

Election Funding and Disclosure Report

Federal Election 2016

May 2017

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Federal Election 2016

Report pursuant to subsection 17(2) of the
Commonwealth Electoral Act 1918

Produced by: Australian Electoral Commission

Contact officer: Funding and Disclosure
Australian Electoral Commission
50 Marcus Clarke Street
Canberra City ACT 2600

Locked Bag 4007
Canberra ACT 2601

Phone: 02 6271 4552

Fax: 02 6293 7655

Email: fad@aec.gov.au

Website: www.aec.gov.au

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Our Ref: 17/266

July 2017

Senator the Hon Scott Ryan
Special Minister of State
Parliament House
CANBERRA ACT 2600

Dear Minister

In accordance with subsection 17(2) of the *Commonwealth Electoral Act 1918* (the Electoral Act) we submit the Australian Electoral Commission's report of the operation of Part XX in relation to the general election and Senate election held on 2 July 2016.

In accordance with subsection 17(2C) particulars of the operation of subsection 316(2A) of the Electoral Act are included in the report.

Yours sincerely

Signed

The Hon Dennis Cowdroy
Chairperson

Tom Rogers
Electoral Commissioner

David Kalisch
Australian Statistician

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Key terms

AEC	Australian Electoral Commission
CDPP	Commonwealth Director of Public Prosecutions
CPI	Consumer Price Index
Disclosure threshold	The disclosure threshold applied to the 2016 federal election is amounts of “more than \$13 200”
DRO	Divisional Returning Officer
Endorsed candidate or Senate group	A candidate or Senate group that was endorsed by a registered political party
FAD	<p>Funding and Disclosure. A descriptor for the election funding and financial disclosure provisions of Part XX of the Act.</p> <p>There is also a Funding and Disclosure section within the Disclosure, Assurance and Engagement Branch in the AEC which is responsible for administering Part XX of the Electoral Act.</p>
Independent candidate or Senate group	A candidate or Senate group that was not endorsed by a registered political party
JSCEM	Joint Standing Committee on Electoral Matters
The Electoral Act	The <i>Commonwealth Electoral Act 1918</i>
The Register	The Register of Political Parties

This report is published in full on the AEC website at www.aec.gov.au.

Data used to collate this report is current as at 31 March 2017.

Background

General reporting obligations

Section 17(2) of the *Commonwealth Electoral Act 1918* (the Electoral Act) prescribes reports which are to be made by the Australian Electoral Commission. The section is as follows:

17 Reports by the Commission

- (1A) A report prepared by the Electoral Commissioner and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include particulars for the period of:
- (a) each person or organisation to whom the Commission has provided a copy of a Roll under subsection 90B(1); and
 - (b) each person or organisation to whom the Commission has given a copy of a Roll, or an extract of a Roll, under subsection 90B(4).
- (2) The Commission shall, as soon as practicable after the polling day in:
- (a) a general election and any Senate election that had the same polling day as that general election; or
 - (b) a Senate election (other than a Senate election referred to in paragraph (a));
- prepare and furnish to the Minister a report on the operation of Part XX in relation to that election or those elections.
- (2A) A report under subsection (2) in relation to an election must include a list of the names of all persons who, in the opinion of the Commission, are or may be required to furnish a return under subsection 305A(1) or (1A) in relation to that election.
- (2B) The Commission may prepare and furnish to the Minister, otherwise than under subsection (2), such reports on the operation of Part XX as the Commission thinks appropriate.
- (2C) Subject to section 17A, the Commission must include in any report referred to in this section particulars of the operation of subsection 316(2A) since the preparation of the last report referred to in this section that included particulars of the operation of that subsection.
- (3) Section 34C of the *Acts Interpretation Act 1901* does not apply in relation to a report under subsection (2).
- (4) The Minister shall cause a copy of a report furnished under subsection (2) or (2B) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.
- (5) A report referred to in this section need not include particulars of a matter if those particulars have been included in an earlier report referred to in this section.

The Report

This report has been prepared and is furnished to the Minister pursuant to s 17(2) of the Electoral Act. It reports on the operation of Part XX of the Electoral Act in relation to the federal election held on 2 July 2016 (the 2016 federal election). Information required to be provided in accordance with sections 17(2A) and 17(2C) is also included in this report.

The 2016 federal election consisted of a general election for the House of Representatives and a full Senate election. The scope of the federal election and relevant key dates in relation to the operation of Part XX are provided at Appendix A.

Part XX

Part XX prescribes a legislative regime for the election funding and financial disclosure which applies to federal elections. Part XX is structured as follows:

- Division 1: Preliminary
- Division 2: Agents
- Division 3: Election funding
- Division 4: Disclosure of donations
- Division 5: Disclosure of electoral expenditure
- Division 5A: Annual returns by registered political parties and other persons
- Division 6: Miscellaneous

The relevant provisions of Part XX for the purposes of this report are:

- (1) Division 3 – sections 294, 297 and 299 (which concern election funding entitlements)
- (2) Division 4 – sections 304 (Disclosure of gifts) and 305A (Gifts to candidates)
- (3) Division 5 – section 309 (Returns of electoral expenditure)
- (4) Division 6 – section 316 (Investigation).

Election Funding

Authority

Division 3 of Part XX of the Electoral Act provides for the payment of election funding to those who have contested as a candidate for the House of Representatives or as a candidate or group for the Senate in a federal election, and who have reached the threshold of first preference votes which attracts election funding payments. The relevant provisions for the purposes of this report are sections 294, 297 and 299. These sections are set out in full in Appendix B.

Operation of the Relevant Provisions

Entitlement

Section 294 provides a general entitlement to election funding for each first preference vote given for a candidate for the House of Representatives or a candidate or group for the Senate in a federal election.

Election funding entitlements are calculated by multiplying the number of formal first preference votes received by relevant candidates or Senate groups by the funding rate applicable to the period in which an election is held.

Indexation is calculated in accordance with the provisions contained in s 321 of the Electoral Act.

For the 2016 federal election the funding rate was 262.784 cents per eligible vote.¹

Election funding is an entitlement under the Electoral Act once the prescribed eligibility criteria have been met. The Electoral Act does not require those who have met the eligibility criteria to provide evidence that funds were either committed or spent in the running of an election campaign.

Eligibility

To be eligible to receive a payment of election funding a candidate for the House of Representatives or the Senate must receive at least four per cent of the formal first preference votes cast in the electorate contested by that candidate (s 297(1)).

For a Senate group to be eligible, the group as a whole must receive a total of at least four per cent of the formal first preference votes in the Senate election in the state or territory contested (s 297(2)).

Formal first preference votes cast in favour of candidates and/or Senate groups who fail to reach the four per cent threshold of total formal first preference votes are not eligible votes for the purpose of election funding. Votes rejected and declared as informal in the election concerned are also not eligible first preference votes (s 294(4)).

¹ This represents an increase of 5.6 per cent compared to the 2013 federal election funding rate of 248.800 cents per eligible vote.

Election Payment Arrangements

Under s 287A a campaign committee of an endorsed candidate or endorsed group is to be treated as a division of the relevant state branch of the political party that endorsed the candidate or members of an endorsed group. The effect of this provision is to allow campaign committees to incur and recover electoral expenditure.

Under s 287B of the Electoral Act the registered officer of a registered political party can notify the AEC that they are choosing to be treated as a “designated federal party”.² This then allows the national body of the party to receive, under s 299(1)(bb) and s 299(4)(aab) respectively, the candidate and Senate group election funding entitlements on behalf of all of their state branches. This is an arrangement similar to that which exists for the Liberal Party under s 299(1)(b) and s 299(4)(aa).

Under s 299(1)(d) the payment of election funding entitlements of eligible candidates and Senate groups that were endorsed by registered political parties are made to the agent of the state or territory branch of the party unless other arrangements, such as those detailed below, are in place for the redirection of those payments.

Section 299 includes specific provisions for the Liberal Party of Australia under which payments for all state branches of the party are to be paid to the federal body of the party. Similarly, the federal body of any party group can, under s 287B, apply to be treated as a ‘designated federal party’ so that payments for all state branches of those parties are paid to the federal party.

Under s 299A(1) political parties are entitled to receive their election funding by direct credit or cheque. Section 299A(2) requires that for an account to be eligible to receive election funding by direct credit, it must be operated by the party in Australia with an authorised deposit taking institution and held in the name of the party. Otherwise, payments are required by s 299A(1)(b) to be paid by cheque payable to the party.

Under s 299(1)(b) and s 299(4)(aa) respectively, candidate and Senate group election funding entitlements of all state branches of the Liberal Party of Australia may be paid to the party agent of the federal division of the party. Section 299(5E) enables the party agent of the Liberal Party to give to the AEC a written notice determining specified percentages of election funding payments which are to be paid between the federal party and a state branch.

