

2022-2023-2024

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Electoral Legislation Amendment (Fair
and Transparent Elections) Bill 2024**

No. , 2024

(Ms Chaney)

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

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

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Electoral Legislation Amendment (Fair and*
6 *Transparent Elections) Act 2024*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Parts 1 and 2	The first 1 July occurring after the 28th day after this Act receives the Royal Assent.	
3. Schedule 1, Part 3	The 28th day after this Act receives the Royal Assent.	
4. Schedule 1, Parts 4 and 5	The first 1 July occurring after the 28th day after this Act receives the Royal Assent.	
5. Schedule 2	The first 1 July occurring after the 28th day after this Act receives the Royal Assent.	
6. Schedule 3	The day after this Act receives the Royal Assent.	

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

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

7 **3 Schedules**

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9 repealed as set out in the applicable items in the Schedule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

1 **Schedule 1—Improving transparency**

2 **Part 1—Lowering the disclosure threshold**

3 *Commonwealth Electoral Act 1918*

4 **1 Subsection 287(1) (definition of *disclosure threshold*)**

5 Repeal the definition, substitute:

6 *disclosure threshold* means \$1,000.

7 **2 Subsection 287(1) (paragraph (a) of the definition of *third***
8 ***party*)**

9 Omit “the disclosure threshold”, substitute “\$20,000”.

10 **3 Subsection 314AC(2)**

11 Repeal the subsection.

12 **4 Section 321A**

13 Repeal the section.

1 **Part 2—Real-time disclosure of donations**

2 ***Commonwealth Electoral Act 1918***

3 **5 After Division 4 of Part XX**

4 Insert:

5 **Division 4A—Real-time disclosure of receipt of gifts**

6 **307AA Interpretation**

7 In this Division:

8 ***agent or financial controller:***

- 9 (a) of a political party, candidate or group means the agent of the
10 political party, candidate or group; or
11 (b) of an entity that is not a political party or group means the
12 financial controller of the entity; or
13 (c) of an individual that is not a candidate means the individual.

14 ***disclosure gift*** from a person or entity means a gift that:

- 15 (a) is received from the person or entity directly or indirectly
16 (through one or more interposed entities or persons); and
17 (b) is more than the disclosure threshold.

18 ***disclosure sum*** from a person or entity means:

- 19 (a) a disclosure gift received from the person or entity directly or
20 indirectly (through one or more interposed entities or
21 persons); or
22 (b) a sum of gifts:
23 (i) received from the person or entity directly or indirectly
24 (through one or more interposed entities or persons);
25 and
26 (ii) whether or not any of the gifts is a disclosure gift;
27 if the sum is more than the disclosure threshold.

28 ***relevant recipient*** means any of the following:

- 29 (a) a political entity;
30 (b) a group;

- 1 (c) an associated entity;
2 (d) a senator or a member of the House of Representatives.

3 **307AB Disclosure of certain gifts—relevant recipients**

4 *Returns after receiving disclosure sum*

- 5 (1) If a relevant recipient receives a disclosure sum from a person or
6 entity during a financial year, the relevant recipient's agent or
7 financial controller must provide a return under this section within
8 7 days after the day:
9 (a) the relevant recipient receives the first gift (the
10 *threshold-exceeding gift*) (whether or not a disclosure gift)
11 that makes the sum of gifts received during the financial year
12 a disclosure sum; and
13 (b) of each subsequent gift (a *post-threshold gift*) after the
14 threshold-exceeding gift the relevant recipient receives from
15 the person or entity during the financial year.

16 *Form of the return*

- 17 (2) The return must:
18 (a) be in the approved form; and
19 (b) in the case of a return required under subsection (1) because
20 of a threshold-exceeding gift:
21 (i) set out the disclosure sum received; and
22 (ii) set out the amount or value of each gift that makes up
23 the disclosure sum; and
24 (iii) set out the date on which each of those gifts was
25 received;
26 (c) in the case of a return required under subsection (1) because
27 of a post-threshold gift:
28 (i) set out the amount or value of the post-threshold gift
29 that was received; and
30 (ii) set out the date on which the post-threshold gift was
31 received.
32 (3) The return must set out:

- 1 (a) if the person or entity was an unincorporated association,
2 other than a registered industrial organisation:
3 (i) the name of the association; and
4 (ii) the names and addresses of the members of the
5 executive committee (however described) of the
6 association; or
7 (b) if the gift or gifts from the person or entity was paid out of a
8 trust fund or paid out of the funds of a foundation:
9 (i) the names and addresses of the trustees of the fund or of
10 the foundation; and
11 (ii) the title or other description of the trust fund, or the
12 name of the foundation, as the case requires; or
13 (c) in any other case—the name and address of the person or
14 entity.

15 *Civil penalty*

- 16 (4) An agent or financial controller of a relevant recipient must not
17 contravene subsection (1).

18 Civil penalty:

19 The higher of the following amounts:

- 20 (a) 200 penalty units;
21 (b) if there is sufficient evidence for the court to determine the
22 amount or value, or an estimate of the amount or value, of
23 gifts not disclosed—3 times that amount or value.
24 (5) Subsection 93(2) of the Regulatory Powers Act does not apply in
25 relation to a contravention of subsection (4) of this section.

26 **307AC Disclosure of certain gifts—significant third parties or third**
27 **parties**

28 *Returns after use of gift*

- 29 (1) If a significant third party or third party has used any part of a
30 disclosure sum from a person or entity for a covered purpose
31 during a financial year, the significant third party's or third party's

1 financial controller must provide a return under this section within
2 7 days after the day:

- 3 (a) if a part of a gift that makes up the sum has been used for a
4 covered purpose before the sum is a disclosure sum—the
5 sum became a disclosure sum; or
6 (b) otherwise—a part of the sum is used for a covered purpose.

7 (2) If:

- 8 (a) a significant third party or third party uses during a financial
9 year a part of a gift (a *post-disclosure sum gift*) received
10 from a person or entity for a covered purpose; and
11 (b) before receiving the post-disclosure sum gift, the significant
12 third party or third party had made a return required under
13 subsection (1) in relation to the use of a disclosure sum from
14 the person or entity for a covered purpose during the
15 financial year;

16 the significant third party's or third party's financial controller
17 must provide a return under this section within 7 days after the day
18 the part of the post-disclosure sum gift is used.

19 *Meaning of covered purposes*

20 (3) In this section:

21 *covered purposes*: the following purposes are *covered purposes*:

- 22 (a) to enable a significant third party or third party to incur
23 electoral expenditure, or create or communicate electoral
24 matter;
25 (b) to reimburse a significant third party or third party for
26 incurring electoral expenditure, or creating or communicating
27 electoral matter.

28 *Form of return*

29 (4) The return must:

- 30 (a) be in the approved form; and
31 (b) in the case of a return required under subsection (1):
32 (i) set out the disclosure sum received; and
33 (ii) set out the amount or value of each gift that makes up
34 the disclosure sum; and

Schedule 1 Improving transparency
Part 2 Real-time disclosure of donations

- 1 (iii) set out the date on which each of those gifts was
2 received; and
3 (iv) set out how the disclosure sum, in whole or part, was
4 used for a covered purpose; and
5 (c) in the case of a return required under subsection (2):
6 (i) set out the amount or value of the post-disclosure sum
7 gift that was received; and
8 (ii) set out the date on which the post-disclosure sum gift
9 was received; and
10 (iii) set out how the post-disclosure sum gift, in whole or
11 part, was used for a covered purpose.
- 12 (5) The return must set out:
13 (a) if the person or entity was an unincorporated association,
14 other than a registered industrial organisation:
15 (i) the name of the association; and
16 (ii) the names and addresses of the members of the
17 executive committee (however described) of the
18 association; or
19 (b) if the gift or gifts from the person or entity was paid out of a
20 trust fund or paid out of the funds of a foundation:
21 (i) the names and addresses of the trustees of the fund or of
22 the foundation; and
23 (ii) the title or other description of the trust fund, or the
24 name of the foundation, as the case requires; or
25 (c) in any other case—the name and address of the person or
26 entity.
- 27 *Civil penalty*
- 28 (6) A financial controller of a significant third party or third party must
29 not contravene subsection (1) or (2).
- 30 *Civil penalty:*
31 The higher of the following amounts:
32 (a) 60 penalty units;

1 (b) if there is sufficient evidence for the court to determine the
2 amount or value, or an estimate of the amount or value, of
3 gifts not disclosed—3 times that amount or value.

4 (7) Subsection 93(2) of the Regulatory Powers Act does not apply in
5 relation to a contravention of subsection (6) of this section.

6 **307AD Exception—private capacity**

7 This Division does not apply to a gift made in a private capacity to
8 an individual for the individual's personal use.

