—specify a longer period or a later date for complying with the notice; and
  - (d) give the person written notice of:
    - (i) its decision on the review; and
    - (ii) if paragraph (c) applies—that period or the date, time and place, as applicable.
- (8) Subject to any extensions the Electoral Commission considers reasonable in the circumstances, subsections (3) and (4) apply to the period or date specified by the Electoral Commission in a notice under subsection (7) in the same way as they apply to a notice under subsection (2).
- (9) Paragraphs (5)(b) and (c) apply to a notice given by the Electoral Commission under subsection (7) in the same way as they apply to a notice under subsection (2).

- (10) If a person requests a review of a decision, the person is not required to comply with a notice at any time before the Electoral Commission notifies the person of its decision on the review.

*Answers to be given on oath or affirmation*

- (11) The authorised officer may require answers provided under paragraph (2)(c) to be verified by, or given on, oath or affirmation and provided either orally or in writing.
- (12) The authorised officer may administer the oath or affirmation.

*Person must comply with notice*

- (13) A person contravenes this subsection if:
- (a) the person is given a notice under this section; and
  - (b) the person fails to comply with the notice.

*Fault-based offence*

- (14) A person commits an offence if the person contravenes subsection (13).

Penalty: Imprisonment for 6 months or 30 penalty units, or both.

*Strict liability offence*

- (15) A person commits an offence of strict liability if the person contravenes subsection (13).

Penalty: 10 penalty units.

*Civil liability provision*

- (16) A person is liable to a civil penalty if the person contravenes subsection (13).

Civil penalty: 60 penalty units.

**314AO Notice given to officer of a political party, significant third party, associated entity or nominated entity**

- (1) This section applies if a notice under paragraph 314AN(2)(c) to appear before an authorised officer is given to:
  - (a) an officer of a political party (other than the agent of the party); or
  - (b) an officer of a significant third party (other than the financial controller of the significant third party); or
  - (c) an officer of a third party (other than the financial controller of the third party); or
  - (d) an officer of an associated entity (other than the financial controller of the associated entity); or
  - (e) an officer of a nominated entity (other than the financial controller of the nominated entity).
- (2) The agent of the political party, or the financial controller of the significant third party, third party, associated entity or nominated entity (as the case requires), may:
  - (a) appear before the authorised officer; or
  - (b) nominate, in writing, another person to attend the proceeding on behalf of the agent or financial controller.

**314AP Copies of documents**

An authorised officer may inspect a document produced under section 314AN and may make and retain copies of such a document.

**314AQ Search warrants**

*Application for warrant*

- (1) If:
  - (a) an authorised officer reasonably suspects that there may be, at any time within the following 24 hours, on any land or on or in any premises, vessel, aircraft or vehicle, a document or other thing that may afford evidence relating to a contravention of a civil penalty provision in, or an offence against, this Part; and

- (b) the authorised officer reasonably believes that, if a notice under section 314AN were issued for the production of the document or other thing, the document or other thing might be concealed, lost, mutilated or destroyed;
- the authorised officer may apply to a magistrate for the issue of a search warrant under this section.

*Issue of search warrant*

- (2) The magistrate may issue a search warrant authorising:
- (a) the authorised officer or any other person named in the warrant (each an ***executing officer***):
    - (i) to enter on the land or on or into the premises, vessel, aircraft or vehicle; and
    - (ii) to search the land, premises, vessel, aircraft or vehicle for documents or other things that may afford evidence relating to a contravention of the civil penalty provision or offence, being documents or other things of a kind described in the warrant; and
    - (iii) to seize any documents or other things of the kind referred to in subparagraph (ii); and
  - (b) the executing officer to use such assistance as the officer thinks reasonably necessary to do a thing specified in paragraph (a); and
  - (c) an executing officer who is an authorised officer to use such force against things as the officer thinks reasonably necessary to do a thing specified in paragraph (a).
- (3) However, the magistrate must not issue a search warrant unless:
- (a) the authorised officer or some other person has given to the magistrate an affidavit setting out the grounds on which the issue of the search warrant is being sought; and
  - (b) the authorised officer or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the search warrant is being sought; and
  - (c) the magistrate is satisfied that there are reasonable grounds for issuing the search warrant.