Section 299(2) requires that payment of election funding for independent candidates or independent Senate groups must be made to the agent of the candidate. Under s 299(3) payment of election funding can be made to the agent of the Senate group. Where no candidate agent is appointed under s 289(3) a candidate is deemed to be their own agent. Where no agent is appointed for a Senate group,³ under s 289(4), the candidate listed first on the ballot paper is deemed to be the agent of the group.

Sections 299(4)(ac)(i), (ad)(i), (ae)(i) and (af)(i) allow for members of groups endorsed by two registered parties to divide payments for election funding into agreed shares as determined either by the agents of the relevant parties or, in the absence of a formal agreement, by the Electoral Commission. In accordance with the requirements of s 299(5) these agreements

² Section 287B of the Electoral Act defines designated federal party as a registered political party, other than the Liberal Party, that has two or more state branches and has lodged a written notice with the AEC choosing to be treated as a designated federal party.

³ Under s 289(2A) where all members of a Senate group have been endorsed by the same registered political party, the agent of the relevant state branch of the party is deemed to be the agent for the group.

must be signed by relevant agents and lodged with the Electoral Commission before the 20th day after the election polling date.

Section 299(5A) allows the agents of two different political parties to lodge a notice with the AEC requesting that the entitlements of one party be paid to the other. Unlike other provisions under s 299, a notice under s 299(5A) is not limited to payments being redirected to the federal body of a political party but allows election funding payments to be redirected between any political parties, including, unrelated parties.

Subsection 299(5D)(a) requires the AEC to pay at least 95 per cent of the entitlement calculated on the basis of the votes counted as at the 20th day after polling day. The payment must be made as soon as possible after the 20th day. Any remaining balance must be paid as soon as possible once the amount of the full entitlement is known.

Section 299(5H) enables the party agent of a designated federal party to give to the AEC a written notice determining specified percentages of election funding payments which are to be paid between the party and a state branch.

Payments for the 2016 federal election

Method of Payment

No notice requesting payment of specified percentages between the federal and a state branch was lodged by the Liberal Party under s 299(5A) for the 2016 federal election. Full entitlements for the 2016 federal election were paid to the federal division of the Liberal Party in accordance with s 299(1)(b) and s 299(4)(aa).

For the 2016 federal election the Family First Party and the Australian Labor Party were the only registered political parties that advised the AEC they were choosing to be treated as designated federal parties in respect of their election funding entitlements (refer s 287B(1)).

No notices were lodged under s 299(5A) requiring payment redirection between two different parties.

No notice was lodged for the 2016 federal election under s 299(5H) by either the Family First Party or the Australian Labor Party. Payment of election funding entitlements for these parties was made, in full, to the designated federal parties.

All payment redirection arrangements in place for the 2016 federal election specified that the entitlements of state branches of political parties were paid to the party agent of the federal body of the party.

There were two Senate groups at the 2016 federal election that were endorsed by more than one registered political party:

1. Liberal Party / National Party

The Liberal Party and National Party had joint Senate groups in Victoria and New South Wales. In accordance with s 299(5), the Victorian and New South Wales joint Senate groups lodged agreements with the AEC on the 3rd and 6th of June 2016 respectively. The effect of the lodged agreements was that election funding was paid according to agreed percentage shares between the state branches for the Senate elections held on 2 July 2016 in New South Wales and Victoria. Table 1 lists the details of the agreed percentage shares.

Table 1: Joint Senate groups – percentage shares

State	State branches	Share of entitlement
New South Wales	Liberal Party of Australia, NSW Division	75%
	National Party of Australia – N.S.W.	25%
Victoria	Liberal Party of Australia (Victorian Division)	81%
	National Party of Australia – Victoria	19%

2. Help End Marijuana Prohibition (HEMP) Party / Australian Sex Party

The Help End Marijuana Prohibition (HEMP) Party and the Australian Sex Party had a joint Senate group in the Northern Territory. In accordance with s 299(5), the joint Senate group lodged an agreement with the AEC on 20 July 2016. The effect of the lodged agreement was that election funding was distributed to each party in a 50/50 split of the total entitlement.

Candidates Paid

For the 2016 federal election the AEC made election funding payments to 24 independent candidates under s 299.

Payment by cheque or credit

For the 2016 federal election the AEC made election funding payments to 24 registered political parties and 24 independent candidates. All political parties had nominated bank accounts that met the eligibility criteria under s 299(A)(2) and chose to receive election funding by direct credit. Eight independent candidates received their election funding by cheque.

Payments Made

In administering s 299(5D)(a), which requires at least 95 per cent of the entitlement to be paid as soon as possible after the 20th day after polling day, the AEC's policy since the 2010 federal election has been to pay up to 99 per cent of each party's and candidate's funding entitlement calculated as at the 20th day after polling day and withhold the greater of one per cent or \$200 from the first payment. This approach maximises the early release of funds to political parties and candidates while still withholding a sufficient proportion of the initial entitlement to effectively manage the risk of possible overpayments following the finalisation of the vote count.

The first payment totalling \$60,466,642.44 was based on the vote count as at Friday 22 July 2016 and processed on 27 July 2016.

In accordance with s 299(5D)(b) of the Electoral Act, the final payment could not be made until the full entitlement was known at the finalisation of the counting of votes.

The final payment totalling \$2,311,632.59 was made on 15 August 2016.

New Parties: Eligibility for Funding

A number of new parties were registered with the AEC between the 2013 and 2016 federal elections. Of these, the following parties qualified for election funding at the 2016 federal election:

- Australian Liberty Alliance
- Australian Recreational Fishers Party
- Derryn Hinch's Justice Party
- Glenn Lazarus Team
- Jacquie Lambie Network
- Nick Xenophon Team.

Table 2 provides a list of the election funding payments distributed to the registered parties including new parties and independent candidates, listed in order of largest to smallest amount paid.

Table 2: Summary of payments – 2016 federal election

Recipients	First Payment (\$)	Final Payment (\$)	Total Payment (\$)
Parties			
Liberal Party of Australia	23,464,128.62	739,025.38	24,203,154.00
Australian Labor Party	22,355,109.55	836,577.02	23,191,686.57
Australian Greens	6,337,258.36	379,797.62	6,717,055.98
National Party of Australia	3,158,301.63	103,287.98	3,261,589.61
Pauline Hanson's One Nation Party	1,623,827.11	121,542.17	1,745,369.28
Nick Xenophon Team	1,179,992.89	65,243.26	1,245,236.15
Derryn Hinch's Justice Party	544,420.99	36,765.25	581,186.24
Christian Democratic Party (Fred Nile Group)	283,838.18	5,197.94	289,036.12
Family First	218,993.20	3,947.49	222,940.69
Country Liberals (Northern Territory)	180,977.63	1,828.06	182,805.69
Katter's Australian Party	157,743.09	1,603.87	159,346.96
Rise Up Australia Party	75,490.79	1,131.76	76,622.55
Jacqui Lambie Network	68,951.79	5,011.39	73,963.18
Liberal Democratic Party	48,494.75	680.02	49,174.77
Animal Justice Party	34,114.28	331.45	34,445.73
Australian Recreational Fishers Party	29,277.97	295.74	29,573.71
Glenn Lazarus Team	21,220.94	214.35	21,435.29
Australian Christians	20,422.25	182.64	20,604.89
Shooters, Fishers and Farmers Party	17,456.17	400.00	17,856.17
Bullet Train for Australia	15,509.23	291.97	15,801.20
Australian Liberty Alliance	15,277.98	157.95	15,435.93
Australian Country Party	9,155.11	189.49	9,344.60
Help End Marijuana Prohibition (HEMP) Party	6,311.79	200.00	6,511.79
Australian Sex Party	6,311.79	200.00	6,511.79

Recipients	First Payment (\$)	Final Payment (\$)	Total Payment (\$)
Independent candidates			
Catherine McGowan (Indi, Victoria)	81,241.57	1,104.42	82,345.99
Andrew Wilkie (Denison, Tasmania)	76,413.07	771.85	77,184.92
Antony Windsor (New England, NSW)	72,333.82	622.90	72,956.72
Robert Oakeshott (Cowper, NSW)	70,762.48	714.77	71,477.25
Stephen Ruff (North Sydney, NSW)	30,745.25	339.47	31,084.72
Dennis Jensen (Tangney, Western Australia)	25,836.11	242.57	26,078.68
James Mathison (Warringah, NSW)	25,721.64	259.81	25,981.45
Bradley Christensen (Lyne, NSW)	24,004.61	242.47	24,247.08
Jim Ball (McKellar, NSW)	17,645.66	215.77	17,861.43
Daniel McCarthy (Leichardt, Queensland)	15,821.94	197.37	16,019.31
Kevin Foley (Riverina, NSW)	15,722.08	197.37	15,919.45
Stephen Mayne (Menzies, Victoria)	15,214.91	192.12	15,407.03
David Wilks (Forde, Queensland)	13,575.14	200.00	13,775.14
John Harvey (Hunter, NSW)	12,261.22	194.74	12,455.96
David Tran (Gellibrand, Victoria)	11,922.23	205.25	12,127.48
Julie Hegarty (Mackellar, NSW)	11,706.74	228.91	11,935.65
Kenneth Murray (Capricornia, Queensland)	11,131.25	200.00	11,331.25
Christine Berman (Bradfield, NSW)	10,939.41	223.65	11,163.06
Stephen Large (Dawson, Queensland)	10,794.88	200.00	10,994.88
Arthur Mills (Farrer, NSW)	10,684.51	176.35	10,860.86
Michael McCluskey (Wannon, Victoria)	10,437.50	200.00	10,637.50
Robert Jones (McPherson, Queensland)	9,917.18	200.00	10,117.18
Yingyi Mark Guyula (Lingiari, NT)	4,672.02	200.00	4,872.02
Braedon Earley (Lingiari, NT)	4,551.13	200.00	4,751.13
Total	60,466,642.44	2,311,632.59	62,778,275.03

Table 3 sets out the distribution of the election funding payments to registered political parties by state and territory.