9 **6 Subsection 320(1) (after table item 4)**

10 Insert:

4A	each return provided under Division 4A	as soon as reasonably practicable after receiving the return.
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1 **Part 3—Truth in political advertising**

2 ***Commonwealth Electoral Act 1918***

3 **7 After Part XXA**

4 Insert:

5 **Part XXB—Misleading and deceptive political**
6 **advertising**
7

8 **321J Definitions**

9 In this Part:

10 ***election participant***: see subsection 321JB(3).

11 ***engage in conduct*** means:

- 12 (a) do an act; or
13 (b) omit to perform an act.

14 ***publish*** means communicate by any means, including by print,
15 radio, television, internet or telephone.

16 ***referendum*** has the same meaning as in the *Referendum*
17 *(Machinery Provisions) Act 1984*.

18 ***referendum matter***: see section 321JA.

19 **321JA Meaning of *referendum matter***

- 20 (1) ***Referendum matter*** means matter communicated or intended to be
21 communicated for the dominant purpose of influencing the way
22 electors vote in a referendum, including by promoting or opposing:
23 (a) any of the referendum options; or
24 (b) a person or entity associated with any of the referendum
25 options.

26 Note: Communications whose dominant purpose is to educate their audience
27 on a public policy issue, or to raise awareness of, or encourage debate
28 on, a public policy issue, are not for the dominant purpose of

1 influencing the way electors vote in a referendum (as there can be
2 only one dominant purpose for any given communication).

3 (2) For the purposes of subsection (1), each creation, recreation,
4 communication or recommunication of matter is to be treated
5 separately for the purposes of determining whether matter is
6 referendum matter.

7 Note: For example, matter that is covered by an exception under
8 subsection (5) when originally communicated may become
9 referendum matter if recommunicated for the dominant purpose
10 referred to in subsection (1).

11 *Rebuttable presumption for matter that expressly promotes or*
12 *opposes referendum options etc.*

13 (3) Without limiting subsection (1), the dominant purpose of the
14 communication or intended communication of matter that
15 expressly promotes or opposes:
16 (a) any of the referendum options; or
17 (b) a person or entity associated with any of the referendum
18 options;
19 is presumed to be the purpose referred to in subsection (1), unless
20 the contrary is proved.

21 *Matters to be taken into account*

22 (4) Without limiting subsection (1), the following matters must be
23 taken into account in determining the dominant purpose of the
24 communication or intended communication of matter:
25 (a) whether the communication or intended communication is or
26 would be to the public or a section of the public;
27 (b) whether the matter contains an express or implicit comment
28 on any of the referendum options or any person or entity
29 associated with any of the referendum options;
30 (c) whether the communication or intended communication is or
31 would be received by electors near a polling place;
32 (d) how soon a referendum is to be held after the creation or
33 communication of the matter;
34 (e) whether the communication or intended communication is or
35 would be unsolicited.

1 *Exceptions*

- 2 (5) Despite subsections (1) and (3), matter is not *referendum matter* if
3 the communication or intended communication of the matter:
4 (a) forms or would form part of the reporting of news, the
5 presenting of current affairs or any genuine editorial content
6 in news media; or
7 (b) is or would be by a person for a dominant purpose that is a
8 satirical, academic, educative or artistic purpose, taking into
9 account any relevant consideration including the dominant
10 purpose or any other communication of matter by the person;
11 or
12 (c) is or would be a private communication by a person to
13 another person who is known to the first person; or
14 (d) is or would be by or to a person who is a Commonwealth
15 public official (within the meaning of the *Criminal Code*) in
16 that person's capacity as such an official; or
17 (e) is or would be a private communication to a political entity
18 (who is not a Commonwealth public official) in relation to
19 public policy or public administration; or
20 (f) occurs or would occur in the House of Representatives or the
21 Senate, or is or would be to a parliamentary committee.

22 Note: A person who wishes to rely on this subsection bears an evidential
23 burden in relation to the matters in this subsection (see
24 subsection 13.3(3) of the *Criminal Code*).

25 **321JB Electoral matter or referendum matter that is misleading or**
26 **deceptive etc.**

27 *Electoral matter or referendum matter that is misleading or*
28 *deceptive etc.*

- 29 (1) A person must not print, publish or distribute, or cause, permit or
30 authorise to be printed, published or distributed, electoral matter or
31 referendum matter if the matter contains a statement in relation to a
32 matter of fact (including an implied statement) that is:
33 (a) misleading or deceptive to a material extent; or
34 (b) likely to mislead or deceive to a material extent.

35 Example 1: Electoral matter that states that a candidate in an election made a
36 statement that the candidate did not make.

1 Example 2: Referendum matter that states that a person or entity associated with
2 any of the referendum options made a statement that that person or
3 entity did not make.

4 Note: See also section 329 (Misleading or deceptive publications etc. in
5 relation to the casting of a vote) of this Act and section 122
6 (Misleading or deceptive publications etc.) of the *Referendum*
7 (*Machinery Provisions*) Act 1984.

8 *Impersonating or passing-off*

9 (2) Without limiting subsection (1), a person must not engage in
10 conduct if:

11 (a) the conduct is likely to cause another person to believe any of
12 the following in relation to electoral matter or referendum
13 matter that is printed, published or distributed:

14 (i) the electoral matter is printed, published or distributed
15 by a particular election participant;

16 (ii) the referendum matter is printed, published or
17 distributed by a particular person or entity associated
18 with any of the referendum options;

19 (iii) a particular election participant caused, permitted or
20 authorised the electoral matter to be printed, published
21 or distributed;

22 (iv) a particular person or entity associated with any of the
23 referendum options authorised the referendum matter to
24 be printed, published or distributed;

25 (v) the electoral matter is authorised by a particular election
26 participant;

27 (vi) the referendum matter is authorised by a particular
28 person or entity associated with any of the referendum
29 options; and

30 (b) that belief would be incorrect.

31 Example 1: Electoral matter that purports to have been published by the campaign
32 of a candidate in an election but is actually published by someone
33 opposed to the candidate.

34 Example 2: A pre-recorded telephone message that consists of a voice recording
35 of someone impersonating a candidate in an election.

36 Example 3: Referendum matter that purports to have been published by a person
37 or entity associated with any of the referendum options but is actually
38 published by someone opposed to that person or entity or opposed to
39 one or more of the referendum options.

1 Example 4: A pre-recorded telephone message that consists of a voice recording
2 of someone impersonating a person or entity associated with any of
3 the referendum options.

- 4 (3) Each of the following is an *election participant*:
- 5 (a) a political entity;
 - 6 (b) a significant third party (within the meaning of section 287);
 - 7 (c) a member or official of the Electoral Commission (see
8 section 6).

9 **321JC Complaints**

10 Any person may make a written complaint to the Electoral
11 Commissioner that another person has breached section 321JB.

12 **321JD Powers of Electoral Commissioner**

13 *Electoral Commissioner may investigate possible breaches*

- 14 (1) The Electoral Commissioner may investigate (whether in response
15 to a complaint made under section 321JC or on the Electoral
16 Commissioner’s own initiative) a possible breach of section 321JB
17 if the Commissioner is satisfied on reasonable grounds that the
18 investigation would be in the public interest.

19 *Electoral Commissioner may request person to end breaches*

- 20 (2) If the Electoral Commissioner is satisfied on reasonable grounds
21 (whether or not following an investigation under subsection (1) of
22 this section) that a person has breached section 321JB, the
23 Electoral Commissioner may:
- 24 (a) ask the person not to print, publish or distribute the relevant
25 electoral matter or referendum matter, or not to cause, permit
26 or authorise the relevant electoral matter or referendum
27 matter to be printed, published or distributed; or
 - 28 (b) ask the person to publish, or cause to be published, a
29 retraction or correction in specified terms and in a specified
30 way; or
 - 31 (c) publish a correction.

1 **321JE Powers of courts**

2 (1) On application by:

3 (a) the Electoral Commissioner; or

4 (b) a person who has made a complaint under section 321JC;
5 a court of competent jurisdiction that is satisfied on reasonable
6 grounds that a person has contravened section 321JB may order the
7 person:

8 (c) not to print, publish or distribute the relevant electoral matter
9 or referendum matter, or not to cause, permit or authorise the
10 relevant electoral matter or referendum matter to be printed,
11 published or distributed; or

12 (d) to publish, or cause to be published, a retraction or correction
13 in specified terms and in a specified way.

14 (2) The Electoral Commissioner must not make an application under
15 paragraph (1)(a) in relation to a contravention of section 321JB
16 unless the Electoral Commissioner has made a request under
17 subsection 321JD(2) in relation to the contravention.