*Powers conferred on magistrates*

- (4) A power conferred on a magistrate by this section is conferred on the magistrate in a personal capacity and not as a court or a member of a court. The magistrate need not accept the power conferred.
- (5) A magistrate exercising such a power has the same protection and immunity as if the magistrate were exercising that power as, or as a member of, the court of which the magistrate is a member.

*Content of search warrant*

- (6) The search warrant must:
  - (a) describe the land, premises, vessel, aircraft or vehicle to which the warrant relates; and
  - (b) state the purposes for which the warrant is issued, including a reference to the alleged contravention of the civil penalty provision or offence in relation to which the warrant is issued; and
  - (c) state the name of the executing officer; and
  - (d) state whether entry is authorised at any time of the day or night; and
  - (e) describe the kind of documents or other things authorised to be seized; and
  - (f) state the day the warrant ceases to be in force.
- (7) The day specified in the search warrant must not be more than 7 days after the day on which the warrant was issued.

*Copy of warrant to be given to occupier etc.*

- (8) If a warrant in relation to land or premises is being executed and the occupier of the land or premises, or another person who apparently represents the occupier, is present at the premises, the executing officer must give a copy of the warrant to that person.
- (9) If a warrant in relation to a vessel, aircraft or vehicle is being executed and the owner of the vessel, aircraft or vehicle, or another person who apparently represents the owner of the vessel, aircraft or vehicle is present, the executing officer must give a copy of the warrant to that person.



- (10) The executing officer must identify themselves to the person at the land, premises, vessel, aircraft or vehicle being searched.

### **314AR Use etc. of documents and things**

- (1) An authorised officer may take possession of:
- (a) a document or other thing produced under section 314AN; or
  - (b) a document or other thing seized by a person under a search warrant issued under section 314AQ.
- (2) The person otherwise entitled to possession of a document is entitled to be supplied, as soon as practicable, with a copy certified by the authorised officer to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the authorised officer must, at such times and places as the authorised officer thinks appropriate, permit the person otherwise entitled to possession of a document, or a person authorised by that person, to inspect and make copies of the document.
- (5) The authorised officer may use the document or other thing, or make it available to another authorised officer to use, for the following purposes, if using the document or thing is necessary for the purpose:
- (a) investigating a contravention of a civil penalty provision in, or an offence against, this Part;
  - (b) deciding whether to institute proceedings in relation to such a contravention or offence;
  - (c) proceedings in relation to such a contravention or offence.
- (6) The document or other thing may be retained for as long as is reasonably necessary, but, unless it is evidence in proceedings as mentioned in paragraph (5)(c), not longer than the day that is 60 days after the day on which the authorised officer took possession of the document or thing.

## **4 Section 316**

Repeal the section.

## Part 2—Anti-avoidance

### *Commonwealth Electoral Act 1918*

#### **5 Subsection 120(2) (table item 14)**

Omit “287S, 302H or 314AK”, substitute “314AV”.

#### **6 Subdivision D of Division 1A of Part XX**

Repeal the Subdivision.

#### **7 Section 302H**

Repeal the section.

#### **8 Section 314AK**

Repeal the section.

#### **9 Section 314AKA (after the paragraph beginning “An authorised officer’s”)**

Insert:

Subdivision C deals with anti-avoidance. A person commits an offence or is liable to a civil penalty if the person, either alone or with one or more other persons or entities, enters into a scheme, begins to carry out a scheme or carries out a scheme with the sole or dominant purpose of avoiding the application of certain sections of the Act to the person or another person or entity. A person commits an offence or is liable to a civil penalty if the person enters into, begins to carry out or carries out such a scheme in contravention of a notice given by the Electoral Commissioner that requires the person not to do so.

The Electoral Commissioner’s decision to give such a notice to a person is subject to internal review.