Table 3: Distribution of funding - registered political parties by state and territory

	Number of votes		Election funding amount (\$)		Total (\$)
	House	Senate	House	Senate	
Liberal Party of Australia					
New South Wales	1,426,424	1,610,626	3,748,414.04	3,174,350.57	6,922,764.61
Victoria	1,273,419	1,158,800	3,346,341.38	2,466,564.20	5,812,905.58
Queensland	1,153,736	960,467	3,031,833.61	2,523,953.60	5,555,787.21
Western Australia	611,605	525,879	1,607,200.08	1,381,925.87	2,989,125.95
South Australia	365,155	345,767	959,568.92	908,620.35	1,868,189.27
Tasmania	118,956	110,318	312,597.34	289,898.05	602,495.39
ACT	87,346	84,615	229,531.31	222,354.68	451,885.99
TOTAL	5,036,641	4,796,472	13,235,486.68	10,967,667.32	24,203,154.00
Australian Labor Party					
New South Wales	1,611,549	1,405,088	4,234,892.92	3,692,346.45	7,927,239.37
Victoria	1,224,051	1,075,658	3,216,610.18	2,826,657.12	6,043,267.30
Queensland	825,627	717,524	2,169,615.66	1,885,538.27	4,055,153.93
Western Australia	434,318	386,113	1,141,318.21	1,014,643.19	2,155,961.40
South Australia	328,314	289,902	862,756.66	761,816.07	1,624,572.73
Tasmania	127,186	113,935	334,224.46	299,402.95	633,627.41
ACT	111,887	96,667	294,021.13	254,025.41	548,046.54
Northern Territory	39,364	38,197	103,442.29	100,375.60	203,817.89
TOTAL	4,702,296	4,123,084	12,356,881.51	10,834,805.06	23,191,686.57

	Number of votes		Election funding amount (\$)		Total (\$)
	House	Senate	House	Senate	
Australian Greens					
New South Wales	381,412	332,860	1,002,289.71	874,702.82	1,876,992.53
Victoria	448,255	380,499	1,177,942.42	999,890.49	2,177,832.91
Queensland	226,938	188,323	596,356.75	494,882.71	1,091,239.46
Western Australia	161,443	143,797	424,246.37	377,875.51	802,121.88
South Australia	59,130	62,329	155,384.18	163,790.64	319,174.82
Tasmania	34,291	37,840	90,111.26	99,437.47	189,548.73
ACT	38,129	41,006	100,196.91	107,757.21	207,954.12
Northern Territory	8,858	11,003	23,277.41	28,914.12	52,191.53
TOTAL	1,358,456	1,197,657	3,569,805.01	3,147,250.97	6,717,055.98
National Party of Australia					
New South Wales	420,881	1,610,626	1,106,007.93	1,058,116.86	2,164,124.79
Victoria	157,298	1,158,800	413,353.98	578,576.79	991,930.77
Western Australia	40,160	-	105,534.05	-	105,534.05
TOTAL	618,339	2,769,426	1,624,895.96	1,636,693.65	3,261,589.61

	Number of votes		Election funding amount (\$)		Total (\$)
	House	Senate	House	Senate	
Pauline Hanson's One Nation Party					
New South Wales	27,542	184,012	72,375.97	483,554.09	555,930.06
Queensland	147,478	250,126	387,548.59	657,291.11	1,044,839.70
Western Australia	-	55,026	-	144,599.52	144,599.52
TOTAL	175,020	489,164	459,924.56	1,285,444.72	1,745,369.28
Nick Xenophon Team					
New South Wales	10,918	-	28,690.76	-	28,690.76
Queensland	11,032	-	28,990.33	-	28,990.33
South Australia	221,210	230,703	581,304.49	606,250.57	1,187,555.06
TOTAL	243,160	230,703	638,985.58	606,250.57	1,245,236.15
Derryn Hinch's Justice Party					
Victoria	9,432	211,733	24,785.79	556,400.45	581,186.24
TOTAL	9,432	211,733	24,785.79	556,400.45	581,186.24
Christian Democratic Party (Fred Nile Group)					
New South Wales	109,990	-	289,036.12	-	289,036.12
TOTAL	109,990	-	289,036.12	-	289,036.12

	Number of votes		Election funding amount (\$)			Total (\$)
	House	Senate	House	Senate	Total	
Family First						
Victoria	5,614	-	14,752.69	-	-	14,752.69
Queensland	47,481	-	124,772.47	-	-	124,772.47
South Australia	31,743	-	83,415.53	-	-	83,415.53
TOTAL	84,838	-	222,940.69	-	-	222,940.69
Country Liberals (Northern Territory)						
Northern Territory	32,409	37,156	85,165.67	97,640.02	-	182,805.69
TOTAL	32,409	37,156	85,165.67	97,640.02	-	182,805.69
Katter's Australian Party						
Queensland	60,638	-	159,346.96	-	-	159,346.96
TOTAL	60,638	-	159,346.96	-	-	159,346.96
Rise Up Australia Party						
Victoria	13,637	-	35,835.85	-	-	35,835.85
Western Australia	8,753	-	23,001.48	-	-	23,001.48
Northern Territory	-	6,768	-	17,785.22	-	17,785.22
TOTAL	22,390	6,768	58,837.33	17,785.22	-	76,622.55
Jacqui Lambie Network						
Tasmania	-	28,146	-	73,963.18	-	73,963.18
TOTAL	-	28,146	-	73,963.18	-	73,963.18

	Number of votes		Election funding amount (\$)		Total (\$)
	House	Senate	House	Senate	
Liberal Democratic Party					
New South Wales	10,756	-	28,265.05	-	28,265.05
Victoria	4,444	-	11,678.12	-	11,678.12
Queensland	3,513	-	9,231.60	-	9,231.60
TOTAL	18,713	-	49,174.77	-	49,174.77
Animal Justice Party					
Victoria	13,108	-	34,445.73	-	34,445.73
TOTAL	13,108	-	34,445.73	-	34,445.73
Australian Recreational Fishers Party					
Tasmania	11,254	-	29,573.71	-	29,573.71
TOTAL	11,254	-	29,573.71	-	29,573.71
Glenn Lazarus Team					
Queensland	8,157	-	21,435.29	-	21,435.29
TOTAL	8,157	-	21,435.29	-	21,435.29
Australian Christians					
Western Australia	7,841	-	20,604.89	-	20,604.89
TOTAL	7,841	-	20,604.89	-	20,604.89

	Number of votes		Election funding amount (\$)			Total (\$)
	House	Senate	House	Senate		
Shooters, Fishers and Farmers Party						
Western Australia	3,734	-	9,812.35	-	-	9,812.35
Northern Territory	3,061	-	8,043.82	-	-	8,043.82
TOTAL	6,795	-	17,856.17	-	-	17,856.17
Bullet Train for Australia						
ACT	6,013	-	15,801.20	-	-	15,801.20
TOTAL	6,013	-	15,801.20	-	-	15,801.20
Australian Liberty Alliance						
New South Wales	5,874	-	15,435.93	-	-	15,435.93
TOTAL	5,874	-	15,435.93	-	-	15,435.93
Australian Country Party						
Victoria	3,556	-	9,344.60	-	-	9,344.60
TOTAL	3,556	-	9,344.60	-	-	9,344.60
Help End Marijuana Prohibition (HEMP) Party						
Northern Territory	-	4,956	-	6,511.79	-	6,511.79
TOTAL	-	4,956	-	6,511.79	-	6,511.79
Australian Sex Party						
Northern Territory	-	4,956	-	6,511.79	-	6,511.79
TOTAL	-	4,956	-	6,511.79	-	6,511.79

Financial disclosure

Authority

Divisions 4 and 5 of Part XX of the Electoral Act set out the requirements for financial disclosure. The relevant provisions which apply in respect of an election are sections 304, 305A and 309. These sections are set out in full, along with other relevant legislative provisions relevant to this report, in Appendix B. In order to provide a context for the operation of these provisions in relation to the 2016 federal election a summary of these provisions is below.