18 (3) Without limiting the powers of a court in dealing with an
19 application made under paragraph (1)(b), the court may dismiss
20 such an application if the application:

21 (a) is frivolous, vexatious, misconceived or lacking in substance;
22 or

23 (b) has no reasonable prospects of success; or

24 (c) is otherwise an abuse of the process of the court.

25 **321JF Offence**

26 (1) A person commits an offence if:

27 (a) the person is subject to a requirement under section 321JB;
28 and

29 (b) the person engages in conduct; and

30 (c) the person's conduct breaches the requirement.

31 Penalty: 50 penalty units.

32 (2) In a prosecution of a person for an offence against subsection (1), it
33 is a defence if the defendant:

1 (a) took no part in determining the content of the electoral matter
2 or referendum matter to which the offence relates; and

3 (b) could not reasonably be expected to have known that the
4 statement to which the offence relates was misleading or
5 deceptive, or was likely to mislead or deceive.

6 Note: The defendant bears an evidential burden in relation to the matters
7 mentioned in this subsection (see subsection 13.3(3) of the *Criminal*
8 *Code*).

9 (3) If a person is found guilty of an offence against subsection (1) of
10 this section, the court must take the person’s response to any
11 relevant request under subsection 321JD(2) into account in
12 deciding the penalty for the offence.

13 (4) Section 15.2 of the *Criminal Code* (extended geographical
14 jurisdiction—category B) applies to an offence against
15 subsection (1) of this section.

16 **8 Section 329 (at the end of the heading)**

17 Add, “in relation to the casting of a vote”.

18 **9 After subsection 383(10)**

19 Insert:

20 *This section does not apply in relation to contraventions of*
21 *Part XXB*

22 (10A) This section does not apply in relation to a contravention of, or an
23 offence against, Part XXB (Misleading and deceptive political
24 advertising).

1 **Part 4—Definition of gift**

2 ***Commonwealth Electoral Act 1918***

3 **10 Subsection 287(1) (definition of *gift*)**

4 Repeal the definition, substitute:

5 *gift* has the meaning given by section 287AAA.

6 **11 Subsection 287(1)**

7 Insert:

8 ***trade union*** means:

- 9 (a) an association of employees that is registered as an
10 organisation, or recognised, under the *Fair Work (Registered*
11 *Organisations) Act 2009*; or
12 (b) a trade union within the meaning of any State Act or law of a
13 Territory.

14 **12 After section 287**

15 Insert:

16 **287AAA Meaning of *gift*—general**

17 (1) ***Gift*** means:

- 18 (a) any disposition of property made:
19 (i) by a person to or for the benefit of another person; and
20 (ii) without consideration in money or money's worth or
21 with inadequate consideration; or
22 (b) the provision of a service for no consideration or for
23 inadequate consideration:
24 (i) including if the service is a professional service so
25 provided by an individual who is a member of the
26 relevant profession; but
27 (ii) not including volunteer labour; or
28 (c) an amount paid by a person as a contribution, entry fee or
29 other payment to entitle that or any other person to
30 participate in or otherwise obtain any benefit from a

- 1 fundraising venture or function if the amount forms part of
2 the proceeds of the venture or function; or
3 (d) a subscription paid to:
4 (i) a political party; or
5 (ii) a State branch of a political party; or
6 (iii) a division of a State branch of a political party; or
7 (iv) a trade union;
8 in respect of another person's membership of the party,
9 branch, division or union; or
10 (e) something that is a gift under section 287AAB or 287AAC.
- 11 (2) However, *gift* does not include:
12 (a) a payment under Division 3; or
13 (b) any visit, experience or activity provided for the purposes of
14 a political exchange program.

15 **287AAB Meaning of *gift*—gifts to political entities**

16 *Scope of this section*

- 17 (1) If:
18 (a) for the dominant purpose of promoting a political entity for
19 political office, a person:
20 (i) incurs electoral expenditure; or
21 (ii) gives a gift-in-kind to the political entity; and
22 (b) the value of the electoral expenditure or gift-in-kind (less any
23 consideration) is more than \$1,000;
24 the electoral expenditure or gift-in-kind is taken to be a *gift* made
25 by the person to the political entity.
- 26 (2) However, a reference in this Part to the political entity receiving a
27 gift does not include a reference to receiving a thing that is taken to
28 be gift only because of subsection (1) if:
29 (a) the political entity does not know:
30 (i) that the thing is done; or
31 (ii) the matters mentioned in paragraphs (1)(a) and (b) in
32 relation to the thing; and
33 (b) this lack of knowledge is reasonable in the circumstances.

- 1 (3) A reference in this section to electoral expenditure incurred, or a
2 gift-in-kind given, by a person includes a reference to electoral
3 expenditure incurred, or a gift-in-kind given, by a person on behalf
4 of the members of an unincorporated association.
- 5 (4) For the purposes of this section:
- 6 (a) a thing done for the dominant purpose of promoting a
7 registered political party is taken not to be done for the
8 purpose of promoting:
- 9 (i) a State Branch of that party; or
10 (ii) a candidate endorsed by that party; and
- 11 (b) a thing done for the dominant purpose of promoting a State
12 Branch of a registered political party is taken not to be done
13 for the purpose of promoting a candidate endorsed by that
14 State Branch; and
- 15 (c) a thing done for the dominant purpose of promoting a group
16 is taken not to be done for the purpose of promoting a
17 candidate in an election; and
- 18 (d) it does not matter whether a political entity knows the
19 identity of the person who does a thing.
- 20 (5) This section does not apply for the purposes of
21 subsections 314AGD(3) and (6) (about prohibited donations).

22 **287AAC Meaning of *gift* to member of Parliament**

23 *Scope of this section*

- 24 (1) If:
- 25 (a) for the dominant purpose of promoting a member of the
26 Commonwealth Parliament for political office, a person:
- 27 (i) incurs electoral expenditure; or
28 (ii) gives a gift-in-kind to the member; and
- 29 (b) the value of the electoral expenditure or gift-in-kind (less any
30 consideration) is more than \$1,000;
- 31 the electoral expenditure or gift-in-kind is taken to be a *gift* made
32 by the person to the member.

- 1 (2) However, a reference in this Part to the member receiving a gift
2 does not include a reference to receiving a thing that is taken to be
3 gift only because of subsection (1) if:
4 (a) the member does not know:
5 (i) that the thing is done; or
6 (ii) the matters mentioned in paragraphs (1)(a) and (b) in
7 relation to the thing; and
8 (b) this lack of knowledge is reasonable in the circumstances.
- 9 (3) A reference in this section to electoral expenditure incurred, or a
10 gift-in-kind given, by a person includes a reference to electoral
11 expenditure incurred, or a gift-in-kind given, by a person on behalf
12 of the members of an unincorporated association.
- 13 (4) For the purposes of this section:
14 (a) a thing done for the dominant purpose of promoting a
15 registered political party or a State Branch of a registered
16 political party is taken not to be done for the purpose of
17 promoting a member of the Commonwealth Parliament who
18 belongs to that party or State Branch; and
19 (b) it does not matter whether a member of the Commonwealth
20 Parliament knows the identity of the person who does a
21 thing.
- 22 (5) This section does not apply for the purposes of
23 subsections 314AGD(3) and (6) (about prohibited donations).

1 **Part 5—Funding disclosure**

2 ***Commonwealth Electoral Act 1918***

3 **13 Subsection 314AA(1)**

4 Insert:

5 *registered charity* means an entity that is registered under the
6 *Australian Charities and Not-for-profits Commission Act 2012* as
7 the type of entity mentioned in column 1 of item 1 of the table in
8 subsection 25-5(5) of that Act.

9 **14 Subparagraph 314AB(2)(a)(i)**

10 Repeal the subparagraph, substitute:

- 11 (i) unless subparagraph (ia) applies—the total amount
12 received by, or on behalf of, the registered political
13 party or significant third party during the financial year,
14 together with the details required by sections 314AC
15 and 314ACA;
- 16 (ia) for significant third parties that are registered
17 charities—the total amount and details mentioned in
18 subsection (2A) of this section;

19 **15 After subsection 314AB(2)**

20 Insert:

- 21 (2A) For the purposes of subparagraph (2)(a)(ia), the return for a
22 registered charity must set out:
- 23 (a) the total amount received by, or on behalf of, the registered
24 charity during the financial year; and
25 (b) the details required by section 314AC; and
26 (c) the details required by section 314ACA for the amount equal
27 to so much of that total amount as was used by the registered
28 charity for electoral expenditure.

