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The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Electoral (Greater Fairness of Electoral
Processes) Amendment Bill 2007**

No. , 2007

(Senator Murray)

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

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

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Electoral (Greater Fairness of*
6 *Electoral Processes) Amendment Act 2007*.

7 **2 Commencement**

8 This Act commences on the day on which this Act receives the
9 Royal Assent.

10 **3 Schedule(s)**

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12 repealed as set out in the applicable items in the Schedule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

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Schedule 1—Amendments relating to political governance

Commonwealth Electoral Act 1918

1 Subsection 4(1)

Insert:

person includes a trading or financial corporation within the meaning of paragraph 51(xx) of the Constitution, or a person acting on behalf of such a trading or financial corporation.

2 Subsection 123(1) (definition of *eligible political party*)

Repeal the definition, substitute:

eligible political party means a political party that:

(a) either:

(i) is a Parliamentary party; or

(ii) satisfies minimum membership requirements; and

(b) is established on the basis of a written constitution (however described) that sets out the aims of the party; and

(c) complies with the minimum constitutional requirements set out in section 129A.

3 After section 129

Insert:

129A Party not to be registered unless it meets minimum constitutional requirements

(1) The Commission must refuse an application for the registration of a political party unless the constitution of the party complies with minimum constitutional requirements set out in subsections (2) to (4).

(2) For the purposes of subsection (1), a constitution complies with *minimum constitutional requirements* if it provides the following rights and opportunities for each of its members, including members in specified classes of membership, who have complied

- 1 with any requirements of the party in relation to the payment of
2 fees, subscriptions or membership:
- 3 (a) to take part in the conduct of the party’s affairs, either
4 directly or through freely chosen representatives;
- 5 (b) to freely express choices about party matters, including the
6 choice of candidates for elections, at genuine periodic ballots;
- 7 (c) to vote at such periodic ballots by secret ballot;
- 8 (d) to exercise a vote of equal value with the vote of any other
9 member, in the same class of membership as the member.
- 10 (3) For the purposes of subsection (1), a constitution complies with
11 ***minimum constitutional requirements*** if it includes:
- 12 (a) the aim of contesting a federal election;
- 13 (b) the conditions and rules of membership of a political party;
- 14 (c) the requirement that the voting members of the executive
15 committee of a registered political party are elected only by
16 financial members of the party;
- 17 (d) the requirement that a financial member of a registered
18 political party is entitled to exercise a vote of equal value to
19 the vote of any other financial member in the party or—if the
20 party’s constitution provides for different classes of
21 membership—in the same class of membership as the
22 member;
- 23 (e) how office-bearers are nominated and elected;
- 24 (f) how selection of political candidates is to be conducted;
- 25 (g) the processes for the resolution of disputes and conflicts of
26 interest;
- 27 (h) the processes for changing the constitution;
- 28 (i) the processes for administration, management and financial
29 management of the political party.
- 30 (4) It is a minimum constitutional requirement for a political party
31 constitution to be:
- 32 (a) publicly available in printed and electronic form; and
33 (b) updated at least once in every electoral cycle and the update
34 is provided to the Electoral Commission.
- 35 (5) A registered political party must provide the Electoral Commission
36 with a copy of its current constitution at the request of the
37 Commission.
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- 1 (6) Paragraph (3)(c) does not apply to the representation on the
2 executive committee of:
3 (a) the Parliamentary members of the party; or
4 (b) previous members of the executive committee of the party (in
5 an *ex officio* capacity).
- 6 (7) In determining whether the constitution of a registered political
7 party complies with the requirement set out in paragraph (3)(c), the
8 Electoral Commission is to disregard the following:
9 (a) any difference in the size of the States and Territories of the
10 Commonwealth, based on the number of electors enrolled in
11 each State and Territory;
12 (b) any provision made in the constitution of the registered
13 political party for the representation on the executive
14 committee of members representing any affirmative action
15 target groups or the designated youth sector of the party.
- 16 (8) For the purpose of this section, a *financial member* of a registered
17 political party means a member who, if the constitution of the party
18 requires a member to pay dues in relation to the person's
19 membership of the party, has paid any dues that are payable and
20 includes life members, patrons or honorary holders of positions in
21 the party.

22 **4 Subsection 141(1) (at the end of the definition of *reviewable***
23 ***decision*)**

24 Add:

25 ; or (f) to not investigate a complaint under section 141C.