#### **10 At the end of Division 5C of Part XX**

Add:

## **Subdivision C—Anti-avoidance**

### **314AS Preventing application of certain obligations under this Part**

- (1) A person contravenes this subsection if:
- (a) the person, either alone or with one or more other persons or entities:
    - (i) enters into a scheme; or
    - (ii) begins to carry out a scheme; or
    - (iii) carries out a scheme; and
  - (b) the sole or dominant purpose of the scheme is to avoid the operation of any one or more of the following provisions in relation to the person or another person or entity:
    - (i) a civil penalty provision in Subdivision B of Division 1A (requirement to register as a significant third party or an associated entity);
    - (ii) a civil penalty provision in Division 3AB (caps on electoral expenditure);
    - (iii) a civil penalty provision in Subdivision AA or AC of Division 3A (caps on gifts);
    - (iv) an offence or civil penalty provision in section 302D, 302E or 302F (donations by foreign donors);
    - (v) a civil penalty provision in section 314AJ (foreign campaigner incurring, or fundraising for, electoral expenditure).

Note: For the definition of *scheme*, see subsection 287(1).

#### *Fault-based offence*

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

Penalty: Imprisonment for 3 years or 180 penalty units, or both.

#### *Civil penalty provision*

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

Civil penalty:

- (a) if the sole or dominant purpose of the scheme is to avoid the application of a single provision—the penalty applicable to the provision; and
  - (b) if the sole or dominant purpose of the scheme is to avoid the application of multiple provisions—the highest of the penalties applicable to the provisions.
- (4) This section applies whether or not the scheme is entered into, begun to be carried out or carried out:
- (a) in Australia; or
  - (b) outside Australia; or
  - (c) partly in Australia and partly outside Australia.

**314AT Anti-avoidance notice**

- (1) The Electoral Commissioner may give a person a written notice if:
- (a) the person, either alone or with one or more other persons or entities:
    - (i) enters into a scheme; or
    - (ii) begins to carry out a scheme; or
    - (iii) carries out a scheme; and
  - (b) there are reasonable grounds to conclude that the sole or dominant purpose of the scheme is to avoid the operation of any one or more of the following provisions in relation to the person or another person or entity:
    - (i) a civil penalty provision in Subdivision B of Division 1A (requirement to register as a significant third party or an associated entity);
    - (ii) a civil penalty provision in Division 3AB (caps on electoral expenditure);
    - (iii) a civil penalty provision in Subdivision AA of Division 3A (caps on gifts);
    - (iv) an offence or civil penalty provision in section 302D, 302E or 302F (donations by foreign donors);
    - (v) a civil penalty provision in section 314AJ (foreign campaigner incurring, or fundraising for, electoral expenditure).

Note 1: A decision to give a notice is a reviewable decision (see section 120).

Note 2: For the definition of *scheme*, see subsection 287(1).

- (2) The notice must:
- (a) specify the conduct constituting the scheme; and
  - (b) require the person:
    - (i) not to enter into the scheme; or
    - (ii) not to begin to carry out the scheme; or
    - (iii) not to continue to carry out the scheme.
- (3) A person contravenes this subsection if:
- (a) the person is given a notice under subsection (1); and
  - (b) the person engages in conduct; and
  - (c) the conduct contravenes the notice.

*Fault-based offence*

- (4) A person commits an offence if the person contravenes subsection (3).

Penalty: Imprisonment for 3 years or 180 penalty units, or both.

*Civil penalty provision*

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

Civil penalty:

- (a) if the sole or dominant purpose of the scheme is to avoid the application of a single provision—the penalty applicable to the provision; and
  - (b) if the sole or dominant purpose of the scheme is to avoid the application of multiple provisions—the highest of the penalties applicable to the provisions.
- (6) This section applies whether or not the scheme is entered into, begun to be carried out or carried out:
- (a) in Australia; or
  - (b) outside Australia; or
  - (c) partly in Australia and partly outside Australia.

### **314AU Physical elements of offences**

- (1) This section applies if a provision of this Division provides that a person contravening another provision (the *conduct rule provision*) commits an offence.
- (2) For the purposes of applying Chapter 2 of the *Criminal Code* to the offence, the physical elements of the offence are set out in the conduct rule provision.