29 **16 After section 314AC**

30 Insert:

1 **314ACA Amounts received—other details**

- 2 (1) The return must include the following details in respect of the
3 amount referred to in subparagraph 314AB(2)(a)(i) or
4 paragraph 314AB(2A)(c):
5 (a) the sum of all amounts received from fund-raising events;
6 (b) the sum of all amounts received from investments;
7 (c) the sum of all amounts received as membership or affiliation
8 fees or subscriptions;
9 (d) the sum of all amounts received as public funding from the
10 Commonwealth Government or a government of a State or
11 Territory;
12 (e) the sum of all amounts received as a loan;
13 (f) the sum of all amounts received as a transfer from:
14 (i) a registered political party; or
15 (ii) a State branch of a registered political party;
16 (g) the sum of all amounts received that are not referred to in a
17 preceding paragraph.
- 18 (2) For each sum referred to in subsection (1), the return must specify:
19 (a) each amount included in the sum; and
20 (b) the date each amount was received; and
21 (c) a description of the source of each amount; and
22 (d) in the case of the sum referred to in paragraph (1)(e)—the
23 terms and conditions of each loan.

24 **17 Paragraphs 314AEA(1)(a) and (2)(c)**

25 Omit “section 314AC”, substitute “sections 314AC and 314ACA”.

26 **18 Subsection 314AEA(5)**

27 After “314AC”, insert “, 314ACA”.

1 **Schedule 2—Reducing financial influence**
2

3 ***Commonwealth Electoral Act 1918***

4 **1 After Division 5A of Part XX**

5 Insert:

6 **Division 5AA—Prohibited donations and cap on political**
7 **donations**

8 **Subdivision A—Definitions**

9 **314AGA Definitions**

10 In this Division:

11 ***amount***, of an eligible contribution, means:

- 12 (a) if the eligible contribution is a payment—the amount of the
13 payment; or
14 (b) if the eligible contribution is a disposal of property—the
15 market value of the property at the time of the disposal; or
16 (c) for an amount that is an eligible contribution because of
17 subsection 314AGI(2)—that amount.

18 ***associated entity***, of a person, means:

- 19 (a) an associate (within the meaning of section 318 of the
20 *Income Tax Assessment Act 1936*) of the person; or
21 (b) another person for whom the first-mentioned person is an
22 associate (within the meaning of section 318 of that Act).

23 ***close associate*** of a corporation means each of the following:

- 24 (a) a director or officer of the corporation or the spouse of such a
25 director or officer;
26 (b) a related body corporate of the corporation;
27 (c) a person whose voting power in the corporation or a related
28 body corporate of the corporation is greater than 20%, or the
29 spouse of such a person;

- 1 (d) if the corporation or a related body corporate of the
2 corporation is a stapled entity in relation to a stapled
3 security—the other stapled entity in relation to that stapled
4 security;
- 5 (e) if the corporation is a trustee, manager or responsible entity
6 in relation to a trust—a person who holds more than 20% of
7 the units in the trust (in the case of a unit trust) or is a
8 beneficiary of the trust (in the case of a discretionary trust).

9 **Commonwealth contract bidder** means:

- 10 (a) a person who is bidding to become a party to a contract with
11 the Commonwealth or a Commonwealth entity; or
12 (b) a related body corporate of a person covered by
13 paragraph (a).

14 **Commonwealth contractor** means:

- 15 (a) a person who is a party to a contract with the Commonwealth
16 or a Commonwealth entity; or
17 (b) a person who is a subcontractor for a contract with the
18 Commonwealth or a Commonwealth entity; or
19 (c) a related body corporate of a person covered by paragraph (a)
20 or (b).

21 **Commonwealth entity** means:

- 22 (a) a body corporate established for a public purpose by or under
23 an Act; or
24 (b) a company in which a controlling interest is held by any one
25 of the following persons, or any 2 or more of the following
26 persons together:
27 (i) the Commonwealth;
28 (ii) a body covered by paragraph (a).

29 **electoral cycle** means the period:

- 30 (a) starting on the day after a general election; and
31 (b) ending on the day of the next general election.

32 **electoral expenditure** has the same meaning as in Division 5.

33 **eligible contribution** has the meaning given by section 314AGI.

34 **fossil fuels business entity** means:

1 (a) a corporation engaged in a business undertaking that involves
2 the manufacture or sale of fossil fuels; or

3 (b) a person who is a close associate of a corporation referred to
4 in paragraph (a).

5 **gambling industry business entity** means:

6 (a) a corporation engaged in a business undertaking that involves
7 wagering, betting or other gambling (including the
8 manufacture of machines used primarily for that purpose); or

9 (b) a person who is a close associate of a corporation referred to
10 in paragraph (a).

11 **liquor industry business entity** means:

12 (a) a corporation engaged in a business undertaking that involves
13 the manufacture or sale of liquor products; or

14 (b) a person who is a close associate of a corporation referred to
15 in paragraph (a).

16 **major donor cap**, for an electoral cycle, means 2% of the total
17 amount of election funding payable under Division 3 in relation to:

18 (a) the general election held on the day before the start of the
19 electoral cycle; and

20 (b) any election of senators for a State or Territory also held on
21 that day.

22 **officer**, in relation to a corporation, has the same meaning as in the
23 *Corporations Act 2001*.

24 **political donation** has the meaning given by section 314AGB.

25 **prohibited donation**, for a relevant donor, has the meaning given
26 by section 314AGC.

27 **related body corporate** has the same meaning as in the
28 *Corporations Act 2001*.

29 **relevant donor** means:

30 (a) a gambling industry business entity; or

31 (b) a liquor industry business entity; or

32 (c) a tobacco industry business entity; or

33 (d) a fossil fuels business entity; or

- 1 (e) a Commonwealth contractor; or
2 (f) a Commonwealth contract bidder.

3 **spouse** of a person includes a de facto partner of that person.

4 Note: For *de facto partner*, see section 21 of the *Acts Interpretation Act*
5 *1901*.

6 **stapled entity** means an entity the interests in which are traded
7 along with the interests in another entity as stapled securities and
8 (in the case of a stapled entity that is a trust) includes any trustee,
9 manager or responsible entity in relation to the trust.

10 **State branch** includes a division of a State branch.

11 **tobacco industry business entity** means:

- 12 (a) a corporation engaged in a business undertaking that involves
13 the manufacture or sale of tobacco or inhaled nicotine
14 products; or
15 (b) a person who is a close associate of a corporation referred to
16 in paragraph (a).

17 **voting power** has the same meaning as in the *Corporations Act*
18 *2001*.

19 **314AGB Meaning of *political donation***

20 Each of the following is a ***political donation***:

- 21 (a) a gift made to or for the benefit of a political party or a State
22 branch of a political party;
23 (b) a gift made to or for the benefit of a member of the
24 Commonwealth Parliament;
25 (c) a gift made to or for the benefit of a candidate (including a
26 member of a group);
27 (d) a gift made to or for the benefit of an associated entity of a
28 registered political party;
29 (e) a gift made to or for the benefit of a significant third party;
30 (f) a gift made to or for the benefit of an entity or other person
31 (not being a party, elected member, group or candidate), the
32 whole or part of which was used or is intended to be used by
33 the entity or person:

- 1 (i) to enable the entity or person to make, directly or
- 2 indirectly, a political donation or to incur electoral
- 3 expenditure in relation to an election;
- 4 (ii) to reimburse the entity or person for making, directly or
- 5 indirectly, a political donation or incurring electoral
- 6 expenditure in relation to an election;
- 7 (g) a loan:
- 8 (i) that, if it had been a gift, would have been a political
- 9 donation under this section; and
- 10 (ii) that was not made by a financial institution (within the
- 11 meaning of section 306A).

12 **314AGC Meaning of prohibited donation**

- 13 (1) A political donation is a *prohibited donation* for a relevant donor if
- 14 the relevant donor is:
 - 15 (a) a gambling industry business entity; or
 - 16 (b) a liquor industry business entity; or
 - 17 (c) a tobacco industry business entity; or
 - 18 (d) a fossil fuels business entity.
- 19 (2) A political donation is a *prohibited donation* for a relevant donor
- 20 if:
 - 21 (a) the relevant donor is a Commonwealth contractor; and
 - 22 (b) during the period of 24 months ending immediately before
 - 23 the donation is made, the sum of payments received by the
 - 24 consultant in the capacity of Commonwealth contractor is
 - 25 \$200,000 or more.
- 26 (3) A political donation is a *prohibited donation* for a relevant donor if
- 27 the relevant donor is a Commonwealth contract bidder.

28 **Subdivision B—Prohibited donations**

29 **314AGD Prohibited donations by relevant donors unlawful**

- 30 (1) It is unlawful for a relevant donor to make a political donation that
- 31 is a prohibited donation for the relevant donor.

