

September 2019

# Compliance Review Report

**Australian Labor Party (Tasmanian Branch)**

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## Purpose of this report

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Pursuant to s 316(2A) of the *Commonwealth Electoral Act 1918* (the Electoral Act), this report provides the party agent of the Australian Labor Party (Tasmanian Branch) (the party) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2017–18 annual disclosure return lodged on behalf of the party with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act.

## Disclosure obligations

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Registered political parties and associated entities are required under Part XX of the Electoral Act to furnish returns.

Section 314AB of the Electoral Act requires the party agent of a registered political party to furnish a return within 16 weeks after the end of each financial year, disclosing:

- the total amount received by, or on behalf of, the party, during the financial year, together with the details specified by s 314AC of the Electoral Act;
- the total amount paid by, or on behalf of, the party, during the financial year; and
- the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of, the party, together with the details specified by s 314AE of the Electoral Act.

Section 314AC of the Electoral Act provides that if the sum of all amounts received by, or on behalf of, the party from a person or organisation during a financial year is more than the threshold amount specified therein, the annual disclosure return must include the particulars of that sum.

Section 314AE of the Electoral Act provides that if the sum of all outstanding debts incurred by, or on behalf of, the party to a person or an organisation during a financial year is more than the threshold amount specified therein, the annual disclosure return must include the particulars of that sum.

For the 2017–18 financial year, the threshold was for sums in excess of \$13,500.

The Electoral Act is available in full [here](#).

## Conduct of the review

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The authorised officer of the AEC has authority under s 316(2A) to require the production of documents and giving of evidence for the purpose of assessing compliance with the disclosure obligations required of registered political parties and associated entities under Part XX of the Electoral Act.

Subsection 316(2A) requires the party agent of a registered political party to produce the documents or other things referred to in a notice served by the authorised officer within the period and in the

manner specified in the notice or to appear, at the 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.

As part of this process, the authorised officer of the AEC served a notice on the party agent under s 316(2A) requiring the party to provide its financial records and other documents in relation to its financial operations for 2017–18.

## Scope of the review

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The records which were requested by the AEC from the party were limited to those which enabled the AEC to assess the following aspects of compliance with its disclosure obligations under Part XX of the Electoral Act:

- the timeliness of lodgement of the annual disclosure return
- the completeness and accuracy of the following information disclosed in the party's annual disclosure return (as amended on 29 January 2019) for the 2017–18 financial year:
  - total gifts in kind
  - individual receipts above \$13,500
  - individual debts above \$13,500
- the completeness and accuracy of the information listed above as disclosed by the party on behalf of the following 10 party units:

1.	Justine Key (House of Representatives)	6.	North Hobart Branch (Clark)
2.	Huon Branch (Franklin)	7.	Wapping Telegraph Branch (Clark)
3.	Julie Collins (House of Representatives)	8.	Kingborough Branch (Franklin)
4.	Derwent Valley Branch (Lyons)	9.	Tamar Branch (Bass)
5.	West Coast Branch (Braddon)	10.	Ross Hart (House of Representatives)

The AEC did not examine other aspects of the financial operations of the party such as the existence or effectiveness of internal controls.

# Stakeholder engagement

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The AEC's general practice is to communicate with the relevant officer of the party by phone, email and/or face to face meetings as appropriate to cover the following topics:

- financial reports and documentation available from the party's accounting system
- compliance issues arising from the AEC review of the financial reports and documentation provided by the party
- required and suggested amendments to the annual disclosure return which arise from the compliance review
- potential enhancements in the party's understanding of disclosure obligations and accounting processes to improve future compliance.

A draft compliance review report was issued by the authorised officer of the AEC on 4 September 2019. The entity was provided with an opportunity to comment on the draft report by 17 September 2019. On 9 September 2019 the entity advised they had no comments.

## Review outcomes

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### 1. Timely lodgement

Subsection 314AB(1) of the Electoral Act requires the party agent of the registered political party to lodge an annual disclosure return with the AEC within 16 weeks after the end of the financial year. For the 2017-18 financial year, the due date was Saturday 20 October 2018. As lodgement occurred on Monday 22 October 2018, the first working day after the due date, the party complied with the requirement under s 314AB(1) to lodge a return for a registered political party within 16 weeks after the end of the financial year.

### 2. Accuracy in reporting – amendments

After examining the documents provided by the party for review, the authorised officer of the AEC identified several issues relating to compliance with disclosure obligations under sections 314AB and 314AC of the Electoral Act. The issues are discussed in detail below.

#### Gifts-in-kind

Paragraph 314AB(2)(a) of the Electoral Act requires the party agent to report the total amount received by, or on behalf of, the party during the financial year. The total amount received must also include the value of a *gift* (donation), loan or bequest in accordance with the definition at s 314AA.

Section 287 of the Electoral Act defines *gift* as being:

“any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money’s worth or with inadequate consideration and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration...”.

Therefore, goods or services provided free of charge or at less than commercial rates constitute a gift that must be disclosed as a receipt by the party.

Total reportable gifts-in-kind received by the party were under-stated in the party's 2017–18 annual disclosure return (see also section 3 of this report). The relevant amendment is set out below.

<b>Part 1b: Total Gifts in kind – amendment</b>	
Total disclosed in return (as amended 29 January 2019)	\$153,015
Amended total	\$154,410

### Amounts of more than \$13,500 received

Section 314AC of the Electoral Act provides that if the sum of all amounts received by, or on behalf of, the party from a person or organisation during a financial year is more than the threshold, the annual disclosure return must include the particulars of that sum. Furthermore, that sum is to include only those individual amounts which exceed the threshold.

The review found that the party disclosed in receipts above the threshold certain amounts that were not required to be disclosed under the Electoral Act. No amendment is being recommended for this over-disclosure.

## 3. Accuracy in reporting – party units

After examining the documents provided by the party for the review, the authorised officer of the AEC identified one issue relating to compliance with disclosure obligations under section 314AB(2)(a). Gifts-in-kind totalling \$1,395 was disclosed by a party unit in the AEC party unit compliance review questionnaire that was not included in the total gifts-in-kind reported at Part 2 of the party’s 2017-18 disclosure return. The relevant amendment to the disclosure return is provided at section 2 of this report.

## Matters requiring future action

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It is recommended the party ensures the accuracy of future annual disclosure returns and therefore improve compliance with Part XX of the Electoral Act by ensuring all party units disclose to the party any gifts-in-kind received during the financial year.

## Conclusion

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The authorised officer of the AEC for the purposes of s 316(2) of the Electoral Act has assessed whether the 2017–18 annual disclosure return for the party lodged with the AEC on 22 October 2018 complied with the requirement under s 314AB(1) of the Electoral Act to lodge a return for a registered political party within 16 weeks after the end of the financial year. However, in view of the discrepancy identified, the return did not comply with the provisions of sections 314AB(2)(a) of the Electoral Act.

In view of the lodgement by the party agent on 13 September 2019, of an amendment to the party's 2017–18 annual disclosure return, the authorised officer of the AEC has assessed that the disclosure return (as amended) accurately includes the information required to be disclosed under the provisions of sections 314AB(2)(a) of the Electoral Act.