Operation of the relevant provisions

Candidates and Senate Groups

Section 304 requires that, the agent of each person (including a member of a group) who was a candidate in an election or by-election shall, within 15 weeks after polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift above the disclosure threshold, received by the person during the disclosure period for the election.

Section 321A of the Electoral Act provides for the indexation of the dollar amounts of the disclosure threshold referred to in sections 304(5)(b)(ii), 304(5)(c), 304(6)(b) and (c) and 305A. For the 2016 federal election the dollar amount was \$13,200.

Section 304(3) provides that subject to subsection (3A), the agent of each group shall, within 15 weeks after the polling day in the election, in relation to the members of the group who had their names grouped in the ballot papers, furnish to the Electoral Commission a return, in an approved form, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift above the disclosure threshold, received by the group during the disclosure period for the election.

Subsection 304(3A)(a) provides that in the case of a group of all whose members were endorsed by the same registered political party, the gift will be taken to have been received by the relevant state branches of the party where there are two or more branches. Under s 304(3A)(b) it will be taken, in any other case, to have been received by the party.

Section 304(4) requires that in providing details of members of various types of groups (such as an unincorporated association or a trust fund) which make gifts, names and addresses of members of the executive committee or names or addresses of the trustees of the trust must be provided. An exemption is provided however, under s 304(5) to the general disclosure requirements of s 304, where the gift is made in a private capacity to a candidate and the candidate has not or will not use the gift solely or substantially for a purpose related to an election or by-election.

Section 309 requires returns of electoral expenditure by agents of each group or candidate in an election to be furnished within 15 weeks of polling day. Section 309 does not require details of expenditure on ancillary activities in relation to an election, such as hire of temporary office space, staff, equipment hire, and phone costs.

Under s 309 the agent of each person who was a candidate in an election, other than those that were members of a Senate group, is required to lodge a return concerning electoral expenditure. Returns by candidates and Senate groups that are either jointly endorsed or are not endorsed by a party, are required under both s 304 and s 309, in an approved form. The AEC provides one form for both returns under s 304 and s 309 so that candidates and Senate groups can furnish such return requirements simultaneously.

Sections 307 and 313 of the Electoral Act both provide that where no details are required to be included in a return by a candidate or Senate group under the applicable Division⁴ the candidate or Senate group shall, nevertheless, lodge a return and include a statement to the effect that no gifts or expenditure of a kind that is required to be disclosed were received or expended. These returns are termed 'nil' returns.

Historically, in the majority of cases, candidates endorsed by a registered political party have lodged a 'nil' return as their financial transactions are made by their party campaign committees and therefore fall within the scope of s 287A. Section 287A provides that campaign committees are to be treated as part of a state branch of a party under Divisions 4, 5 and 5A of the Electoral Act. This means that details concerning gifts received by candidates through a campaign committee (sometimes described as a party unit), are included in the annual return lodged by the party under s 314AB of the Electoral Act. Section 314AB requires disclosure of such information to the AEC within 16 weeks of the end the financial year in which the gift is received.

Sections 304(3A) and 309(1) require that financial transactions in respect of Senate groups endorsed by a single party (the majority of Senate groups) are incorporated into the annual return of the endorsing party lodged under s 314AB. These financial transactions are therefore not included in a return under s 304(3A) or s 309(1A).

Donations to candidates

Under s 305A a person⁵ who donates amounts in excess of the disclosure threshold to candidates, including members of Senate groups, must report details of those donations. Under s 305A(2) election donors are also required to report donations that they received above the disclosure threshold and used, in whole or in part, to make donations to candidates including to members of Senate groups.

Table 4 summarises the information required under the various provisions of the Electoral Act in candidate, Senate group and election donor returns for the 2016 federal election.

⁴ These being Divisions 4 and 5, which respectively, concern disclosure of donations and disclosure of electoral expenditure.

⁵ Note: under s 305A(1A)(c), this excludes a person who: is a registered political party or a state branch of a registered political party; or an associated entity; or a candidate in an election; or member of a Senate group.

Table 4: Information required in candidate, Senate group and election donor returns – 2016 federal election.

Election returns	
Candidates	
s 304(2)	Number and amount of donations received
s 304(4)	Details of donations received of more than \$13,200
s .309(2)	Amounts of electoral expenditure spent on certain categories
Senate groups	
s 304(3)	Number and amount of donations received
s 304(4)	Details of donations received of more than \$13,200
s 309(3)	Amounts of electoral expenditure spent on certain categories
Note: For endorsed groups (other than jointly endorsed groups) transactions are included on the party's annual return.	
Donors	
s 305A(1)&(4)	Details of donations totalling more than \$13,200 made to candidates
s 305A(2)&(4)	Details of donations received of more than \$13,200 used to make donations to candidates

Table 5 shows the dates by which information was required to be disclosed and the publication of returns which applied to the 2016 federal election in accordance with the time frames prescribed under the Electoral Act.

Table 5: Key dates for disclosure of information and publication of returns for the 2016 federal election.

Return	Disclosure date	Period covered	Public release
Candidates	17 October 2016 (1st working day, 15 weeks after polling day – s 304(2) and s 309(2))	Donations received commencement date to 30 days after polling day Expenditure from the issue of the writ until election day	19 December 2016 (1st working day, 24 weeks after polling day)
Senate groups	17 October 2016 (1st working day, 15 weeks after polling day – s 304(3) and s 309(3))	Donations received from the date the request to the AEC to be grouped until 30 days after polling day Expenditure from the issue of the writ until polling day	19 December 2016 (1st working day, 24 weeks after election day polling day)
Donors	17 October 2016 (1st working day, 15 weeks after polling day – s.305A(3)(a))	The disclosure period relating to the candidate to whom the gift was made. That is, from the announcement of their candidacy.	19 December 2016 (1st working day, 24 weeks after polling day)

Disclosure returns for the 2016 federal election

Candidate and Senate group returns

There were 1,625 candidates at the 2016 federal election, comprising 994 House of Representatives candidates and 631 Senate candidates. There were 206 Senate groups of which 13 were independent or jointly endorsed groups and therefore were required to furnish election disclosure returns.

For the 2016 federal election 1,256 candidates (77 per cent) lodged a 'nil' return. The high percentage of 'nil' returns was due to the majority of gifts being made directly to political parties or their campaign committees and those political parties and campaign committees incurring expenditure on behalf of their endorsed candidates. Annual returns for the financial year during which the 2016 federal election occurred were due to be lodged by political parties, pursuant to s 314AB, by 20 October 2016.

Subsections 304(2), 304(3), 309(2) and 309(3) of the Electoral Act require candidate and Senate group returns to be lodged within 15 weeks after polling day. For the 2016 federal election, this date was Saturday 15 October 2016. As the last day to lodge candidate and Senate group returns fell on a Saturday, s 36(2) of the *Acts Interpretation Act 1901* (Interpretation Act) applies. Section 36(2) of the Interpretation Act, provides that where an act allows or requires a thing to be done and the last date for doing the thing falls on a Saturday, Sunday or public holiday, then the thing may be done on the next day that is not a Saturday, Sunday or public holiday. Therefore candidate and Senate group returns could be lodged until 17 October 2016.

Table 6 lists the number of candidate, Senate group and election donor returns lodged for the 2016 federal election.

Table 6: Candidate, Senate group and election donor returns – 2016 federal election.

Candidate returns	Number	% of total
Number of candidates	1,625	
Number of returns received	1,616	99
Number of outstanding returns	8	1
Number of 'nil' returns	1,256	77
Number of returns disclosing transactions	360	22
Senate Group returns		
Number of groups	206	
Number of groups required to lodge a return	13	
Number of returns received	10	77
Number of outstanding returns	3	23
Other returns received		
Returns of donations made	8	
Total election returns received as at 31 March 2017	1,634	

Tables 7 and 8 provide a summary of data reported in candidate and Senate group returns for the 2016 federal election.

Table 7: Summary of donations – 2016 federal election.

Candidate returns	
Total number of donations reported	11,212
Total amount of donations reported	\$1,733,629
Number of individually detailed donations	58
Percentage of number of donations individually detailed	0.51%
Total of individually detailed donations	\$414,775
Percentage of amount of donations individually detailed	23.92%
Senate group returns	
Total number of donations reported	2
Total amount of donations reported	\$150
Number of individually detailed donations	-
Percentage of number of donations individually detailed	-
Total of individually detailed donations	-
Percentage of amount of donations individually detailed	-

Table 8: Summary of expenditure – 2016 federal election.