- 1 (2) It is unlawful for a person to make a political donation on behalf of
2 a relevant donor if the political donation is a prohibited donation
3 for the relevant donor.
- 4 (3) It is unlawful for a person to accept a political donation that was
5 made (wholly or partly) by a relevant donor, or by a person on
6 behalf of a relevant donor, if the political donation is a prohibited
7 donation for the relevant donor.
- 8 (4) It is unlawful for a relevant donor to solicit another person to make
9 a political donation that is a prohibited donation for the relevant
10 donor.
- 11 (5) It is unlawful for a person to solicit another person on behalf of a
12 relevant donor to make a political donation that is a prohibited
13 donation for the relevant donor.
- 14 (6) If a person receives a gift that, under this section, it is unlawful for
15 the person to receive, an amount equal to the amount or value of
16 the gift is payable by that person to the Commonwealth and may be
17 recovered by the Commonwealth as a debt due to the
18 Commonwealth by action, in a court of competent jurisdiction,
19 against:
- 20 (a) in the case of a gift to or for the benefit of a political party or
21 a State branch of a political party:
- 22 (i) if the party or branch, as the case may be is a body
23 corporate—the party or branch, as the case may be; or
24 (ii) in any other case—the agent of the party or branch, as
25 the case may be; or
- 26 (b) in any other case—the candidate or a member of the group or
27 the agent of the candidate or of the group, as the case may be.

28 **314AGE Civil penalty—prohibited donations**

- 29 (1) A person (the *defendant*) contravenes this subsection if:
30 (a) the defendant is a relevant donor; and
31 (b) the defendant makes a gift; and
32 (c) the gift is a prohibited donation for the relevant donor.
- 33 (2) A person (the *defendant*) contravenes this subsection if:
34 (a) the defendant makes a gift on behalf of another person; and
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- 1 (b) the other person is a relevant donor; and
2 (c) the gift is a prohibited donation for the relevant donor.
- 3 (3) A person (the *defendant*) contravenes this subsection if:
4 (a) the defendant accepts a gift; and
5 (b) the gift was given (wholly or partly) by, or by a person on
6 behalf of, a relevant donor; and
7 (c) the gift is a prohibited donation for the relevant donor.
- 8 (4) A person (the *defendant*) contravenes this subsection if:
9 (a) the defendant is a relevant donor; and
10 (b) the defendant solicits another person to make a gift; and
11 (c) the gift is, or would be, a prohibited donation for the relevant
12 donor.
- 13 (5) A person (the *defendant*) contravenes this subsection if:
14 (a) the defendant solicits another person to make a gift; and
15 (b) the defendant does so on behalf of another person (the
16 *donor*); and
17 (c) the donor is a relevant donor; and
18 (d) the gift is, or would be, a prohibited donation for the relevant
19 donor.

20 *Civil penalty*

- 21 (6) A person is liable to a civil penalty if the person contravenes
22 subsection (1), (2), (3), (4) or (5).

23 Civil penalty:

24 The higher of the following amounts:

- 25 (a) 400 penalty units;
26 (b) if there is sufficient evidence for the court to determine the
27 amount or value, or an estimate of the amount of value, of the
28 gift at the time the gift is made—3 times that amount or
29 value.

1 **314AGF Civil penalty—scheme to circumvent prohibitions**

2 (1) A person contravenes this subsection if the person enters into or
3 carries out a scheme (whether alone or with others) for the purpose
4 of circumventing a prohibition or requirement of this Subdivision.

5 Civil penalty: 400 penalty units.

6 (2) It does not matter whether the person also enters into or carries out
7 the scheme for other purposes.

8 (3) In this section:

9 *scheme* includes an arrangement, an understanding or a course of
10 conduct.

11 **314AGG Electoral Commission may determine that a person is**
12 **presumed not to be a relevant donor**

13 (1) The Electoral Commission may determine, in writing, that a person
14 (the *donor*) is presumed not to be a relevant donor for the purposes
15 of this Subdivision if:

16 (a) a donor or another person (the *applicant*) applies to the
17 Commission for the determination to be made; and

18 (b) the Commission is satisfied that it is more likely than not that
19 the donor is not a relevant donor.

20 (2) The Electoral Commission can decide whether or not to make a
21 determination under subsection (1) on the basis of information
22 provided by the applicant and their own inquiries.

23 (3) A determination under subsection (1) remains in force for 12
24 months after it is made, unless it is revoked earlier.

25 (4) The Electoral Commission may, by written notice to the applicant,
26 revoke a determination under subsection (1) if the Commission is
27 no longer satisfied of the matter in paragraph (1)(b). Subsection (2)
28 does not apply to a decision of whether or not to revoke a
29 determination under this subsection.

1 *Effect of presumption*

- 2 (5) If a person is, under a determination made under subsection (1),
3 presumed not to be a relevant donor, then sections 314AGD,
4 314AGE and 314AGF do not apply in relation to a gift made by or
5 on behalf of the person.
- 6 (6) However, subsection (5) does not apply to a person who knows
7 that information provided to the Electoral Commission in
8 connection with the making of the determination was false or
9 misleading in a material particular.
- 10 (7) The onus of proving that a person is not presumed not to be a
11 relevant donor under a determination made under subsection (1) is
12 born by:
- 13 (a) in proceedings under section 314AGD—the Commonwealth;
14 or
15 (b) in proceedings for a civil penalty order for a contravention of
16 a subsection of section 314AGE or 314AGF—the Electoral
17 Commissioner.

18 *Register of determinations*

- 19 (8) The Electoral Commission must maintain, and publish on the
20 Commission’s website, a register of determinations made under
21 subsection (1).

22 *Determination is not a legislative instrument*

- 23 (9) A determination made under subsection (1) is not a legislative
24 instrument.

25 **Subdivision C—Cap on political donations**

26 **314AGH Simplified outline of this Subdivision**

27

During an electoral cycle, it is unlawful for a person to cause 28 political donations to be made that exceed a cap. As well as 29 counting political donations made by the person directly, this 30 Subdivision counts other contributions made by the person that 31 result in political donations made by others.
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Similarly, during an electoral cycle it is unlawful for a candidate to exceed this cap when making their own money available.

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If a political party or candidate etc. accepts a political donation directly or indirectly from a person who has exceeded this cap, the political party or candidate etc. must pay the Commonwealth an amount equal to the political donation.

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Similarly, if a candidate exceeds this cap when making their own money available, the candidate must pay the Commonwealth an amount equal to the excess.

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An organisation that makes political donations from gifts or subscriptions received from others will only be penalised if:

- (a) the total gifts or subscriptions received by the organisation from a particular person, and the person's associates and agents, exceed this cap; and
- (b) the organisation fails to either refund this excess or to notify the Electoral Commission about this excess.

17

314AGI Meaning of *eligible contribution*

18

Main case—payment or disposal of property to another person

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- (1) A payment, or disposition of other property, made by a person during an electoral cycle is an eligible contribution if:

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- (a) the payment or disposition is a political donation made during the electoral cycle, so long as the political donation is not made as a result of the person receiving one or more payments or dispositions covered by paragraph (b); or

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- (b) both of the following are true:
 - (i) the payment or disposition is not a political donation;
 - (ii) a significant reason for making the payment or disposition is to provide another person or entity with the funds or property to make one or more political donations during the electoral cycle.

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Note 1: Paragraph (a) means a person makes an eligible contribution if the person makes a political donation, so long as the person does not make the political donation as an aggregator (as defined in note 2).

1 Note 2: Paragraph (b) means a person makes an eligible contribution if the
2 person gives a gift or subscription fees to enable another person or
3 entity (the **aggregator**) to make political donations.

4 Note 3: Paragraphs (a) and (b) mean that a political donation made by an
5 aggregator will not be an eligible contribution. Instead, paragraph (b)
6 “looks through” the aggregator to classify each contribution made
7 (directly or indirectly) to the aggregator as an eligible contribution.

8 *Additional case—candidate makes their own money available*

9 (2) An amount of money made available by a person during the
10 electoral cycle for the benefit of the person as a candidate is an
11 **eligible contribution** made by the person during the electoral cycle.

12 **314AGJ Making excess eligible contributions is unlawful**

13 *Making excess eligible contributions*

14 (1) It is unlawful for a person (the **donor**) to make an eligible
15 contribution during an electoral cycle to the extent that the sum of:
16 (a) the amount of the eligible contribution; and
17 (b) the amount of each other eligible contribution made during
18 the electoral cycle by:
19 (i) the donor or an associated entity of the donor; or
20 (ii) a person on behalf of the donor or an associated entity
21 of the donor;
22 exceeds (or further exceeds) the major donor cap for the electoral
23 cycle.