26 **5 After Part XI**

27 Insert:

28 **Part XIA—Scrutiny of registered political parties**

29 **141A Object of Part**

30 The object of this Part is to provide for the scrutiny by the
31 Electoral Commission of the operation of registered political
32 parties, for the investigation of complaints that a party has not
33 complied with its constitution, and for the imposition of penalties
34 where there has been a breach of a provision.

1 **141B Complaints**

- 2 (1) A person may complain in writing to the Electoral Commission
3 that a registered political party has failed to comply with its
4 constitution in a material particular relating to paragraph
5 129A(2)(c), (3)(a), (c) or (e).
- 6 (2) A complaint under subsection (1) must set out particulars of the
7 party's failure to comply with its constitution.

8 **141C Discretion not to investigate certain complaints**

- 9 The Electoral Commission may decide not to investigate, or not to
10 continue to investigate, a complaint made under section 141B if:
- 11 (a) the complainant does not provide particulars under
12 subsection 141B(2); or
- 13 (b) the complainant is, or has been, a member of a registered
14 political party and has not demonstrated to the satisfaction of
15 the Commission that he or she has not first exhausted the
16 procedures available under the party's constitution for the
17 resolution of disputes; or
- 18 (c) in the opinion of the Electoral Commission, the complaint is
19 frivolous or vexatious or was not made in good faith.

20 **141D Investigations**

- 21 (1) Before commencing an investigation under this Part, the Electoral
22 Commission must inform the registered officer of the political
23 party of the alleged breach of the party's constitution which is to be
24 investigated.
- 25 (2) An investigation under this Part is to be conducted in private and,
26 subject to this Act, in such manner as the Electoral Commission
27 thinks fit.
- 28 (3) Subject to the Act, the Electoral Commission may, for the purposes
29 of this Act, obtain information from such persons, and make such
30 inquiries, as it thinks fit.
- 31 (4) Subject to subsection (5), it is not necessary for the complainant or
32 any other person to be afforded an opportunity to appear before the
33 Electoral Commission or any other person in connection with an
34 investigation by the Electoral Commission under this Part.

- 1 (5) The Electoral Commission must not take any action, as a result of
2 an investigation under this Part, to deregister a political party for
3 non-compliance with its constitution unless the Electoral
4 Commission has afforded the registered officer and the person or
5 persons principally concerned in the matter to which the
6 investigation relates opportunities to appear before the Electoral
7 Commission, or an authorised person, and to make such
8 submissions, either orally or in writing, in relation to that matter as
9 they think fit.
- 10 (6) A person who appears before the Electoral Commission under
11 subsection (5) may, with the permission of the Electoral
12 Commission, be represented by another person.

13 **141E Power to obtain information and documents**

- 14 (1) Where the Electoral Commission has reason to believe that a
15 person is capable of furnishing information or producing
16 documents or other records relevant to an investigation under this
17 Part, the Electoral Commission may, by notice in writing served on
18 the person, require that person, at such place, and within such
19 period or on such date and at such time, as are specified in the
20 notice:
- 21 (a) to furnish to the Electoral Commission, by writing signed by
22 that person, or in the case of a body corporate, by an officer
23 of the body corporate, any such information; or
24 (b) to produce to the Electoral Commission such documents or
25 other records as are specified in the notice.
- 26 (2) Where documents or other records are produced to the Electoral
27 Commission in accordance with a requirement under subsection (1)
28 or an order under subsection 141F(1), the Electoral Commission:
- 29 (a) may take possession of, and may make copies of, or take
30 extracts from, the documents or other records; and
31 (b) may retain possession of the documents or other records for
32 such period as is necessary for the purposes of the
33 investigation to which the documents or other records relate;
34 and
35 (c) during that period shall permit a person who would be
36 entitled to inspect any one or more of the documents or other
37 records if they were not in the possession of the Electoral
38 Commission to inspect at all reasonable times such of the
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documents or other records as that person would be so entitled to inspect.