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

### **314AV Contravening an offence or a civil penalty provision**

- (1) This section applies if a provision of this Division provides that a person contravening another provision (the *conduct provision*) commits an offence or is liable to a civil penalty.
- (2) For the purposes of this Act, and the Regulatory Powers Act to the extent that it relates to this Act, a reference to a contravention of an offence provision or a civil penalty provision includes a reference to a contravention of the conduct provision.

Note: This also affects references in the Regulatory Powers Act to a contravention of an offence provision or a civil penalty provision.

## **Schedule 10—Machinery amendments**

### **Part 1—Amendments**

#### *Commonwealth Electoral Act 1918*

##### **1 Section 55A (note)**

Omit the second sentence, substitute “Subsection 62(3) expressly excludes the Australian Capital Territory.”.

##### **2 Subsection 64(3)**

Repeal the subsection, substitute:

- (3) The Redistribution Committee must cause to be published on the Electoral Commission’s website, and in any other way the Redistribution Committee considers appropriate, the suggestions lodged under paragraph (1)(a) on or before the fifth Monday after publication of the notice in the *Gazette*.

##### **3 Paragraph 68(1)(a)**

Repeal the paragraph, substitute:

- (a) cause to be published on the Electoral Commission’s website, and in any other way the Redistribution Committee considers appropriate, a map or maps showing the names and boundaries of each proposed Electoral Division in the State; and

##### **4 Paragraph 68(1)(b)**

Omit “cause copies of”, substitute “cause to be published on the Electoral Commission’s website, and in any other way the Redistribution Committee considers appropriate”.

##### **5 At the end of subparagraphs 68(1)(b)(i), (ii) and (iv)**

Add “and”.

##### **6 Paragraph 68(1)(b)**

Omit “to be made available for perusal at each office of the Electoral Commission in the State;”.

**7 Paragraph 68(1)(c)**

Repeal the paragraph, substitute:

- (c) by notice published in the *Gazette* on a Friday, invite public attention to the publication of the map or maps referred to in paragraph (a) and the suggestions, comments, descriptions and reasons referred to in paragraph (b); and

**8 Paragraph 68(1)(d)**

Omit “availability for perusal of copies of”, substitute “publication of”.

**9 Subsection 69(2)**

Omit “The Electoral Commission must cause copies of the objections lodged under subsection (1) to be made available for perusal, starting on”, substitute “The Electoral Commission must cause to be published on the Electoral Commission’s website, and in any other way the Electoral Commission considers appropriate, the objections lodged under subsection (1) on or before”.

**10 Subsection 69(4)**

Omit “cause copies of the comments lodged under subsection (3) to be made available for perusal, starting on”, substitute “cause to be published on the Electoral Commission’s website, and in any other way the Electoral Commission considers appropriate, the comments lodged under subsection (3) on or before”.

**11 Subsection 69(5)**

Repeal the subsection.

**12 Paragraph 93(8)(a)**

Omit “being of unsound mind”, substitute “cognitive impairment”.

**13 Subsection 118(4)**

Omit “unsoundness of mind”, substitute “cognitive impairment”.

**14 After subsection 125(1)**

Insert:



- (1A) The Register must be made publicly available on the Electoral Commission’s website and may be made publicly available in any other way the Electoral Commissioner considers appropriate.

**15 Section 139**

Repeal the section.

**16 After paragraph 184A(2)(c)**

Insert:

- (caa) because the applicant is a person with disability, the applicant is unable to travel from the place where the applicant lives to a polling place;
- (cab) because the applicant will be at a place (other than a hospital) caring for a person with disability, the applicant is unable to travel from that place to a polling place;

**17 Subsection 185(1)**

Omit “Subject to subsection (1A), if”, substitute “If”.

**18 Subsections 185(1A) and (1B)**

Repeal the subsections.

**19 Paragraph 194(1)(d)**

Omit “fold the ballot paper, place it in the envelope”, substitute “place the ballot paper in the envelope”.