Category	Candidates (\$)	Senate groups (\$)
Broadcast advertisements	812,367	-
Published advertisements	665,352	-
Displayed advertisements	29,952	-
Production of campaign material	1,160,215	-
Direct mailing	137,562	850
Polling & Research	160,040	-

Publication

Section 320(1) of the Electoral Act requires the Electoral Commission to keep a copy of returns furnished under Divisions 4 and 5. The AEC meets this requirement by publishing returns on its website. Section 320(4) does not allow a person to peruse or obtain a copy of a return under Division 4 or 5 until after the end of 24 weeks after the polling day in the election to which the return relates. At the end of the 24 week period the AEC publishes returns on its website. Returns relating to the 2016 federal election were published on the AEC website on 19 December 2016.

Election donor returns

Section 17(2A) provides that a report under s 17(2) must include a list of the names of all persons who, in the opinion of the Electoral Commission, are or may be required to furnish a return under subsection 305A(1) or (1A)⁶ in relation to that election. There were seven election donor returns furnished pursuant to s 305A(1) in relation to the 2016 federal election.

⁶ Section 305A(1A) relates to donations made to any person or organisation specified by legislative instrument by the Electoral Commission. Currently no person or organisation is so specified.

Table 9: Persons required to furnish returns under s 305A(1) for the 2016 federal election.

Donor Name	Return Status
Golden Lineage P/L	Received
HECKLER Pty Ltd	Received
Platinum Fuel Services P/L	Received
ReadyCo	Received
Roberson, Garry Raymond	Received
Tatchell, Helen	Received
Wood, Graeme	Received

Section 305(A)(3) requires that returns provided under s 305A of the Electoral Act must be provided to the Electoral Commission in an approved form before the end of 15 weeks after the polling day for the election.

Table 10 provides a summary of donations to candidates as reported in returns lodged by election donors for the 2016 federal election in accordance with s 305A(3).

Table 10: Summary of donations to candidates for the 2016 federal election.

Donation amount	Number and percentage of donations		Amount and percentage of donations	
	No.	%	\$	%
Less than \$13,200	19	76	30,695	9
\$13,201 to \$24,999	3	12	58,006	17
\$25,000 or more	3	12	255,975	74
Total	25	100	344,676	100

Reviews: Report under section 17(2C)

Subsection 17(2C) of the Electoral Act requires the AEC to include particulars of the operation of s 316(2A) in this report since the last reporting on the section. Section 316(2A) provides as follows:

(2A) An authorised officer may, for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:

- (a) the agent or any officer of the political party; or
- (aa) the financial controller of the associated entity or any officer of the associated entity; or
- (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers;

as the case may be, require the agent, financial controller, person or officer:

- (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
- (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.

Where a political party operates party units, campaign committees or local branches, a s 316(2A) notice may seek a sample of records from these party units. A report provided pursuant to s 17(2C) must comply with s 17A, which provides that particulars of any information given in evidence or contained in documents or other things produced in compliance with a notice served on a prescribed person or an officer of a prescribed person under s 316(2A) must not be reproduced.

The purpose of reviewing documents and evidence produced in response to the notices issued under s 316(2A) is to determine whether the person lodging the disclosure return has complied with their obligations under Part XX of the Electoral Act. For political parties the person with responsibility to lodge the return is the party agent. For associated entities the person with responsibility to lodge the return is the financial controller.

A s 316(2A) notice allows for any documents and evidence in the possession of the particular party or associated entity to be obtained to assess the completeness and accuracy of disclosures of:

- total receipts
- total payments
- total debts
- receipts above the disclosure threshold (detailed receipts)
- debts totalling above the threshold (detailed debts).

The last report under s 17(2C) which included particulars of the operation of s 316(2A) was the “Election Funding and Disclosure Report, 2014 Western Australian Senate Election”. That report contained particulars of the operation of s 316(2A) reviews for notices issued between 1 April 2014 and 1 October 2014 and is available on the AEC website.

This report, sets out particulars of the operations of s 316(2A) between 1 October 2014 and up to 31 March 2017.

Between 1 October 2014 and 31 March 2017 the AEC:

- issued 68 s 316(2A) notices in respect of registered political parties, state branches of registered political parties and associated entities
- completed 64 compliance reviews consisting of 13 in the 2014–15 financial year, 28 in 2015–16 and 23 so far in the 2016–17 financial year. A further 12 compliance reviews remain active.

Table 11 lists the compliance reviews completed. It also indicates the areas where errors were identified in disclosure returns from an analysis of documents produced under s 316(2A) notices.

Table 11: Compliance reviews completed under s 316(2A) between 1 October 2014 and 31 March 2017. (Amendments required are marked, the annual return that was reviewed is indicated after the entity name.)

Reviews	Total receipts	Total payments	Total Debts	Detailed receipts	Detailed debts
1973 Foundation Pty Ltd (2012–13)	✓	✓	✓		✓
21st Century Australia (2013–14)	✓	✓			
ALP Holdings Pty Ltd ATF ALP Investment Trust (2013–14)					
Altum Pty Ltd ATF Altum Headquarters Trust (2013–14)					
Australian Greens (2013–14)	✓	✓		✓	
Australian Greens (South Australia) (2013–14)	✓			✓	
Australian Greens (Victorian Branch) (2014–15)	✓	✓	✓	✓	
Australian Labor Party (ACT) (2013–14)	✓	✓	✓	✓	✓
Australian Labor Party (ACT) (2014–15)			✓	✓	✓
Australian Labor Party (National) (2013–14)	✓	✓	✓	✓	✓
Australian Labor Party (Northern Territory) Branch (2013–14)		✓	✓	✓	
Australian Labor Party (NSW Branch) (2013–14)					
Australian Labor Party (SA Branch) (2013–14)	✓	✓	✓	✓	✓
Australian Labor Party (Tasmanian Branch) (2013–14)	✓	✓			
Australian Labor Party (Victorian Branch) (2013–14)	✓	✓		✓	
Australian Labor Party (Western Australian Branch) (2012–13)			✓		✓

Reviews	Total receipts	Total payments	Total Debts	Detailed receipts	Detailed debts
Australian Motoring Enthusiast Party (2013–14)	✓				
Australian Rail Tram and Bus Industry Union Western Australian Branch (2013–14)				✓	
Australian Services Union SA & NT Branch (2014–15)	✓	✓	✓		✓
Australian Workers Union (SA Branch) (2013–14)	✓	✓	✓	✓	✓
Australian Workers Union – Greater NSW Branch (2013–14)			✓		✓
Bass 200 Club (2014–15)					
Bendigo 250 Club (2013–14)					
CEPU Communications Division SA/NT Branch (2014–15)	✓	✓	✓	✓	✓
CEPU Plumbing Division Victoria (2013–14)	✓	✓	✓	✓	✓
CFMEU – Construction & General Division VIC/TAS Branch (2013–14)				✓	
CFMEU – Construction & General Division (WA Branch) (2012–13)	✓	✓	✓	✓	✓
CFMEU – Construction & General Division (WA Branch) (2014–15)	✓	✓	✓	✓	✓
Coal Miners Industrial Union of Workers WA Collie (2013–14)					
Construction Forestry Mining and Energy ACT (2014–15)	✓	✓	✓		✓
Country Liberals (NT) (2013–14)	✓	✓		✓	
Enterprise Club (2014–15)					
Foundation 51 (2013–14)					
Foundation 51 (2011–12)					
Foundation 51 (2012–13)	✓			✓	
Katter's Australian Party	✓	✓	✓	✓	
Liberal National Party of Queensland (2014–15)	✓	✓	✓	✓	✓
Liberal Party of Australia (2013–14)					
Liberal Party of Australia (2014–15)				✓	
Liberal Party of Australia (ACT Division) (2013–14)				✓	
Liberal Party of Australia (ACT Division) (2014–15)				✓	
Liberal Party of Australia (NSW Division) (2013–14)				✓	