- (3) Where the Electoral Commission has reason to believe that a person is able to give information relevant to an investigation under this Part, the Electoral Commission may, by notice in writing served on the person, require the person to attend before a person specified in the notice, on such date and at such time and place as are specified in the notice, to answer questions relevant to the investigation.
- (4) Notwithstanding the provisions of any enactment, a person is not excused from furnishing any information, producing a document or other record or answering a question when required to do so under this Part on the ground that the furnishing of the information, the production of the document or record or the answer to the question:
 - (a) would contravene the provisions of any other enactment; or
 - (b) might tend to incriminate the person or make the person liable to a penalty; or
 - (c) would be otherwise contrary to the public interest;but the information, the production of the document or record or the answer to the question is not admissible in evidence against the person in proceedings other than:
 - (d) an application under subsection 141F(1); or
 - (e) proceedings for an offence against section 315.
- (5) A person is not liable to any penalty under the provisions of any other enactment by reason of his or her furnishing information, producing a document or other record or answering a question when required to do so under this Part.
- (6) The reference in subsection (1) to an officer, in relation to a body corporate, being a body corporate that is not a prescribed authority, includes a reference to a director, secretary, executive officer or employee of the body corporate.

141F Retention and disposal of documents etc.

- (1) Subject to any contrary order of a court, if the Electoral Commission obtains documents under this Part, the Electoral Commission must return the documents if:

- 1 (a) the reason for the documents being obtained no longer exists
2 or it is decided that the documents are not to be used in
3 evidence; or
4 (b) the period of 60 days after the documents were obtained
5 ends;
- 6 whichever first occurs, unless the documents are forfeited or
7 forfeitable to the Commonwealth or are the subject of a dispute as
8 to ownership.
- 9 (2) If the Electoral Commission is unable to return the documents, the
10 Commission must, after exhausting reasonable attempts to return
11 the documents, cause the documents to be disposed of in a secure
12 waste-disposal facility.

13 **141G Powers of Federal Court of Australia**

- 14 (1) Where a person fails to comply with a requirement made by the
15 Electoral Commission by notice under section 141E to furnish
16 information, to produce documents or other records or to attend
17 before the Electoral Commission to answer questions in relation to
18 an investigation under this Part, the Electoral Commission may
19 make an application to the Federal Court of Australia for an order
20 directing that person to furnish the information, or to produce the
21 documents or other records, at such place, and within such period
22 or on such date and at such time, as are specified in the order, or to
23 attend before the Electoral Commission to answer questions at
24 such place, and on such date and at such time, as are specified in
25 the order, as the case may be.
- 26 (2) The Federal Court of Australia has jurisdiction with respect to
27 matters arising under this section in respect of which applications
28 are made to the Court.

29 **141H Complainant and registered officer etc. to be informed**

- 30 (1) Where the Electoral Commission does not, for any reason,
31 investigate, or continue to investigate, allegations that a registered
32 political party has failed to comply with its constitution in a
33 material particular, the Electoral Commission must, as soon as
34 practicable and in such manner as the Electoral Commission thinks
35 fit, inform the complainant and the registered officer of the

1 political party concerned of the Electoral Commission's decision
2 and of the reasons for that decision.

3 (2) Where the Electoral Commission completes an investigation of an
4 allegation that a registered political party has failed to comply with
5 its constitution in a material particular, the Electoral Commission
6 must, in such manner and at such times as it thinks fit, furnish to
7 the complainant and to the registered officer of the political party
8 particulars of the investigation.

9 (3) The Electoral Commission may, if it thinks fit, furnish comments
10 or suggestions with respect to any matter relating to or arising out
11 of an investigation under this Part to the registered officer of any
12 registered political party.

13 **141I Power to examine witnesses**

14 (1) The Electoral Commission may administer an oath or affirmation
15 to a person required to attend before it in compliance with
16 section 141E and may examine the person on oath or affirmation.

17 (2) A person before whom another person (in this subsection called the
18 *respondent*) attends in compliance with a notice under subsection
19 141E(3) may:

- 20 (a) administer an oath or affirmation to the respondent; and
21 (b) examine the respondent on oath or affirmation.

22 **141J Power to enter premises**

23 (1) For the purposes of an investigation under this Part, an authorised
24 person may, at any reasonable time of the day, enter any place
25 occupied by a registered political party and may carry on the
26 investigation at the place.

27 (2) For the purposes of an investigation under this Part, an authorised
28 person is entitled to inspect any documents relevant to the
29 investigation kept at premises entered by him or her under this
30 section, at a reasonable time of the day arranged with the registered
31 officer of the registered political party concerned.

32 (3) Subsection (2) does not restrict the operation of section 141E.