**20 After section 199**

Insert:

**199A Envelopes that have formal errors**

- (1) This section applies if:
  - (a) a DRO, or an officer acting at the direction of a DRO, receives an envelope that purports to contain a postal ballot paper on which a vote has been recorded; and
  - (b) the DRO or officer is satisfied it is reasonably necessary to open the envelope in order to make a record of the name of the voter and the name of the Division as shown in the postal vote certificate printed on, or placed inside, the envelope.

- (2) The DRO or officer may open the envelope to make the record.
- (3) A DRO or an officer who opens an envelope in accordance with subsection (2) must, as soon as practicable after making the record:
  - (a) place the postal vote certificate and the ballot paper back in the envelope; and
  - (b) fasten the envelope.

**21 Paragraph 200DK(b)**

Repeal the paragraph, substitute:

- (b) deposit the ballot paper in a ballot-box; and

**22 Paragraph 200DL(1)(e)**

Repeal the paragraph, substitute:

- (e) deposit the ballot paper in a ballot-box.

**23 Subsection 200E(5)**

Omit “paper, fold the ballot paper and return it to the issuing officer”, substitute “paper and return the ballot paper to the issuing officer”.

**24 Paragraph 200E(7)(e)**

Repeal the paragraph, substitute:

- (e) return the ballot paper to the officer.

**25 Subsection 226(5)**

Omit “subsection 340(1) or (1A) applies in relation to a hospital that is a polling place as if the references in that subsection”, substitute “subsections 340(1) and (1A) and 341(1) apply in relation to a hospital that is a polling place as if the references in those subsections”.

**26 Subsection 226(7)**

Repeal the subsection, substitute:

- (7) The Divisional Returning Officer for a Division must cause to be published on the Electoral Commission’s website, and in any other way the Divisional Returning Officer considers appropriate, a notice specifying:
  - (a) the hospitals in the Division that are polling places; and

(b) the periods during which votes will be taken under section 224 at each hospital.

(7A) The notice must be published not later than 4 pm on the day before polling day.

**27 Paragraph 227(8)(e)**

Omit “section 340 applies as if the references (however described) in subsections 340(1), (1A) and (2)”, substitute “sections 340 and 341 apply as if the references (however described) in subsections 340(1), (1A) and (2) and 341(1)”.

**28 Paragraph 233(1)(b)**

Repeal the paragraph, substitute:

(b) either:

- (i) if the voter is not an absent voter—deposit the ballot paper in the ballot-box; or
- (ii) if the voter is an absent voter—return the ballot paper to the presiding officer or a polling official; and

**29 Subsections 234(1) and (2)**

Omit “, fold,”.

**30 Paragraph 234A(3)(b)**

Omit “fold the ballot paper so as to conceal the names of the candidates, and”.

**31 Subsection 234A(4)**

Omit “folded”.

**32 Subsection 234A(5)**

Omit “mark and fold, or allow a polling official to mark and fold, the voter’s ballot paper”, substitute “mark, or allow a polling official to mark, the voter’s ballot paper”.

**33 Subsection 235(6)**

Omit “fold the ballot paper and hand it”, substitute “hand the ballot paper”.

**34 Subsection 266(2)**

Repeal the subsection, substitute:

- (2) The DRO must cause to be published on the Electoral Commission's website, and in any other way the DRO considers appropriate, a notice specifying the date, time and place of the commencement of a preliminary scrutiny.
- (2A) The notice must be published not later than 4 pm on the day before the day of commencement of the preliminary scrutiny.

**35 Subsection 341(1)**

Repeal the subsection, substitute:

- (1) A person commits an offence if:
  - (a) the person is an officer or a scrutineer; and
  - (b) the person wears or displays any badge or emblem of a candidate or political party; and
  - (c) the person does so:
    - (i) in a polling booth on polling day or on a day to which the polling is adjourned for the election; or
    - (ii) in a pre-poll voting office at any time during which applications for pre-poll votes may be made, or pre-poll ordinary voting is available, at the office.

Penalty: 10 penalty units.