Reviews	Total receipts	Total payments	Total Debts	Detailed receipts	Detailed debts
Liberal Party of Australia (NSW Division) (2014–15)		✓			
Liberal Party of Australia (SA Division) (2014–15)	✓	✓	✓	✓	✓
Liberal Party (WA Division) Inc. (2012–13)				✓	
Liberal Party (WA Division) Inc. (2014–15)	✓	✓			
Media Entertainment & Arts Alliance (2013–14)				✓	
National Party of Australia (NSW) (2013–14)	✓	✓	✓	✓	✓
National Party of Australia (SA) Inc. (2013–14)					
National Party of Australia (Victoria) (2013–14)			✓		
National Union of Workers – National Office (2013–14)				✓	
National Union of Workers NSW (2014–15 annual return) (2013–14)		✓			✓
Natural Medicine Party (2013–14)					
Palmer United Party (2014–15)	✓	✓	✓	✓	✓
Parakeelia (2013–14)					
Shop Distributive & Allied Employees Association – Tasmanian Branch (2013–14)					
The Breweries & Bottleyards Employees' Industrial Union of Workers of WA (2013–14)	✓	✓	✓	✓	✓
The 500 Club (WA) Inc. (2012–13)	✓				
The Food Preservers Union of Australia Union of Workers (2012–13)					
The Geelong 500 Club (2013–14)					
The Greens NSW (2013–14)	✓	✓	✓	✓	
Transport Workers Union of NSW (2014–15)					
United Firefighters of Australia Western Australian Branch (2012–13)					
Western Australian Prison Officers' Union of Workers (2012–13)					
Total	29	28	24	32	20

Of these compliance reviews:

- 45 (70 per cent) resulted in the disclosure return requiring amendment
- 29 returns (45 per cent) required amendment to the reported total value of receipts
- 28 returns (44 per cent) required amendment to the reported total value of payments
- 24 returns (37.5 per cent) required amendment to the reported total value of debts
- 32 returns (50 per cent) required amendment to the details of individual receipts, either by correcting the details disclosed or adding receipts not included on the return
- 20 returns (31 per cent) required amendment to the details of outstanding debts, either by correcting the details disclosed or adding debts not included on the return.

The AEC's policy is to support, wherever reasonably possible, those who are required to comply so that they can meet their compliance obligations to disclose fully and accurately as required under Part XX. Therefore, where the AEC forms a view, based on its analysis of documents provided under s 316(2A) that there are errors contained in the financial returns, the AEC writes to the relevant party agent or financial controller highlighting the errors and suggests that they should consider lodging a request under s 319A(2) to amend the disclosure return in order to correct the identified errors and/or omissions.

Between 1 October 2014 and 31 March 2017 the AEC wrote to 45 party agents and financial controllers highlighting errors in financial returns lodged by them and suggesting that they consider lodging an amendment of the return pursuant to s 319A(2). As a result of the AEC's recommendations all lodged an amended return under s 319A(2) which resulted in the Electoral Commission permitting each of the amended returns to be made in accordance with s 319A(4).

Appendix A – Key election dates

The electoral event held on 2 July 2016 was a combined general election for the House of Representatives and a full Senate election. Key dates for this election are detailed below.

Monday 16 May 2016	Issue of the Writ
Thursday 9 June 2016	Close of nominations
Thursday 9 June 2016	Close for Appointment of Candidate Agents (Midday)
Saturday 2 July 2016	Polling Day
Friday 22 July 2016	Calculation of interim Election Funding entitlements (20 days after polling day)
Wednesday 27 July 2016	First payment of election funding paid
Monday 1 August 2016	Conclusion of Donations disclosure period (30 days after polling day)
Monday 8 August 2016	Writ returned
Monday 15 August 2016	Final payment of balance of Election Funding entitlements
Monday 17 October 2016	Candidates', Senate groups' & Donors' Returns due (15 weeks after polling day)
Monday 19 December 2016	Public Inspection of disclosure returns (24 weeks after polling day)

Appendix B – Legislation

Part XX Division 3—Election funding

294 General entitlement to funds

- (1) Subject to this Division, \$1.50 is payable for each first preference vote given for a candidate in a House of Representatives election.
- (2) Subject to this Division, \$1.50 is payable for each first preference vote given for a candidate or group in a Senate election.
- (4) A reference in this section to a first preference vote shall be read as not including a reference to a vote that has been rejected as informal in the poll concerned.

297 Payment not to be made in certain circumstances

- (1) A payment under this Division shall not be made in respect of votes given in an election for a candidate unless the total number of eligible votes polled in the candidate's favour is at least 4% of the total number of eligible votes polled in favour of all of the candidates in the election.
- (2) A payment under this Division shall not be made in respect of votes given in an election for a group unless the total number of eligible votes polled in favour of the group is at least 4% of the total number of formal first preference votes cast in the election.

299 Making of payments

- (1) If an amount is payable under this Division in respect of votes given in an election or elections for a candidate or candidates endorsed by a registered political party, the Electoral Commission must:
 - (a) if:
 - (i) the party is the Liberal Party or a State branch of the Liberal Party; and
 - (ii) a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election;pay the applicable federal percentage of the amount to the agent of the Liberal Party and the applicable State percentage of the amount to the agent of the State branch of the Liberal Party mentioned in subparagraph (ii); or
 - (b) if paragraph (a) does not apply and the party is the Liberal Party or a State branch of the Liberal Party—pay the amount to the agent of the Liberal Party; or
 - (ba) if:
 - (i) the party is a designated federal party or a State branch of a designated federal party; and
 - (ii) a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election;

pay the applicable federal percentage of the amount to the agent of the designated federal party and the applicable State percentage of the amount to the agent of the State branch of the designated federal party mentioned in subparagraph (ii); or

(bb) if:

- (i) paragraph (ba) does not apply; and
- (ii) the party is a designated federal party or a State branch of a designated federal party;

pay the amount to the agent of the designated federal party; or

- (c) if the party is the Australian Democrats and there is a principal agent appointed under section 288A—pay the amount to the principal agent; or
- (d) in any other case—pay the amount to the agent of the State branch of the party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election.

2) Where an amount is payable under this Division in respect of votes given in an election for a candidate, the Electoral Commission shall make the payment to the agent of the candidate.

(3) Where an amount is payable under this Division in respect of votes given in a Senate election for a group, the Electoral Commission shall make the payment to the agent of the group.

(4) Where an amount is payable under this Division in respect of votes given in a Senate election for a group, the Electoral Commission shall:

(a) if:

- (i) the members of the group were endorsed by one registered political party and that party is the Liberal Party or a State branch of the Liberal Party; and
- (ii) a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State or Territory in which the members of the group stood for election;

pay the applicable federal percentage of the amount to the agent of the Liberal Party and the applicable State percentage of the amount to the agent of the State branch of the Liberal Party mentioned in subparagraph (ii); or

(aa) if:

- (i) paragraph (a) does not apply; and
- (ii) the members of the group were endorsed by one registered political party and that party is the Liberal Party or a State branch of the Liberal Party;

pay the amount to the agent of the Liberal Party; or

(aaa) if:

- (i) the members of the group were endorsed by one registered political party and that party is a designated federal party or a State branch of a designated federal party; and

- (ii) a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the members of the group stood for election;

pay the applicable federal percentage of the amount to the agent of the designated federal party and the applicable State percentage of the amount to the agent of the State branch of the designated federal party mentioned in subparagraph (ii); or

(aab) if:

- (i) paragraph (aaa) does not apply; and
- (ii) the members of the group were endorsed by one registered political party and that party is a designated federal party or a State branch of a designated federal party;

pay the amount to the agent of the designated federal party; or

(ab) if paragraphs (a), (aa), (aaa) and (aab) do not apply and the members of the group were endorsed by one registered political party:

- (i) if the party is the Australian Democrats and there is a principal agent appointed under section 288A—pay the amount to the principal agent; or
- (ii) in any other case—pay the amount to the agent of the State branch of the party that is organised on the basis of the State or Territory in which the members of the group stood for election; or

(ac) if the members of the group were endorsed by 2 registered political parties, one of those parties is the Liberal Party or a State branch of the Liberal Party, and a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State or Territory in which the members of the group stood for election:

- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
- (ii) in the case of the share applicable to a State branch of the Liberal Party in accordance with that agreement or determination, as the case may be—pay the applicable federal percentage of the share to the agent of the Liberal Party and the applicable State percentage of the share to the agent of the State branch of the Liberal Party; and
- (iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or

(ad) if paragraph (ac) does not apply, the members of the group were endorsed by 2 registered political parties, and one of those parties is the Liberal Party or a State branch of the Liberal Party:

- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
 - (ii) in the case of the share applicable to a State branch of the Liberal Party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the Liberal Party; and
 - (iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or
- (ae) if the members of the group were endorsed by 2 registered political parties, only one of those parties is a designated federal party or a State branch of a designated federal party, and a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the members of the group stood for election:
- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
 - (ii) in the case of the share applicable to a State branch of the designated federal party in accordance with that agreement or determination, as the case may be—pay the applicable federal percentage of the share to the agent of the designated federal party and the applicable State percentage of the share to the agent of the State branch of the designated federal party; and
 - (iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or
- (af) if paragraph (ae) does not apply, the members of the group were endorsed by 2 registered political parties, and only one of those parties is a designated federal party or a State branch of a designated federal party:
- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
 - (ii) in the case of the share applicable to a State branch of the designated federal party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the designated federal party; and
 - (iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or