1 **Part XIB—Selection of candidates by registered**
2 **political parties**

3 **141K Ballots for candidate selection may be conducted by Electoral**
4 **Commission**

- 5 (1) A registered political party may request the Electoral Commission
6 to conduct a ballot for the selection by a registered political party
7 of candidates to stand for elections covered by this Act.
- 8 (2) Any ballot for the selection by a registered political party of
9 candidates to stand for elections covered by this Act may, at the
10 discretion of the Electoral Commission, be conducted by the
11 Electoral Commission.
- 12 (3) The regulations may prescribe any matters necessary or convenient
13 for the conduct of ballots under this section.

14 **141L Certificates under this Part**

15 Where the Electoral Commission has conducted a ballot for the
16 selection of a candidate by a registered political party, the
17 Commission must issue a certificate to that effect.

1
2 **Schedule 2—Amendments relating to**
3 **advertising**

4 *Commonwealth Electoral Act 1918*

5 **1 Subsection 329(6)**

6 Repeal the subsection.

7 **2 At the end of section 329**

8 Add:

- 9 (7) A person must not print, publish or distribute, or cause, permit or
10 authorise to be printed, published or distributed, any electoral
11 advertisement containing a statement, purporting to be a statement
12 of fact, that is inaccurate and misleading to a material extent.
- 13 (8) A person who contravenes subsection (7) is guilty of an offence
14 punishable on conviction:
15 (a) in the case of an individual—by a fine not exceeding 2000
16 penalty units; or
17 (b) in the case of a body corporate—by a fine not exceeding
18 10,000 penalty units.
- 19 (9) In a prosecution of a person for an offence against subsection (8)
20 by virtue of a contravention of subsection (7), it is a defence if the
21 person proves that he or she:
22 (a) took no part in determining the content of the advertisement;
23 and
24 (b) could not reasonably be expected to have known that the
25 advertisement was inaccurate and misleading to a material
26 extent.
- 27 (10) If the Electoral Commission is satisfied that an electoral
28 advertisement contains a statement purporting to be a statement of
29 fact that is inaccurate and misleading to a material extent, the
30 Electoral Commission may request the advertiser to do one or more
31 of the following:
32 (a) withdraw the advertisement from further publication;
33 (b) publish a retraction in specified terms and a specified manner
34 and form.

1 (11) In proceedings for an offence against subsection (8) arising from
2 the advertisement, the advertiser's response to a request under
3 subsection (10) will be taken into account in assessing any penalty
4 to which the advertiser may be liable.

5 (12) If the Federal Court is satisfied beyond reasonable doubt on
6 application by the Electoral Commission that an electoral
7 advertisement contains a statement purporting to be a statement of
8 fact that is inaccurate or misleading to a material extent, the Court
9 may order the advertiser to do one or more of the following:

- 10 (a) withdraw the advertisement from further publication;
11 (b) publish a retraction in specified terms and a specified manner
12 and form.

13 (13) In this section:

14 *advertiser* means a person who authorises, causes or permits the
15 publication of an electoral advertisement but does not include a
16 person who took no part in determining the content of the electoral
17 advertisement.

18 *electoral advertisement* means an advertisement containing a
19 matter calculated to affect the result of an election.

20 *publish* includes publish by radio, television or the Internet.

21 (14) This section does not apply to the extent (if any) that would
22 infringe any doctrine of implied freedom of political
23 communication.

24 **3 After section 334**

25 Insert:

26 **334A Restrictions on government advertising during caretaker** 27 **period**

28 (1) The ACMA must, 6 months before the expiration of the time by
29 which a general election for the House of Representatives must be
30 called, by notice in writing served on licensees, require licensees to
31 refrain from broadcasting government advertising during the
32 period commencing the day after the issuing of the notice and
33 extending until polling day unless a certificate approving the

1 advertisement has been signed by a Minister and the Leader of the
2 Opposition and lodged with the ACMA.

3 Note 1: ACMA means the Australian Media and Communications Authority,
4 established by the *Australian Media and Communications Authority*
5 *Act 2005*

6 Note 2: Polling day is defined in section 287 of this Act.

7 (2) For the purposes of this section:

8 ***government advertising*** means advertising authorised by the
9 Commonwealth or its agents.

1
2 **Schedule 3—Amendments relating to electoral**
3 **funding and disclosure**

4 ***Commonwealth Electoral Act 1918***

5 **1 Subsection 287(1) (definition of *gift*)**

6 After “or for inadequate consideration”, insert “and includes payments
7 made at fundraising and like events”.

8 **2 After section 297**

9 Insert:

10 **297A Payment not to be made unless certain conditions met**

11 A payment under this Division must not be made in respect of
12 votes given in respect of:

13 (a) a candidate or candidates endorsed by a registered political
14 party; or

15 (b) for a Senate election—a group where members of the group
16 were endorsed by one or more registered political parties;

17 unless the Electoral Commission is satisfied that the constitution of
18 the registered political party complies with the requirements set out
19 in section 129A.