24 *An amount equal to political donations etc. resulting from excess*
25 *eligible contributions must be paid to the Commonwealth*

26 (2) If:
27 (a) during an electoral cycle, a person (the **recipient**):
28 (i) accepts a gift that is a political donation because of
29 paragraph 314AGB(a), (b), (c), (d) or (e), and the
30 political donation is, or results from, an eligible
31 contribution; or
32 (ii) makes an eligible contribution of the kind described in
33 subsection 314AGI(2); and

- 1 (b) the making of that eligible contribution is unlawful under
2 subsection (1) because some or all of it exceeds (or further
3 exceeds) the major donor cap for the electoral cycle;
4 then an amount equal to the excess is payable to the
5 Commonwealth and may be recovered by the Commonwealth as a
6 debt due to the Commonwealth by action, in a court of competent
7 jurisdiction, against:
8 (d) if the recipient is a person—the recipient; or
9 (e) otherwise—an agent of the recipient.
- 10 Note: This subsection does not apply to a person who collects gifts or
11 subscriptions etc. for the purposes of making political donations.

12 **314AGK Civil penalty—excess eligible contributions**

13 *Making excess eligible contributions*

- 14 (1) A person contravenes this subsection if:
15 (a) the person makes an eligible contribution; and
16 (b) making the eligible contribution is unlawful because of
17 subsection 314AGJ(1).

18 *Aggregator failing to refund or give notice of excess eligible* 19 *contributions*

- 20 (2) A person (the **aggregator**) contravenes this subsection if:
21 (a) during an electoral cycle, the aggregator receives one or more
22 eligible contributions of the kind described in
23 paragraph 314AGI(1)(b); and
24 (b) those eligible contributions are received (directly or
25 indirectly) from one or more of the following:
26 (i) another person (the **donor**) or an associated entity of the
27 donor;
28 (ii) a person on behalf of the donor or an associated entity
29 of the donor; and
30 (c) the sum of those eligible contributions exceeds (or further
31 exceeds) the major donor cap for the electoral cycle; and
32 (d) the aggregator fails to either:
33 (i) make sufficient refunds so that there is no longer an
34 excess; or

- 1 (ii) promptly give the Electoral Commission a written
2 notice stating that the donor has exceeded the cap, and
3 setting out the source, amount and time for each of
4 those eligible contributions.

5 Note: The sum in paragraph (c) is only of eligible contributions received by
6 the aggregator, which means the aggregator will be in a position to
7 monitor the source of these contributions.

8 *Civil penalty*

- 9 (3) A person is liable to a civil penalty if the person contravenes
10 subsection (1) or (2).

11 Civil penalty: The higher of the following amounts:

- 12 (a) 400 penalty units;
13 (b) if there is sufficient evidence for the court to determine the
14 amount of the excess that has caused the contravention—3
15 times that amount or value.

16 **314AGL Civil penalty—scheme to circumvent prohibitions**

- 17 (1) A person contravenes this subsection if the person enters into or
18 carries out a scheme (whether alone or with others) for the purpose
19 of circumventing a prohibition or requirement of this Subdivision.

20 Civil penalty: 400 penalty units.

- 21 (2) It does not matter whether the person also enters into or carries out
22 the scheme for other purposes.

- 23 (3) In this section:

24 *scheme* includes an arrangement, an understanding or a course of
25 conduct.

26 **2 Subsection 315A(1)**

27 After “or subsection 301(3)”, insert “, 314AGD(6) or 314AGJ(2)”.

28 **3 Application of the cap on political donations**

29 Subdivision C of Division 5AA of Part XX of the *Commonwealth*
30 *Electoral Act 1918* (as inserted by this Schedule) applies in relation to
31 each electoral cycle starting after the commencement of this Schedule.

1 **Schedule 3—Levelling the playing field**

2 **Part 1—Pre-election government advertising**

3 *Commonwealth Electoral Act 1918*

4 **1 In the appropriate position**

5 Insert:

6 **Part XXC—Pre-election government advertising**
7

8 **321KA Interpretation**

9 In this Part:

10 *government advertisement* means any writing, still or moving
11 picture, sign, symbol or other visual image, or any audible
12 message, or any combination of 2 or more of those things that:

- 13 (a) gives publicity to, or otherwise promotes or is intended to
14 promote, an Australian Government policy, program,
15 assistance, initiative or service; and
16 (b) is authorised by, or on behalf of, the Australian Government;
17 and
18 (c) is wholly or partly paid for using public resources (within the
19 meaning of the *Public Governance, Performance and*
20 *Accountability Act 2013*).

21 *Independent Communications Committee* means the Independent
22 Communications Committee mentioned in the document entitled
23 “Australian Government Guidelines on Information and
24 Advertising Campaigns by non-corporate Commonwealth entities”,
25 published by the Australian Government in December 2022.

26 *pre-election period* means the period that:

- 27 (a) starts 2 years after the polling day for a general election; and
28 (b) ends on the polling for the next general election.

1 *publish* means communicate by any means, including by print,
2 radio, television, internet or telephone.

3 **321KB Prohibition on government advertising during pre-election**
4 **period**

- 5 (1) A person commits an offence if:
6 (a) the person publishes, or causes to be published, a government
7 advertisement in Australia; and
8 (b) the publication occurs during a pre-election period.

9 Penalty: 120 penalty units.

- 10 (2) Subsection (1) does not apply if the Independent Communications
11 Committee determines, in writing, that the government
12 advertisement is exempt from this section because it is required
13 for:
14 (a) a national emergency; or
15 (b) a public health campaign with a dominant purpose of a
16 call-to-action; or
17 (c) defence force recruiting; or
18 (d) another compelling reason.

19 *Implied freedom of political communication*

- 20 (3) This section has no effect to the extent (if any) that its operation
21 would infringe any constitutional doctrine of implied freedom of
22 political communication.
23 (4) Subsection (3) does not limit the application of section 15A of the
24 *Acts Interpretation Act 1901* to this Act.

25 *Interaction with other laws*

- 26 (5) This section applies despite any other law of the Commonwealth.

27 *Determination not a legislative instrument*

- 28 (6) A determination made under subsection (2) is not a legislative
29 instrument.

1 **2 Application provision**

2 The amendment of the *Commonwealth Electoral Act 1918* made by this
3 Part applies in relation to pre-election periods that start on or after the
4 commencement of this item.

1 **Part 2—Postal voting**

2 ***Commonwealth Electoral Act 1918***

3 **3 Section 184AA**

4 Repeal the section, substitute:

5 **184AA Application forms for postal votes**

6 (1) Subject to subsection (2), an application form for a postal vote
7 must be issued to the applicant by the Electoral Commissioner or
8 an Assistant Returning Officer.

9 (2) An application form for a postal vote may be issued to the
10 applicant by:

11 (a) a registered political party; or

12 (b) a candidate in a Senate election; or

13 (c) a candidate in a House of Representative election;

14 but only if the applicant has requested, in writing, the party or
15 candidate (as the case may be) to issue the application form to the
16 applicant.

17 (3) An application form for a postal vote must not contain, be
18 physically attached to, or form part of, written material issued by
19 any person or organisation other than the Electoral Commissioner.

20 (4) An application form for a postal vote must not be sent, on behalf of
21 the applicant, to the Electoral Commissioner or Assistant
22 Returning Officer by:

23 (a) a registered political party; or

24 (b) a candidate in a Senate election; or

25 (c) a candidate in a House of Representative election.

26 **4 Subsection 188(1)**

27 After “subsection 184(1)”, insert “and section 184AA”.

1 **5 Application provision**

2 The amendments of the *Commonwealth Electoral Act 1918* made by
3 this Part apply in relation to elections the writs for which are issued on
4 or after the commencement of this item.

1 **Part 3—Independent campaign entities**

2 ***Commonwealth Electoral Act 1918***

3 **6 Subsection 4(1)**

4 Insert:

5 *independent campaign entity* means an organisation the object or
6 activity, or one of the objects or activities, of which is the
7 promotion of the election to the Senate or the House of
8 Representatives of an independent candidate (within the meaning
9 of Part XII).

10 *registered independent campaign entity* means an independent
11 campaign entity that is registered under Part XII.

12 **7 Subsection 4(1) (at the end of the definition of *political***
13 ***entity* (before the note))**

14 Add:

15 ; and has a meaning affected by subsection 287(1).