- (b) if paragraphs (ac), (ad), (ae) and (af) do not apply and the members of the group were endorsed by 2 registered political parties:
 - (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organized on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
 - (ii) pay to each of those agents the share applicable to the agent in accordance with that agreement or that determination, as the case may be.
- (5) An agreement referred to in subparagraph (4)(ac)(i), (ad)(i), (ae)(i), (af)(i) or (b)(i) does not have effect unless a copy of the agreement signed by the agents referred to in that subparagraph is lodged with the Electoral Commission before the 20th day after the polling day in the election.
- (5A) A notice may be lodged with the Electoral Commission for the purposes of this section requesting that payments that would otherwise be made to the agent of a party specified in the notice are to be paid instead to the agent of another party specified in the notice. In this subsection, **party** means a registered political party or a State branch of a registered political party.
- (5B) A notice under subsection (5A):
 - (a) must be signed by the agent of each of the parties specified in the notice; and
 - (b) can only be withdrawn by a notice lodged with the Electoral Commission and signed by the agent of each of those parties.
- (5C) If a notice is lodged under subsection (5A), payments under this section must be made in accordance with the notice for any election for which the polling day is:
 - (a) after the day on which the notice was lodged; and
 - (b) before the day (if any) on which the notice is withdrawn.
- (5D) Where the Electoral Commission is required to make a payment under this section in respect of an entitlement:
 - (a) at least 95% of the entitlement (calculated on the basis of the votes counted as at the 20th day after the polling day in the election) must be paid as soon as possible after that 20th day; and
 - (b) any balance must be paid as soon as possible after the amount of the full entitlement is known.
- (5E) The agent of the Liberal Party may, before the polling day for an election, give the Electoral Commission a written notice determining that, for the purposes of the application of this section to the election:
 - (a) a specified percentage is the federal percentage applicable to a specified State branch of the Liberal Party; and
 - (b) a specified percentage is the State percentage applicable to a specified State branch of the Liberal Party.

- (5F) For the purposes of subsection (5E), the sum of:
- (a) the federal percentage applicable to a particular State branch of the Liberal Party; and
 - (b) the State percentage applicable to the State branch of the Liberal Party;
- must be 100%.
- (5G) A notice under subsection (5E) has effect accordingly.
- (5H) The registered officer of a designated federal party may, before the polling day for an election, give the Electoral Commission a written notice determining that, for the purposes of the application of this section to the election:
- (a) a specified percentage is the federal percentage applicable to a specified State branch of the party; and
 - (b) a specified percentage is the State percentage applicable to a specified State branch of the party.
- (5J) For the purposes of subsection (5H), the sum of:
- (a) the federal percentage applicable to a particular State branch of a designated federal party; and
 - (b) the State percentage applicable to the State branch of the party;
- must be 100%.
- (5K) A notice under subsection (5H) has effect accordingly.
- (6) Where a payment is made under this Division and the recipient is not entitled to receive the whole or a part of the amount paid, that amount or that part of that amount may be recovered by the Commonwealth as a debt due to the Commonwealth by action against the person in a court of competent jurisdiction.

299A Method of making payments

Payment by direct credit or by cheque

- (1) If the Electoral Commission is required to pay an amount under section 299 to the agent or principal agent of a party, the Electoral Commission must pay the amount:
- (a) if the party has nominated a bank account for the purposes of this section—to the credit of that account; or
 - (b) otherwise—by cheque payable to the party.

Nominated bank account

- (2) A bank account nominated by a party for the purposes of this section must satisfy the following conditions:
- (a) the account must be maintained by the party;
 - (b) the account must be with a bank;
 - (c) the account must be kept in Australia;

- (d) the account name must consist of, or include:
 - (i) if the account is maintained by a registered political party—the name of the party as it appears in the Register of Political Parties; or
 - (ii) if the account is held by a State branch of a political party, and the branch is not a registered political party—the name of the State branch.

Name on cheque

- (3) For the purposes of this section, a cheque is taken not to be payable to a party unless:
 - (a) if the party is a registered political party—the cheque is made out:
 - (i) if a determination under subsection (4) is in force in relation to the name of the party—in the special abbreviation of the name of the party; or
 - (ii) otherwise—in the name of the party, being the name as it appears in the Register of Political Parties; or
 - (b) if the party is a State branch of a political party, and the branch is not a registered political party—the cheque is made out:
 - (i) if a determination under subsection (4) is in force in relation to the name of the State branch—in the special abbreviation of the name of the State branch; or
 - (ii) otherwise—in the name of the State branch.

Abbreviation of party names

- (4) The Electoral Commission may, by notice published in the *Gazette*, determine that a specified abbreviation of the name of a party is a **special abbreviation** of the name of the party for the purposes of this section.
- (5) The Electoral Commission must publish a copy of a notice under subsection (4) on the internet.
- (6) Before making a determination under subsection (4) in relation to a party, the Electoral Commission must consult the party.
- (7) To avoid doubt, if a cheque under this section is made out in the special abbreviation of the name of a party, the cheque is as valid as it would have been if it had been made out in the name of the party.

Dispatch of cheques

- (8) To avoid doubt, if a cheque under this section is payable to a party, this section does not prevent the Electoral Commission from dispatching the cheque to the agent or principal agent of the party.

Definitions

- (9) In this section:

bank means a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*.

party means a registered political party or a State branch of a registered political party.

Part XX Division 4—Disclosure of donations

304 Disclosure of gifts

- (2) The agent of each person (including a member of a group) who was a candidate in an election or byelection shall, within 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift, received by the person during the disclosure period for the election.
- (3) Subject to subsection (3A), the agent of each group shall, within 15 weeks after the polling day in the election in relation to which the members of the group had their names grouped in the ballot papers, furnish to the Electoral Commission a return, in an approved form, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift, received by the group during the disclosure period for the election.
- (3A) In the case of a group all of whose members were endorsed by the same registered political party, a gift received by the group shall be taken to have been received:
 - (a) if the party has 2 or more State branches—by the relevant State branch of the party; and
 - (b) in any other case—by the party.
- (4) For the purposes of this section, a reference to the relevant details, in relation to a gift, shall be read as a reference to the amount or value of the gift, the date on which the gift was made and:
 - (a) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association;
 - (b) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
 - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and
 - (c) in any other case—the name and address of the person who made the gift.
- (5) Notwithstanding subsections (2) and (3), the agent of a candidate or group is not required, in a return under subsection (2) or (3), as the case may be, to set out the relevant details of a gift if:
 - (b) in the case of a gift made to a candidate (including a member of a group):
 - (i) the gift was made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election or a byelection; or
 - (ii) the amount or value of the gift is \$10,000 or less; or

- (c) in the case of a gift made to a group—the amount or value of the gift is \$10,000 or less.

Note: The dollar amounts mentioned in this subsection are indexed under section 321A.

- (6) Subparagraph (5)(b)(ii) or paragraph (5)(c) does not apply in relation to a return under subsection (2) or (3), as the case may be, in relation to a gift made by a person if:
 - (b) in the case of a gift made to a candidate (including a member of a group)—the sum of the amount or value of that gift and of all other gifts (not being gifts of the kind referred to in subparagraph (5)(b)(i)) made by that person to that candidate during the period to which the return relates exceeds \$10,000; or
 - (c) in the case of a gift made to a group—the sum of the amount or value of that gift and of all other gifts made by that person to that group during the period to which the return relates exceeds \$10,000.

Note: The dollar amounts mentioned in this subsection are indexed under section 321A.

- (8) Notwithstanding subsection (2), the agent of a person is not required, in a return under subsection (2), to set out the total amount or value of, or the number of persons who made, gifts of the kind referred to in subparagraph (5)(b)(i).

305A Gifts to candidates etc.

- (1) A person must provide a return in accordance with this section if:
 - (a) the person makes a gift or gifts, during the disclosure period in relation to an election, to any candidate in the election or a member of a group; and
 - (b) the total amount or value of the gift or gifts was:
 - (i) equal to or more than the amount prescribed for the purposes of this paragraph; or
 - (ii) if no amount is prescribed—more than \$10,000; and
 - (c) at the time the person makes the gift or gifts the person is not:
 - (i) a registered political party; or
 - (ii) a State branch of a registered political party; or
 - (iii) an associated entity; or
 - (iv) a candidate in an election; or
 - (v) a member of a group.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.

- (1A) A person must provide a return in accordance with this section if:
 - (a) the person makes a gift or gifts, during the disclosure period in relation to an election, to any person or body (whether incorporated or not) specified, by legislative instrument, by the Electoral Commission; and
 - (b) the total amount or value of the gift or gifts was:
 - (i) equal to or more than the amount prescribed for the purposes of this paragraph; or
 - (ii) if no amount is prescribed—more than \$10,000; and

- (c) at the time the person makes the gift or gifts the person is not:
 - (i) a registered political party; or
 - (ii) a State branch of a registered political party; or
 - (iii) an associated entity; or
 - (iv) a candidate in an election; or
 - (v) a member of a group.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.