20 **3 Subparagraph 304(5)(b)(ii)**

21 Omit “\$10,000 or less”, substitute “less than \$200”.

22 **4 Paragraph 304(5)(c)**

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

24 **5 Subsection 304(5) (Note)**

25 Repeal the note.

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

27 Omit “exceeds \$10,000”, substitute “is equal to or exceeds \$200”.

28 **7 Paragraph 304(6)(c)**

29 Omit “exceeds \$10,000”, substitute “is equal to or exceeds \$1,000”.

1 **8 Subsection 304(6) (Note)**

2 Repeal the note.

3 **9 Subsections 305A(1), (1A), (2), (2A) and (3)**

4 Repeal the subsections, substitute:

5 (1) If a person (other than a registered political party, a State or
6 Territory branch of a registered political party, an associated entity,
7 a candidate in an election or a member of a group) makes a gift
8 during the disclosure period in relation to an election to:

9 (a) any candidate in an election or a member of a group; or

10 (b) any person or body (whether incorporated or not) specified
11 by the Electoral Commission by notice in the *Gazette*;

12 the person must, within 15 weeks after the polling day in the
13 election, furnish to the Electoral Commission a return, in an
14 approved form, setting out the required details of all gifts made
15 during the disclosure period.

16 (2) A person need not make a return under subsection (1) if:

17 (a) the total amount or value of gifts referred to in
18 paragraph (1)(a) was less than the amount prescribed for the
19 purpose of this paragraph or, if no amount is prescribed,
20 \$200; and

21 (b) the total amount or value of gifts referred to in
22 paragraph (1)(b) was less than the amount prescribed for the
23 purpose of this paragraph or, if no amount is prescribed,
24 \$1,000.

25 **10 Subsection 305B(1)**

26 Omit “more than \$10,000”, substitute “\$1,500 or more”.

27 **11 Subsection 305B(1) (Note)**

28 Repeal the note.

29 **12 Subsection 305B(3A)**

30 Omit “more than \$10,000”, substitute “\$1,500 or more”.

31 **13 Subsection 305B(3A)**

32 Omit “exceeds \$10,000”, substitute “is equal to or exceeds \$1,000”.

1 **14 Subsection 305B(3A) (Note)**

2 Repeal the note.

3 **15 After section 305B**

4 Insert:

5 **305C Maximum limit of donations to political parties**

- 6 (1) For the purposes of this Division, it is unlawful for a person or a
7 corporation to make a gift of more than \$100,000 in any one
8 financial year to:
- 9 (a) the same registered political party in all of its aggregations,
10 entities, branches or other organisational manifestations; or
 - 11 (b) the same State or Territory branch of a registered political
12 party; or
 - 13 (c) a candidate in an election; or
 - 14 (d) a group, society or community organisation affiliated with a
15 candidate or a registered political party or a State or Territory
16 branch of a registered political party.

17 (2) Failure to comply with this section is an offence.

18 Penalty: (a) in the case of an individual—500 penalty units; or
19 (b) in the case of a body corporate—5000 penalty units.

20 **16 Subsections 306(1) and (2)**

21 Repeal the subsections, substitute:

- 22 (1) It is unlawful for a registered political party or a State or Territory
23 branch of a registered political party or a person acting on behalf of
24 a registered political party or a State or Territory branch of a
25 registered political party to receive a gift made to or for the benefit
26 of the party or branch by another person, being a gift the amount or
27 value of which is equal to or exceeds \$1,000, unless the name and
28 address of the person making the gift are known to the person
29 receiving the gift or, at the time when the gift is made, the person
30 making the gift gives to the person receiving the gift his or her
31 name and address and the person receiving the gift has no grounds
32 to believe that the name and address so given are not the true name
33 and address of the person making the gift.