**36 After paragraph 348(1)(c) (before the penalty)**

Insert:

Note: For the purposes of paragraph (a), making an audio or video recording in the premises without the permission of the person in charge of the premises is an example of conduct that may be misconduct under this paragraph.

**37 After subsection 348(1)**

Insert:

- (1A) A person commits an offence if:
  - (a) the person makes an audio or video recording in premises to which this section applies; and

- (b) the recording is made without the permission of the person in charge of the premises; and
- (c) the making of the recording constitutes a contravention of paragraph 348(1)(a); and
- (d) the person:
  - (i) publishes the whole or a part of the recording; or
  - (ii) causes to be published the whole or a part of the recording.

Penalty: 5 penalty units.

### **38 Subsection 348(5)**

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

### **39 Paragraphs 4 and 5 of Schedule 2**

Repeal the paragraphs, substitute:

- 4. The person will be unable to attend a polling booth on polling day because the person:
  - (a) is seriously ill; or
  - (b) is infirm; or
  - (c) has recently given birth or is expected shortly to do so; or
  - (d) is a person with disability.

(In the case of a person who will be a patient at a hospital on polling day, this paragraph applies regardless of the operation of sections 224 and 227 of the Act.)
- 5. The person will be unable to attend a polling booth on polling day because the person will be at a place (other than a hospital) caring for a person who:
  - (a) is seriously ill; or
  - (b) is infirm; or
  - (c) has recently given birth or is expected shortly to do so; or
  - (d) is a person with disability.

### **40 After paragraph 6 of Schedule 3**

Insert:

- 6AA. Despite subparagraphs 6(b) and (c), the DRO may treat an envelope as having met the requirements of paragraph 6 if the DRO is satisfied that:
- (a) the envelope purports to contain either:
    - (i) a pre-poll vote ballot paper for an elector who, but for paragraph 200DG(1)(c), would have been entitled to vote by pre-poll ordinary vote; or
    - (ii) an absent vote ballot paper for an elector; and
  - (b) the ballot paper was issued to the elector by a voting officer using an approved list of voters for a Division in accordance with Parts XVA and XVI; and
  - (c) the elector is neither a designated elector nor a person whose address has been excluded or deleted from a Roll under section 104; and
  - (d) it is appropriate to do so.

**41 After sub-subparagraph 10(a)(i) of Schedule 3**

Insert:

- (ia) the envelopes that, under paragraph 6AA, have been treated as having met the requirements of paragraph 6; and

**42 After sub-subparagraph 11(a)(i) of Schedule 3**

Insert:

- (ia) the envelopes that, under paragraph 6AA, have been treated as having met the requirements of paragraph 6; and

**43 Paragraph 21 of Schedule 3**

Repeal the paragraph.

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

**44 At the end of paragraph 35(a)**

Add “and”.

**45 Paragraph 35(b)**

Repeal the paragraph, substitute:

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(b) place the ballot paper in the ballot-box; and

**46 Subsections 36(1) and (2)**

Omit “, fold”.

**47 Paragraph 36A(3)(b)**

Omit “fold the ballot paper so as to conceal his or her vote, and”.

**48 Subsection 36A(4)**

Omit “folded”.

**49 Subsection 36A(5)**

Omit “mark and fold, or allow a polling official to mark and fold,”,  
substitute “mark, or allow a polling official to mark,”.

**50 Subsection 37(6)**

Omit “fold the ballot paper and hand it”, substitute “hand the ballot  
paper”.

**51 Subsection 46(4)**

Repeal the subsection, substitute:

- (4) An elector who votes as an absent voter must mark the ballot paper in the manner prescribed by this Act and return it to the presiding officer or a polling official.

**52 Subsection 50(4)**

Repeal the subsection, substitute:

- (4) Subsections 131(1) and (1A) and 132(1) apply in relation to a hospital that is a polling place as if:
  - (a) the references in those subsections to voting day for the referendum, or a day to which the taking of votes of the electors at a referendum has been adjourned under section 42 or 43, were a reference to the period:
    - (i) commencing on the day of the issue of the writ for the referendum; and

- (ii) ending immediately after the voting day or, if the voting is adjourned, after the last day to which the voting is so adjourned; and
- (b) the references in those subsections to a polling booth were references to the hospital.