16 **8 Subsection 90B(1) (after table item 4)**

17 Insert:

4AA	a registered independent campaign entity for an independent candidate	a copy of a habitation index	(a) on request by the entity; and (b) without charge; and (c) subject to subsection (3AA).
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18 **9 After subsection 90B(3)**

19 Insert:

20 *Information given to registered independent campaign entities*
21 (3AAA) Despite subsection (1), the Electoral Commission need not give a
22 registered independent campaign entity for an independent
23 candidate information in relation to persons enrolled in a Division,
24 or in a State or Territory, unless it is the Division or the State or

1 Territory in relation to which the independent candidate intends to
2 stand as a candidate.

3 **10 Subsection 90B(3A) (heading)**

4 Omit “*parliamentarians*”.

5 **11 Before subsection 90B(3A)**

6 Insert:

7 (3AA) On request by a registered independent campaign entity to which
8 item 4AA of the table in subsection (1) relates, the Electoral
9 Commission may comply with the item by giving the entity an
10 electronic copy of the relevant habitation index.

11 **12 Subsection 90B(3D)**

12 Before “(3A)”, insert “(3AA),”.

13 **13 After Part XI**

14 Insert:

15 **Part XII—Registration of independent campaign**
16 **entities**
17

18 **142 Definitions**

19 In this Part:

20 *financial controller*, in relation to an entity, has the same meaning
21 as in Part XX.

22 *independent candidate* means a candidate (within the meaning of
23 Part XX) who is neither:

- 24 (a) endorsed by a registered political party; or
25 (b) in the case of a Senate election—a member of a group
26 (within the meaning of Part XX).

27 *new election* has the meaning given by paragraph 142C(2)(b).

1 *sitting independent*, for a new election, has the same meaning as in
2 section 166.

3 **142A Registration of independent campaign entities**

4 Subject to this Part, an independent campaign entity may be
5 registered for an independent candidate under this Part for the
6 purposes of this Act.

7 **142B Register of Independent Campaign Entities**

- 8 (1) The Electoral Commissioner must establish and maintain a
9 Register, to be known as the Register of Independent Campaign
10 Entities, containing a list of the independent campaign entities that
11 are registered for independent candidates under this Part.
- 12 (2) The Register may be included on the Transparency Register under
13 section 287N.

14 **142C Application for registration**

- 15 (1) An application for the registration of an independent campaign
16 entity for an independent candidate may be made to the Electoral
17 Commission by the independent candidate.
- 18 (2) An application for the registration of an independent campaign
19 entity for an independent candidate must:
- 20 (a) be in writing; and
- 21 (b) be accompanied by a statutory declaration that is made by the
22 independent candidate and is to the effect that the
23 independent candidate intends to stand as a candidate for one
24 of the following elections (the *new election*):
- 25 (i) the next House of Representatives election for a
26 particular Division;
- 27 (ii) the next Senate election for a particular State or
28 Territory; and
- 29 (c) be signed by the independent candidate and:
- 30 (i) if the independent candidate is a sitting independent for
31 the new election—by at least one other person entitled
32 to vote at the next election; or

- 1 (ii) otherwise—by not less than 100 electors entitled to vote
2 at the new election.
- 3 (3) If the Electoral Commissioner receives an application for the
4 registration of an independent campaign entity for an independent
5 candidate under this section, the Electoral Commissioner may
6 decide:
- 7 (a) to register the independent campaign entity for the
8 independent candidate; or
- 9 (b) to refuse to register the independent campaign entity for the
10 independent candidate.

11 **142D Start of registration**

- 12 If the Electoral Commission decides to register an independent
13 campaign entity for an independent candidate, the entity's
14 registration starts on the later of the following:
- 15 (a) the day the entity is registered under this Part;
- 16 (b) if the polling day for the new election is also the polling day
17 for a general election—the day that is 2 years after the
18 polling day for the last general election that was held before
19 the new election;
- 20 (c) if the polling day for the new election is not also the polling
21 day for a general election—the day the writ for the new
22 election is issued.

23 **142E Registration**

- 24 (1) If the Electoral Commission decides to register an independent
25 campaign entity for an independent candidate, the Electoral
26 Commission must:
- 27 (a) register the independent campaign entity by entering in the
28 Register of Independent Campaign Entities:
- 29 (i) the name of the entity; and
- 30 (ii) the name of the independent candidate for which the
31 entity is registered; and
- 32 (iii) the name and address of the person who has been
33 nominated as the financial controller of the entity; and
- 34 (iv) the day the entity's registration starts; and

- 1 (b) give written notice to the applicant that it has registered the
2 entity.
- 3 (2) If the Electoral Commission decides to register an independent
4 campaign entity for an independent candidate, the Electoral
5 Commission:
- 6 (a) must publish notice of the registration of the entity on the
7 Electoral Commission's website; and
- 8 (b) may publish notice of the registration in any other way the
9 Electoral Commissioner considers appropriate.
- 10 (3) If the Electoral Commission refuses an application to register an
11 independent campaign entity, the Electoral Commission must give
12 written notice to the applicant giving reasons for the decision.

13 **142F Changes to Register**

- 14 (1) If an independent campaign entity is registered under this Part for
15 an independent candidate, an application may be made to the
16 Electoral Commission, by the independent candidate, to change the
17 Register of Independent Campaign Entities by:
- 18 (a) substituting for the name of the financial controller of the
19 entity entered in the Register the name of a person specified
20 in the application; or
- 21 (b) substituting for the address of the financial controller of the
22 entity entered in the Register the address specified in the
23 application.
- 24 (2) An application under subsection (1):
- 25 (a) must be in writing; and
- 26 (b) be signed by the applicant; and
- 27 (c) in the case of an application to substitute the name of a
28 person as the name of the financial controller of the entity, be
29 signed by that person.
- 30 (3) Upon receipt of an application under subsection (1), the Electoral
31 Commission must deal with the application in accordance with this
32 Part and decide whether the change requested in the application
33 should be made.

- 1 (4) If the Electoral Commission decides that an application under
2 subsection (1) should be granted, it must:
3 (a) change the Register of Independent Campaign Entities
4 accordingly; and
5 (b) give the applicant written notice that it has made the change;
6 and
7 (c) in the case of an application to substitute the name of a
8 person as the name of the financial controller of the entity,
9 give that person written notice that it had made the change.
- 10 (5) If the Register is changed in accordance with paragraph (4)(a), the
11 Electoral Commissioner:
12 (a) must publish notice of the change on the Electoral
13 Commission’s website; and
14 (b) may publish notice of the change in any other way the
15 Electoral Commissioner considers appropriate.
- 16 (6) If the Electoral Commission decides that an application under
17 subsection (1) should be refused it must give written notice to the
18 applicant giving reasons for the decision.

19 **142G Removal from Register**

- 20 (1) The Electoral Commission must remove from the Register of
21 Independent Campaign Entities an independent campaign entity’s
22 registration for an independent candidate if:
23 (a) the independent candidate is not elected at the new election;
24 or
25 (b) after the new election, the independent candidate ceases to be
26 a member of the House of Representatives or a Senator.
- 27 (2) Subsection (1) does not prevent an independent campaign entity
28 from being re-registered under this Part.

29 **142H Inspection of Register**

30 The Register of Independent Campaign Entities must be available
31 for public inspection, without fee, during ordinary office hours at
32 the principal office of the Electoral Commission in Canberra.

1 **142J Review of decisions**

2 (1) In this section:

3 *decision* has the same meaning as in the *Administrative Appeals*
4 *Tribunal Act 1975*.

5 *Electoral Commission* does not include a delegate of the Electoral
6 Commission.

7 *reviewable decision* means a decision of the Electoral
8 Commission, or of a delegate of the Electoral Commission:

- 9 (a) to register an independent campaign entity under this Part; or
10 (b) to refuse an application for the registration of an independent
11 campaign entity under this Part; or
12 (c) to grant an application under subsection 142F(1); or
13 (d) to refuse an application under subsection 142F(1).

14 (2) If a delegate of the Electoral Commission makes a reviewable
15 decision, a person affected by the decision who is dissatisfied with
16 the decision may, within the period of 28 days after the day on
17 which the decision first comes to the notice of the person, or within
18 such further period as the Commission (either before or after the
19 expiration of that period) allows, make a written application to the
20 Commission for the review of the decision by the Commission,
21 specifying in the application an address of the applicant.

22 (3) An application under subsection (2) must include the reasons for
23 making the application.

24 (4) If the Electoral Commission receives an application under
25 subsection (2) for the review of a reviewable decision, the
26 Electoral Commission must review that decision and must make a
27 decision:

- 28 (a) affirming the decision under review; or
29 (b) varying the decision under review; or
30 (c) setting aside the decision under review and making a
31 decision in substitution for the decision so set aside.