- 1 (2) It is unlawful for a candidate or a member of a group or a person
2 acting on behalf of a candidate or group to receive a gift made to or
3 for the benefit of the candidate or the group, as the case may be,
4 being a gift the amount or value of which is equal to or exceeds:
5 (a) in the case of a gift made to a candidate—\$200; or
6 (b) in the case of a gift made to a group—\$1,000;
7 unless the name and address of the person making the gift are
8 known to the person receiving the gift or, at the time when the gift
9 is made, the person making the gift gives to the person receiving
10 the gift his or her name and address and the person receiving the
11 gift has no grounds to believe that the name and address so given
12 are not the true name and address of the person making the gift.

13 **17 After subsection 306(2A)**

14 Insert:

- 15 (2AA) For the purposes of this section, the amount or value of a gift is
16 taken to be the total amount of all gifts made by a person for the
17 benefit of a party as a whole, whether to national, State or Territory
18 branches of that party.

19 **18 At the end of section 306**

20 Add:

- 21 (6) It is unlawful for a registered political party or a State or Territory
22 branch of a registered political party or a person acting on behalf of
23 a registered political party or a State or Territory branch of a
24 registered political party to receive a gift of, or of a value of, more
25 than \$10,000 made to or for the benefit of the party or branch by a
26 person or a company holding a contract with the Federal or a State
27 or Territory government.

28 **19 Subsection 306A(1)**

29 Omit “more than \$10,000”, substitute “\$1,500 or more”.

30 **20 Subsection 306A(1) (Note)**

31 Repeal the note.

32 **21 Subsection 306A(2)**

33 Omit “more than \$10,000”, substitute “\$1,500 or more”.

1 **22 Subsection 306A(2) (Note)**

2 Repeal the note.

3 **23 After section 306A**

4 Insert:

5 **306AA Donations by media companies prohibited**

6 (1) It is unlawful for a registered political party or a State or Territory
7 branch of a registered political party or a person acting on behalf of
8 a registered political party or a State or Territory branch of a
9 registered political party to receive a gift, donation or disposition
10 of property originating by whatever means from a media company.

11 (2) For the purposes of this section, a *media company* has the same
12 meaning as subclause 4(4) of Schedule 1 of the *Broadcasting*
13 *Services Act 1992*.

14 **24 Paragraph 306B(a)**

15 Omit “exceeds \$10,000”, substitute “is equal to or exceeds \$1,000”.

16 **25 Section 306B (Note 3)**

17 Repeal the note.

18 **26 After section 306B**

19 Insert:

20 **306C Foreign donations prohibited**

21 It is unlawful for a registered political party or a State or Territory
22 branch of a registered political party or a person acting on behalf of
23 a registered political party or a State or Territory branch of a
24 registered political party to receive a foreign gift, donation or
25 disposition of property originating by whatever means from a
26 foreign source.

27 **306D Forfeiture of foreign donations**

28 For the avoidance of doubt, where a foreign gift, donation or
29 disposition of property is made to a registered political party or a
30 State or Territory branch of a registered political party or a person
31 acting on behalf of a registered political party or a State or

1 Territory branch of a registered political party, the foreign gift,
2 donation or disposition of property is presumed to be in breach of
3 to section 306C and is to be dealt with accordingly.

4 **306E Donations by non-citizens resident in Australia lawful**

5 A donation, gift or disposition of property in Australia to a
6 registered political party by a person who is a non-citizen resident
7 in Australia is not a foreign donation for the purposes of
8 section 306C or 306D.

9 **306F Donations by Australians living abroad lawful**

10 A donation, gift or disposition of property by a person registered
11 on a Commonwealth Electoral Roll living overseas is not a foreign
12 donation for the purposes of section 306C or 306D.

13 **306G Donations with strings attached prohibited**

14 (1) It is unlawful for a person to make a donation to a registered
15 political party or a State or Territory branch of a registered political
16 party or a person acting on behalf of a registered political party or a
17 State or Territory branch of a registered political party with the
18 intention of obtaining undue access to a government or influencing
19 a specific policy or political party in an improper manner.

20 Penalty: (a) In the case of an individual—500 penalty units; or

21 (b) in the case of a body corporate—5000 penalty units.

22 (2) For the purposes of this section, a person obtains undue access
23 where the person engages in conduct which would amount to a
24 serious Commonwealth offence in accordance with the *Crimes Act*
25 *1914*.

26 Note 1: *Engage in conduct* is defined in section 15HA of the *Crimes Act*
27 *1914*.

28 Note 2: *A serious Commonwealth offence* is defined in section 15HB of the
29 *Crimes Act 1914* and includes extortion, money laundering, perverting
30 the course of justice, bribery or corruption.