**53 Subsection 50(6)**

Repeal the subsection, substitute:

- (6) The DRO for a Division must cause to be published on the Electoral Commission’s website, and in any other way the DRO considers appropriate, a notice specifying:
  - (a) the hospitals in the Division that are polling places; and
  - (b) the periods during which votes will be taken under section 48 at each hospital.
- (6A) The notice must be published not later than 4 pm on the day before voting day.

**54 Paragraph 51(8)(e)**

Repeal the paragraph, substitute:

- (e) sections 131 and 132 apply as if the references (however described) in subsections 131(1), (1A) and (2) and 132(1) to the voting day for the referendum, or a day to which the taking of votes of the electors at the referendum has been adjourned, were a reference to the time of the visit.

**55 Paragraph 65(1)(d)**

Omit “fold the ballot paper.”

**56 After section 71**

Insert:

**71AAA Envelopes that have formal errors**

- (1) This section applies if:
  - (a) a DRO, or an officer acting at the direction of a DRO, receives an envelope that purports to contain a postal ballot paper on which a vote has been recorded; and



- (b) the DRO or officer is satisfied it is reasonably necessary to open the envelope in order to make a record of the name of the voter and the name of the Division as shown in the postal vote certificate printed on, or placed inside, the envelope.
- (2) The DRO or officer may open the envelope to make the record.
- (3) A DRO or an officer who opens an envelope in accordance with subsection (2) must, as soon as practicable after making the record:
  - (a) place the postal vote certificate and the ballot paper back in the envelope; and
  - (b) fasten the envelope.

**57 Paragraph 73CK(b)**

Repeal the paragraph, substitute:

- (b) deposit the ballot paper in a ballot-box; and

**58 Paragraph 73CL(1)(e)**

Repeal the paragraph, substitute:

- (e) deposit the ballot paper in a ballot-box.

**59 Subsection 73D(5)**

Omit “, fold the ballot paper and return it”, substitute “and return the ballot paper”.

**60 Paragraph 73D(7)(e)**

Repeal the paragraph, substitute:

- (e) return the ballot paper to the officer.

**61 Subsection 89A(2)**

Repeal the subsection, substitute:

- (2) The DRO must cause to be published on the Electoral Commission’s website, and in any other way the DRO considers appropriate, a notice specifying the date, time and place of the commencement of a preliminary scrutiny.
- (2A) The notice must be published not later than 4 pm on the day before the day of commencement of the preliminary scrutiny.

## 62 Subsection 132(1)

Repeal the subsection, substitute:

- (1) A person commits an offence if:
- (a) the person is an officer or a scrutineer; and
  - (b) the person wears or displays any badge or emblem in support of, or in opposition to, a proposed law for the alteration of the Constitution; and
  - (c) the person does so:
    - (i) in a polling booth on the voting day for a referendum or on a day to which the taking of votes of the electors at the referendum has been adjourned under section 42 or 43; or
    - (ii) in a pre-poll voting office at any time during which applications for pre-poll votes may be made, or pre-poll ordinary voting is available, at the office.

Penalty: 10 penalty units.

## 63 After paragraph 135(1)(c) (before the penalty)

Insert:

Note: For the purposes of paragraph (a), making an audio or video recording in the premises without the permission of the person in charge of the premises is an example of conduct that may be misconduct under this paragraph.

## 64 After subsection 135(1)

Insert:

- (1A) A person commits an offence if:
- (a) the person makes an audio or video recording in premises to which this section applies; and
  - (b) the recording is made without the permission of the person in charge of the premises; and
  - (c) the making of the recording constitutes a contravention of paragraph 135(1)(a); and
  - (d) the person:
    - (i) publishes the whole or a part of the recording; or

- (ii) causes to be published the whole or a part of the recording.

Penalty: 5 penalty units.