32 (5) Applications may be made to the Administrative Appeals Tribunal
33 for review of a reviewable decision made by the Electoral

- 1 Commission or a decision made by the Electoral Commission
2 under subsection (4).
- 3 (6) For the purposes of a review referred to in subsection (5), the
4 Administrative Appeals Tribunal is to be constituted by 3
5 members, at least one of whom is a Judge of the Federal Court of
6 Australia.
- 7 (7) If the Electoral Commission makes a decision under subsection (4),
8 it must give written notice of that decision to:
9 (a) the person, or each person, to whom written notice of the
10 reviewable decision to which the decision of the Commission
11 relates was given under this Part; and
12 (b) the person who made the application for the review of that
13 reviewable decision.
- 14 (8) If a delegate of the Electoral Commission makes a reviewable
15 decision, a written notice of the decision given to a person or
16 persons under this Part must include a statement to the effect that:
17 (a) a person affected by the decision may, if dissatisfied with the
18 decision, seek a review of the decision by the Commission in
19 accordance with subsection (2); and
20 (b) a person whose interests are affected by the decision may,
21 subject to the *Administrative Appeals Tribunal Act 1975*, if
22 dissatisfied with a decision made by the Commission upon
23 that review apply to the Administrative Appeals Tribunal for
24 review of the decision made by the Commission.
- 25 (9) If the Electoral Commission makes a reviewable decision or a
26 decision under subsection (4), a written notice of the decision
27 given to a person or persons under this Part must include a
28 statement to the effect that a person whose interests are affected by
29 the decision may, subject to the *Administrative Appeals Tribunal
30 Act 1975*, if dissatisfied with the decision, make an application to
31 the Administrative Appeals Tribunal for review of the decision.
- 32 (10) Any failure to comply with the requirement of subsection (8) or (9)
33 in relation to a decision does not affect the validity of the decision.

1 **14 Section 286A**

2 Omit “Significant third parties”, substitute “Registered independent
3 campaign entities, significant third parties”.

4 **15 Section 286A**

5 Omit “Senators, registered political parties, significant third parties,”,
6 substitute “Senators, registered political parties, registered independent
7 campaign entities, significant third parties,”.

8 **16 Subsection 287(1)**

9 Insert:

10 *political entity* (see subsection 4(1)) includes a registered
11 independent campaign entity.

12 **17 Section 287E**

13 After “registered political parties”, insert “, registered independent
14 campaign entities”.

15 **18 Subsection 287N(2) (at the end of the note)**

16 Add “and the Register of Independent Campaign Entities (see
17 section 142B)”.

18 **19 Section 287V**

19 Omit “Significant third parties”, substitute “Registered independent
20 campaign entities, significant third parties”.

21 **20 Section 287V**

22 After “financial controllers for”, insert “registered independent
23 campaign entities,”.

24 **21 Section 292E (heading)**

25 Before “significant”, insert “registered independent campaign
26 entities,”.

27 **22 Subsections 292E(1) and (3)**

28 Before “significant” (wherever occurring), insert “registered
29 independent campaign entity,”.

1 **23 Subparagraph 292F(1)(b)(iii)**

2 Before “significant” (wherever occurring), insert “registered
3 independent campaign entity,”.

4 **24 Paragraph 292F(4)(b)**

5 Before “significant”, insert “registered independent campaign entity,”.

6 **25 Section 302A**

7 After “registered political parties,” (wherever occurring), insert
8 “registered independent campaign entities,”.

9 **26 Section 302D (heading)**

10 After “**registered political parties**,” insert “**registered independent**
11 **campaign entities**,”.

12 **27 Section 302V**

13 Omit “State branch or”, insert “State branch, registered independent
14 campaign entity or”.

15 **28 Section 302V**

16 After “State branches,”, insert “registered independent campaign
17 entities,”.

18 **29 Section 302V**

19 After “State branch,”, insert “registered independent campaign entity,”.

20 **30 Section 305B (heading)**

21 After “**political parties and**”, insert “**, registered independent**
22 **campaign entities or**”.

23 **31 Subsections 305B(1) to (3A)**

24 Repeal the subsections, substitute:

25 (1) If, in a financial year, a person or entity makes gifts totalling more
26 than the disclosure threshold to one of the following (the *political*
27 *participant*):

- 28 (a) the same registered political party;
29 (b) the same State branch of a registered political party;

- 1 (c) the same registered independent campaign entity; or
2 (d) the same significant third party;
3 the person or entity must, in accordance with this section, provide a
4 return to the Electoral Commission within 20 weeks after the end
5 of the financial year, covering all the gifts that the person or entity
6 made to that political participant during the financial year.

7 Civil penalty: The higher of the following:

- 8 (a) 60 penalty units;
9 (b) if there is sufficient evidence for the court to determine the
10 amount or value, or an estimate of the amount or value, of
11 gifts not disclosed—3 times that amount or value.
- 12 (2) For the purposes of subsection (1), a person or entity who makes a
13 gift to any other person or entity with the intention of benefiting
14 that political participant is taken to have made that gift directly to
15 that political participant.
- 16 (3) For each gift, the return must set out the following:
17 (a) the amount of the gift;
18 (b) the date on which it was made;
19 (c) the name and address of that political participant.
- 20 (3A) The return must also set out the relevant details of any gift received
21 by the person or entity at any time if:
22 (a) the gift was used wholly or partly to make another gift (the
23 *later gift*) in a financial year to the same political participant;
24 and
25 (b) the amount or value of the later gift is more than the
26 disclosure threshold.

27 **32 After paragraph 306A(1)(b)**

28 Insert:

- 29 (ba) a registered independent campaign entity, or a person acting
30 on behalf of such an entity;

31 **33 Paragraph 306A(6)(a)**

32 After “State branch of a political party,” insert “a registered
33 independent campaign entity.”

1 **34 Paragraph 306B(1)(a)**

2 After “registered political party,” insert “a registered independent
3 campaign entity,”.

4 **35 Paragraph 306B(2)(a)**

5 After “the benefit of a registered political party” insert “, a registered
6 independent campaign entity”.

7 **36 Subparagraph 306B(2)(a)(iii)**

8 Omit “a significant third party”, substitute “a registered independent
9 campaign entity, or a significant third party,”.

10 **37 Section 307A**

11 After “registered political parties”, insert “and registered independent
12 campaign entities”.

13 **38 After subsection 309(1)**

14 Insert:

15 (1AA) This section does not apply to electoral expenditure incurred by or
16 with the authority of an independent candidate (within the meaning
17 of Part XIA) if the expenditure is included in a return provided for
18 a registered independent campaign entity for the candidate under
19 section 314AB.

20 **39 Section 314AAA**

21 After “Registered political parties,” insert “registered independent
22 campaign entities,”.

23 **40 Subsection 314AA(2)**

24 After “registered political party,” insert “registered independent
25 campaign entity,”.

26 **41 Section 314AB (heading)**

27 After “registered political parties”, insert “, registered independent
28 campaign entities”.

1 **42 Subsection 314AB(1)**

2 Before “and each significant third party”, insert “, each registered
3 independent campaign entity”.

4 **43 Paragraph 314AB(2)(a)**

5 After “registered political party” (wherever occurring), insert “,
6 registered independent campaign entity”.

7 **44 Paragraph 314AB(2)(b)**

8 After “branch”, insert “, registered independent campaign entity”.

9 **45 Subsections 314AC(1) and 314AE(1)**

10 After “registered political party”, insert “, registered independent
11 campaign entity”.

12 **46 Subparagraph 316(2A)(aaa)(iv)**

13 Before “significant”, insert “registered independent campaign entity,”.

14 **47 Paragraph 316(2A)(aa)**

15 Before “significant” (wherever occurring), insert “registered
16 independent campaign entity,”.

17 **48 Subsections 316(2B) and (3A)**

18 Before “significant” (wherever occurring), insert “registered
19 independent campaign entity,”.

20 **49 Subsection 319(3)**

21 After “agent”, insert “, or the registered independent campaign entity
22 for a candidate,”.

23 **50 Paragraph 319A(2A)(b)**

24 Before “significant”, insert “registered independent campaign entity,”.

25 ***Do Not Call Register Act 2006***

26 **51 Section 4**

27 Insert:

1 *registered independent campaign entity* has the same meaning as
2 in the *Commonwealth Electoral Act 1918*.

3 **52 Subclause 3(1) of Schedule 1 (at the end of the heading)**

4 Add "*and independent campaign entities*".

5 **53 Paragraphs 3(1)(a) and (c) of Schedule 1**

6 After "registered political party" (wherever occurring), insert "or
7 registered independent campaign entity".

8 **54 Subclause 3(1) of Schedule 1A (at the end of the heading)**

9 Add "*and independent campaign entities*".

10 **55 Paragraphs 3(1)(a) and (c) of Schedule 1A**

11 After "registered political party" (wherever occurring), insert "or
12 registered independent campaign entity".