31 **27 Subsection 311A(2)**

32 Omit “\$10,000 or less”, substitute “less than \$1,500”.

33 **28 Subsection 311A(2) (Note)**

1 Repeal the note.

2 **29 At the end of subsection 314AB(2)**

3 Add:

4 ; (d) the total amount of actual expenditure by or on behalf of the
5 party for electioneering during the period commencing with
6 the issue of the writs for an election and concluding with the
7 closing of the poll.

8 **30 Subsection 314AC(1)**

9 Omit “more than \$10,000”, substitute “\$1,500 or more”.

10 **31 Subsection 314AC(1) (Note)**

11 Repeal the note.

12 **32 Subsection 314AC(2)**

13 Omit “\$10,000 or less”, substitute “less than \$1,500”.

14 **33 Subsection 314AC(2) (Note)**

15 Repeal the note.

16 **34 At the end of section 314AC**

17 Add:

18 (4) In the case of a gift of an amount specified in subsection (1)
19 purportedly made out of a trust fund or out of the funds of a
20 foundation or from a club, a statement of a declaration of interest
21 in the prescribed form, completed by the trustees of the fund or the
22 managers of the foundation or the secretary of the club, must be
23 furnished by the registered political party which received the gift as
24 part of its annual return required by section 314AB.

25 (5) Where a declaration of interest is not made in accordance with
26 subsection (4), the gift made by the trust fund or foundation or club
27 is forfeit to the Commonwealth.

28 **35 Subsection 314AE(1)**

29 Omit “more than \$10,000”, substitute “\$1,500 or more”.

30 **36 Subsection 314AE(1) (Note)**

1 Repeal the note.

2 **37 Subsection 314AG(3)**

3 Repeal the subsection, substitute:

- 4 (3) The regulations must require information within a return which
5 separately identifies and classifies:
6 (a) total amounts received; and
7 (b) individual gifts received which exceed the threshold amount;
8 and
9 (c) a total aggregate figure of gifts received which are below the
10 threshold amount; and
11 (d) total public funding received.

12 **38 Subsection 315(1)**

13 After “return” (first occurring), insert “which meets all of the
14 compliance requirements of this Act”.

15 **39 After section 316**

16 Insert:

17 **316B Commission may refer matter to ATO or ASIC for**
18 **investigation**

- 19 (1) Where an entity furnishes a return that the entity is required to
20 furnish under Division 4, 5 or 5A that contains particulars that in
21 the view of the Electoral Commission are incorrect, the Electoral
22 Commission may request:
23 (a) the Australian Taxation Office; or
24 (b) the Australian Securities and Investments Commission;
25 to investigate the matter and audit the entity and the registered
26 political party in relation to those particulars.
- 27 (2) For the purposes of subsection (1), the Electoral Commission may
28 furnish such evidence as has been obtained in accordance with this
29 Division to the Australian Taxation Office or the Australian
30 Securities and Investments Commission.

31 **40 Section 321A**

32 Repeal the section.

1
2 **Schedule 4—Amendments relating to**
3 **enrolment and other electoral matters**

4 *Commonwealth Electoral Act 1918*

5 **1 Subsection 93(8AA)**

6 Repeal the subsection, substitute:

7 (8AA) A person who is serving a sentence of imprisonment for an offence
8 against the law of the Commonwealth or of a State or Territory is
9 entitled to have his or her name placed on or retained on any Roll
10 or to vote at any State or Territory election, Senate election or
11 House of Representatives election, unless:

- 12 (a) the person has had his or her right to vote removed by the
13 decision of a judge as part of the sentence; or
14 (b) the person falls within the classes or persons described under
15 subsection 93(8).

16 Note: For the definition of *sentence of imprisonment*, see subsection 4(1A).

17 **2 Paragraph 94A(4)(a)**

18 Omit “the date of the writ”, substitute “the day of the close of the
19 Rolls”.

20 **3 Subsection 95(4)**

21 Omit “the date of the writ”, substitute “the day of the close of the
22 Rolls”.

23 **4 Subsection 96(4)**

24 Omit “the date of the writ”, substitute “the day of the close of the
25 Rolls”.

26 **5 Section 99B**

27 Repeal the section.

28 **6 Subsection 102(2A)**

29 Omit “the date of the writ or writs for the election”, substitute “the day
30 on which the Rolls for the election close”.