- (2) The person must provide to the Electoral Commission a return setting out the required details of:
 - (a) all gifts covered by subsections (1) and (1A) made during the disclosure period; and
 - (b) all gifts of more than \$10,000, received by the person at any time, that the person used during the period (either wholly or partly):
 - (i) to enable the person to make the gifts mentioned in paragraph (a); or
 - (ii) to reimburse the person for making such gifts.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.

- (2A) For the purposes of subsection (2), 2 or more gifts made, during the disclosure period in relation to an election, by the same person to another person are taken to be one gift.
- (3) The return must:
 - (a) be provided to the Electoral Commission before the end of 15 weeks after the polling day for the election; and
 - (b) be in the approved form.
- (4) For the purposes of this section, the required details of a gift are its amount or value, the date on which it was made and:
 - (a) if the gift was made to an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the gift was purportedly made to a trust fund or paid into the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.
- (5) This section does not apply to a gift made before 1 July 1992.

Part XX Division 5—Disclosure of electoral expenditure

309 Returns of electoral expenditure

- (1) This section does not apply to electoral expenditure incurred by or with the authority of a registered political party or a State branch of a registered political party.
- (1A) Where electoral expenditure in relation to an election is incurred by or with the authority of members of a group all the members of which are endorsed by the same registered political party, this section applies as if the expenditure had been incurred by or with the authority of:
 - (a) if the party has 2 or more State branches—the relevant State branch of the party; and
 - (b) in any other case—the party.
- (2) The agent of each person who was a candidate in an election (not being a member of a group) shall, before the expiration of 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out details of all electoral expenditure in relation to the election incurred by or with the authority of the candidate.
- (3) The agent of each group shall, before the expiration of 15 weeks after the polling day in an election in relation to which the members of the group have their names grouped in the ballot papers, furnish to the Electoral Commission a return, in an approved form, setting out details of all electoral expenditure in relation to the election incurred by or with the authority of members of the group.

Part XX Division 6—Miscellaneous

316 Investigation etc.

- (1) In this section:

authorised officer means a person authorised by the Electoral Commission under subsection (2).

prescribed person means a person whose name is included in a list in a report mentioned in subsection 17(2A).
- (2) The Electoral Commission may, by instrument in writing signed by the Electoral Commissioner on behalf of the Electoral Commission, authorize a person or a person included in a class of persons to perform duties under this section.
- (2A) An authorised officer may, for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:
 - (a) the agent or any officer of the political party; or
 - (aa) the financial controller of the associated entity or any officer of the associated entity; or
 - (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers;as the case may be, require the agent, financial controller, person or officer:

- (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
 - (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.
- (2B) If a notice under paragraph (2A)(a) requires an officer of a political party (other than the agent) to appear before an authorised officer under paragraph (2A)(d), then the agent of the political party is entitled:
- (a) to attend at the proceeding under paragraph (2A)(d); or
 - (b) to nominate another person in writing to attend on behalf of the agent.
- (2C) Failure of the agent or nominee to attend under subsection (2B) does not affect the powers of the authorised officer to conduct the proceeding under paragraph (2A)(d).
- (2D) Where a body corporate, unincorporated body or individual has made a gift or disposition of property of \$25,000 or more to a registered political party or candidate, an authorised officer must conduct an investigation of that gift or disposition of property in accordance with this section.
- (3) Where an authorized officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence relating to a contravention, or possible contravention, of section 315, or relating to matters that are set out in, or are required to be set out in, a claim or return under this Part, the authorized officer may, by notice served personally or by post on that person, require that person:
- (a) to produce, within the period and in the manner specified in the notice, such documents or other things as are referred to in the notice; or
 - (b) to appear, at a time and place specified in the notice, before the authorized officer to give evidence, either orally or in writing, and to produce such documents or other things as are referred to in the notice.
- (3A) If:
- (a) an authorised officer has reasonable grounds to believe that a person is capable of producing documents or other things, or giving evidence, relating to whether an entity is, or was at a particular time, an associated entity; and
 - (b) the person is, or has at any time been, the financial controller or an officer of the entity;
- the authorised officer may, by notice served personally or by post on the person, require the person:
- (c) to produce, within the period and in the manner specified in the notice, such documents or other things as are specified in the notice; or
 - (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, whether orally or in writing, and to produce the documents or other things specified in the notice.

The notice must not require the person to produce documents, or to appear, until after the end of the period of 14 days beginning on the day on which the notice was received, and must set out the person's right to request a review under subsection (3B).

- (3B) A person who is given a notice under subsection (3A) may request that the Electoral Commission review the decision to issue the notice. The request must be:
- (a) in writing; and
 - (b) given to the Electoral Commission during the period of 14 days beginning on the day on which the notice was received.
- (3C) The Electoral Commission must:
- (a) review the decision as soon as practicable after receiving a request under subsection (3B); and
 - (b) affirm, vary or set aside the decision; and
 - (c) notify the person in writing of its decision on the review.
- (3D) If a person requests a review of a decision, the person is not taken to have refused or failed to comply with the notice to which the review relates at any time before the Electoral Commission has notified the person of its decision on the review.
- (4) An authorized officer may require any evidence that is to be given to him or her in compliance with a notice under subsection (2A), (3) or (3A) to be given on oath or affirmation and for that purpose the authorized officer may administer an oath or affirmation.
- (5) A person is guilty of an offence if the person refuses to comply with a notice under subsection (2A), (3) or (3A) to the extent that the person is capable of complying with the notice.
- Penalty: \$1,000.
- (5A) A person is guilty of an offence if the person fails to comply with a notice under subsection (2A), (3) or (3A) to the extent that the person is capable of complying with the notice.
- Penalty: \$1,000.
- (5B) Strict liability applies to an offence against subsection (5A).
- Note: For **strict liability**, see section 6.1 of the *Criminal Code*.
- (5C) Subsection (5) or (5A) does not apply if the person has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (5C) (see subsection 13.3(3) of the *Criminal Code*).
- (6) A person shall not, in purported compliance with a notice under subsection (2A), (3) or (3A), give evidence that is, to the knowledge of the person, false or misleading in a material particular.
- Penalty: \$1,000 or imprisonment for 6 months, or both.
- (7) Where:
- (a) an authorized officer has reasonable grounds for suspecting that there may be, at any time within the next following 24 hours, upon any land or upon or in any premises, vessel, aircraft or vehicle, a document or other thing that may afford evidence relating to a contravention of section 315; and
 - (b) the authorized officer has reasonable grounds to believe that, if a notice under this section were issued for the production of the document or other thing, the document or other thing might be concealed, lost, mutilated or destroyed;

the authorized officer may make an application to a magistrate for the issue of a warrant under subsection (8).

- (8) Subject to subsection (9), where an application under subsection (7) is made by an authorized officer to a magistrate, the magistrate may issue a warrant authorizing the authorized officer or any other person named in the warrant, with such assistance as the officer or person thinks necessary and if necessary by force:
 - (a) to enter upon the land or upon or into the premises, vessel, aircraft or vehicle;
 - (b) to search the land, premises, vessel, aircraft or vehicle for documents or other things that may afford evidence relating to a contravention of section 315, being documents or other things of a kind described in the warrant; and
 - (c) to seize any documents or other things of the kind referred to in paragraph (b).
- (9) A magistrate shall not issue a warrant under subsection (8) unless:
 - (a) an affidavit has been furnished to the magistrate setting out the grounds on which the issue of the warrant is being sought;
 - (b) the authorized officer applying for the warrant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
 - (c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (10) Where a magistrate issues a warrant under subsection (8), the magistrate shall state on the affidavit furnished in accordance with subsection (9) which of the grounds specified in that affidavit he or she has relied on to justify the issue of the warrant and particulars of any other grounds so relied on.
- (11) A warrant issued under subsection (8) shall:
 - (a) include a statement of the purpose for which the warrant is issued, which shall include a reference to the contravention of section 315 in relation to which the warrant is issued;
 - (b) state whether entry is authorized to be made at any time of the day or night or during specified hours of the day or night;
 - (c) include a description of the kind of documents or other things authorized to be seized; and
 - (d) specify a date, not being later than one month after the date of issue of the warrant, upon which the warrant ceases to have effect.
- (12) Where a document or other thing is seized by a person pursuant to a warrant issued under subsection (8):
 - (a) the person may retain the document or other thing so long as is reasonably necessary for the purposes of the investigation to which the document or other thing is relevant; and
 - (b) when the retention of the document or other thing by the person ceases to be reasonably necessary for those purposes, the person shall cause the document or other thing to be delivered to the person who appears to the firstmentioned person to be entitled to possession of the document or other thing.