### **65 Subsection 135(5)**

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

### **66 Paragraphs 4 and 5 of Schedule 3**

Repeal the paragraphs, substitute:

- 4. The person will be unable to attend a polling booth on voting day because the person:
  - (a) is seriously ill; or
  - (b) is infirm; or
  - (c) has recently given birth or is expected shortly to do so; or
  - (d) is a person with disability.

(In the case of a person who will be a patient at a hospital on voting day, this paragraph applies regardless of the operation of sections 48 and 51.)
- 5. The person will be unable to attend a polling booth on voting day because the person will be at a place (other than a hospital) caring for a person who:
  - (a) is seriously ill; or
  - (b) is infirm; or
  - (c) has recently given birth or is expected shortly to do so; or
  - (d) is a person with disability.

### **67 After paragraph 6 of Schedule 4**

Insert:

- 6AA. Despite subparagraphs 6(b) and (c), the DRO may treat an envelope as having met the requirements of paragraph 6 if the DRO is satisfied that:
  - (a) the envelope purports to contain either:
    - (i) a pre-poll vote ballot paper for an elector who, but for paragraph 73CG(1)(c), would have been entitled to vote by pre-poll ordinary vote; or

- (ii) an absent vote ballot paper for an elector; and
- (b) the ballot paper was issued to the elector by a voting officer using an approved list of voters for a Division in accordance with Parts III and IVA; and
- (c) the elector is neither a designated elector nor a person whose address has been excluded or deleted from a Roll under section 104 of the *Commonwealth Electoral Act 1918*; and
- (d) it is appropriate to do so.

**68 After sub-subparagraph 10(a)(ii) of Schedule 4**

Insert:

- (ia) the envelopes that, under paragraph 6AA, have been treated as having met the requirements of paragraph 6; and

**69 Paragraph 18 of Schedule 4**

Repeal the paragraph.

**70 Paragraphs 20 and 21 of Schedule 4**

Omit “18”, substitute “17”.

## **Part 2—Application and transitional provisions**

### **71 Application of amendments relating to offences**

- (1) Subsection 341(1) of the *Commonwealth Electoral Act 1918*, as substituted by Part 1 of this Schedule, applies in relation to acts or omissions that occur on or after the commencement of this Schedule.
- (2) Subsection 348(1A) of the *Commonwealth Electoral Act 1918*, as inserted by Part 1 of this Schedule, applies in relation to acts or omissions that occur on or after the commencement of this Schedule.
- (3) Subsection 132(1) of the *Referendum (Machinery Provisions) Act 1984*, as substituted by Part 1 of this Schedule, applies in relation to acts or omissions that occur on or after the commencement of this Schedule.
- (4) Subsection 135(1A) of the *Referendum (Machinery Provisions) Act 1984*, as inserted by Part 1 of this Schedule, applies in relation to acts or omissions that occur on or after the commencement of this Schedule.

## Schedule 11—Transitional rules

### 1 Transitional rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.
- (2) Without limiting subitem (1), the rules may have the effect that, despite the commencement of an item of this Act that amends, inserts, substitutes or repeals a provision of an Act, the provision:
  - (a) as amended, inserted or substituted does not apply generally, or in relation to any specified matters or classes of matters, for a specified period after that commencement; or
  - (b) as repealed continues to apply generally, or in relation to any specified matters or classes of matters, for a specified period after that commencement.
- (3) Rules that have the effect mentioned in subitem (2) must not specify a period that ends later than 30 June 2027.
- (4) To avoid doubt, the rules may not do the following:
  - (a) create an offence or civil penalty;
  - (b) provide powers of:
    - (i) arrest or detention; or
    - (ii) entry, search or seizure;
  - (c) impose a tax;
  - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
  - (e) directly amend the text of this Act.
- (5) This Act (other than subitems (3) and (4) of this item) does not limit the rules that may be made under this item.

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*[Minister's second reading speech made in—  
House of Representatives on 18 November 2024  
Senate on 25 November 2024]*

(146/24)

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*No. 16, 2025*

*Electoral Legislation Amendment (Electoral Reform) Act 2025*

*241*