1 **7 Subsections 102(4), (4AA) and (4AB)**

2 Repeal the subsections, substitute:

- 3 (4) A claim under section 101 by a person to have his or her name
4 placed on the Roll for a Subdivision received during the period
5 commencing at 8 p.m. on the day on which the Rolls for an
6 election to be held in the Subdivision close and ending on the close
7 of polling at the election shall not be considered until after the
8 expiration of that period.

9 **8 Subsection 118(5)**

10 Omit “8pm on the date of the writ”, substitute “the close of the Rolls”.

11 **9 Section 155**

12 Repeal the section, substitute:

13 **155 Date for close of Rolls**

14 The date fixed for the close of the Rolls is 7 days after the date of
15 the writ.

16 **10 Paragraph 170(3)(a)**

17 Omit “\$1,000”, substitute “\$700”.

18 **11 Paragraph 170(3)(b)**

19 Omit “\$500”, substitute “\$350”.

20 **12 After section 306A**

21 Insert:

22 **306AB Certain services not to be received**

23 (1) It is unlawful for a registered political party or a State or Territory
24 branch of a registered political party or a person acting on behalf of
25 a registered political party or a State or Territory branch of a
26 registered political party to receive a service prescribed in the
27 regulations made to or for the benefit of the party or branch by a
28 class of person listed in subsection (3).

29 (2) A prescribed service includes but is not limited to:

- 30 (a) Commonwealth or Commonwealth leased vehicles;
-

- 1 (b) Commonwealth or Commonwealth leased offices;
2 (c) Commonwealth telephones, facsimile machines, computers,
3 photocopiers and like office facilities;
4 (d) Commonwealth travel entitlements or payments;
5 (e) use of any of the facilities listed in this subsection for
6 fundraising activities for a political party or a State or
7 Territory branch of a political party.
- 8 (3) The reference in subsection (1) to a class of person includes such
9 classes as may be prescribed in addition to the following:
10 (a) a person employed under the *Public Service Act 1999*;
11 (b) a person employed under the *Parliamentary Service Act*
12 *1999*;
13 (c) a person employed under the *Members of Parliament (Staff)*
14 *Act 1984*;
15 (d) a person employed under a Commonwealth Act;
16 (e) a Senator or a Member of the House of Representatives.
- 17 (4) Failure to comply with this section is an offence.
18 Penalty: 50 penalty units.

19 **306AC Use of Commonwealth facilities etc. by public servants to**
20 **support a political party unlawful**

- 21 (1) It is unlawful for:
22 (a) a person employed under the *Public Service Act 1999*;
23 (b) a person employed under the *Parliamentary Service Act*
24 *1999*;
25 (c) a person employed under the *Members of Parliament (Staff)*
26 *Act 1984*;
27 (d) a person employed under a Commonwealth Act;
28 (e) a Senator or a Member of the House of Representatives;
29 to, while on duty, in any way use any Commonwealth services,
30 facilities or equipment in support of a registered political party or a
31 person acting on behalf of a registered political party otherwise
32 than in accordance with his or her statutory responsibilities.
- 33 (2) It is an absolute defence if the person is employed by the Senator
34 or Member and the person is lawfully using facilities or equipment
35 for the purpose of the Senator or Member's election campaign.
-

1 (3) Failure to comply with this section is an offence.

2 Penalty: 50 penalty units.

3 **13 Subsection 326(1)**

4 Repeal the penalty, substitute:

5 Penalty: 120 penalty units or imprisonment for 2 years, or both.

6 **14 Subsection 326(2)**

7 Repeal the penalty, substitute:

8 Penalty: 120 penalty units or imprisonment for 2 years, or both.

9 **15 Section 394**

10 Repeal the section.

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

12 **16 Paragraph 4(2)(a)**

13 Repeal the paragraph, substitute:

14 (a) claims for enrolment or transfer of enrolment pursuant to the
15 *Commonwealth Electoral Act 1918* received during the
16 period commencing at 8 pm on the day on which the Rolls
17 for a referendum close and ending on the close of voting at
18 the referendum must not be considered until after the
19 expiration of that period; and

20 **17 Paragraph 4(2)(b)**

21 Omit “the day of the issue of the writ”, substitute “the close of the
22 Rolls”.

23 **18 Subsection 4(3)**

24 Repeal the subsection.

25 **19 Subsection 9(1)**

26 Omit “3 working days”, substitute “7 days”.

27 **20 Subsection 9(3)**

28 Repeal the subsection.
