

# Financial Disclosure Guide for Election Donors

*2020 Eden-Monaro by-election*



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# Introduction

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The Commonwealth funding and disclosure scheme (the disclosure scheme) established under Part XX of the *Commonwealth Electoral Act 1918* (the Electoral Act) deals with the public funding of Federal Election campaigns and the disclosure of detailed financial information.

The disclosure scheme was introduced to increase overall transparency and inform the public about the financial dealings of political parties, candidates and others involved in the electoral process.

The disclosure scheme requires candidates, federally registered political parties, their state branches and local branches/sub-party units (referred to collectively as political parties in this guide), their associated entities, donors and other participants in the electoral process to lodge annual or election period financial disclosure returns with the Australian Electoral Commission (AEC).

The disclosure returns are then published on the [AEC website](#).

## The Guide

This version of the Financial Disclosure Guide for Election Donors (Guide for Election Donors) applies to returns for the 2020 Eden-Monaro by-election.

**Please note:** while information relating to Senate Group disclosure returns is included in this guide, it is not relevant in relation to the 2020 Eden-Monaro by-election.

The AEC releases a series of publications designed to assist political parties, candidates, donors and other persons that may have financial disclosure obligations under the Electoral Act. These publications are:

- Financial Disclosure Guide for Political Parties
- Financial Disclosure Guide for Political Campaigners
- Financial Disclosure Guide for Associated Entities
- Financial Disclosure Guide for Donors to Political Parties and Political Campaigners
- Financial Disclosure Guide for Third Parties
- Financial Disclosure Guide for Candidates and Senate Groups.

The Guide for Election Donors is designed to assist election donors understand their financial disclosure obligations under Part XX of the Electoral Act.

The Guide for Election Donors provides information derived from the Electoral Act as well as from the experiences of the AEC in the administration of the disclosure scheme. While it is intended to be a user-friendly guide to the Commonwealth funding and disclosure requirements it does not address the whole of the Electoral Act. Accordingly, the Guide for

Election Donors should not be used as a substitute for specific legal advice on detailed disclosure or compliance issues.

Users are urged to read and familiarise themselves with the relevant parts of the Electoral Act and to seek their own independent advice where necessary.

Additional information and advice on the disclosure scheme is available from the AEC. The AEC's contact details are listed at the front of this guide.

The Electoral Act and all guides published by the AEC are available at [www.aec.gov.au](http://www.aec.gov.au). The annual and election returns are also available for viewing on this site after the public release date. A searchable database is also provided which allows data to be exported.

The guide incorporates text boxes to highlight important information. Each text box is prefaced with a symbol. For example:

	A warning symbol indicates information relating to a legal obligation under the Electoral Act.
	An information symbol indicates a useful tip.
	A timing symbol indicates a due date.

# Election disclosure

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Part XX, Division 4 of the Electoral Act relates to disclosure of donations. However, the actual legislative provisions within Division 4 refer to gifts and 'gift' is defined in section 287(1) of the Electoral Act. In this guide when the word 'donation' appears it has the same meaning as gift as defined in section 287(1).

## Responsibility for lodging returns

Responsibility for lodging returns lies with the person or organisation that made donations to a candidate or member of a Senate group (referred to as a candidate in this guide). Where the donor is an organisation, someone with suitable authority should sign the return, such as the CEO or chief financial officer.

## The financial disclosure obligation under the Electoral Act

Section 305A of the Electoral Act governs the lodgement of election disclosures by donors. Section 305A provides that:

- (1) A person or entity must provide a return in accordance with this section if:
  - (a) the person or entity makes a gift or gifts to any candidate or member of a group in an election or by-election; 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 the disclosure threshold; and
  - (c) at the time the person or entity makes the gift or gifts, the person or entity is not a political entity or an associated entity.
- (3) The return must:
  - (a) be provided to the Electoral Commission **before the end of 15 weeks after the polling day** for the election or by-election; and
  - (b) be in the approved form.

In determining whether the threshold for disclosure has been reached, it is important to note that section 287(6) deems body corporates related under the provisions of the *Corporations Act 2001* to be a single entity, so donations must be aggregated across the group and then disclosed on a single return in the name of the parent corporation.

The Election Donor Return requires disclosure of the following information:

- donations made
- donations received.

A person or organisation that makes a donation, in excess of the disclosure threshold, to a political party or an endorsed candidate's campaign committee, rather than to a candidate, is required to lodge a Donor to Political Party and Political Campaigner Disclosure Return—Individuals/Organisations. In such instances please refer to the Financial Disclosure Guide

for Donors to Political Parties and Political Campaigners, which is [available on the AEC website](#).

The AEC contacts the people and organisations identified as 'Donors' on Candidate and Senate Group Returns to advise them of their financial disclosure obligations under the Electoral Act. However, this does not absolve donors who are not contacted from completing and lodging returns by the due date.



The disclosure threshold for the 2020 Eden-Monaro by-election is for amounts of more than **\$14,000**. This figure is indexed annually.



Please note that a number of state and territory jurisdictions have their own disclosure schemes, which are separate to the Commonwealth disclosure scheme.

## Due date for lodging returns



Completed Election Donor Returns must reach the AEC **no later than 15 weeks after polling day**.

Election Donor Returns relating to the 2020 Eden-Monaro by-election held on 4 July 2020 are **due by 19 October 2020**.

**The AEC has no legislative discretion to extend this deadline.**

## Lodging the return – eReturns Portal

The [eReturns portal](#) allows election donors to fulfil their obligations under Part XX of the Electoral Act. This is the easiest way to lodge your return accurately and on time. It is quick, secure, and environmentally friendly and allows importing/exporting of files which eliminates transcription errors.

To use the eReturns portal you need an account with a unique username and password. New donors will have a username and password sent to them with their obligation letter.

For more information about lodging a return online using eReturns please refer to the [eReturns Quick Reference Guides](#), available on the AEC website.

## Penalties

The Electoral Act imposes civil penalties and in some cases criminal penalties if a person or entity contravenes the requirements of the Electoral Act. The AEC provides support, including this guide, to assist donors to comply with their disclosure obligations.

The AEC deals with non-compliance as appropriate to the circumstances, including possible legal action. Refer to [Appendix 2](#) of this guide for information relating to offences under the Electoral Act.

## Important Information

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### Definition of a donation

A donation has the same meaning as a gift under the Electoral Act. A gift is defined as any disposition of property made by a person to another person, 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, but does not include:

- (a) a payment under Division 3; or
- (b) an annual subscription paid to a political party, to a State branch of a political party or to a division of a State branch of a political party by a person in respect of the person's membership of the party, branch or division; or
- (c) any visit, experience or activity provided for the purposes of a political exchange program.

A gift also includes a 'gift-in-kind' such as the provision of a service (other than volunteer labour) for no consideration (see **Part 1** for examples).



Section [287\(1\)](#) of the Electoral Act provides the meaning of a gift.

## Foreign donations

Candidates and Senate groups are restricted:

- from receiving gifts of \$100 or more where:
  - the recipient knows the donor is a foreign donor; and

- the recipient knows that the foreign donor intends the gift to be used to incur electoral expenditure, or for the dominant purpose of creating or communicating electoral matter and
- from receiving gifts of \$1,000 to the disclosure threshold without obtaining a written affirmation that the donor is not a foreign donor; and
- from receiving gifts equal to or above the disclosure threshold without obtaining written affirmation and appropriate information to establish that the donor is not a foreign donor.

A foreign donor is a person or entity who does not have a connection with Australia, such as a person who is not an Australian citizen or an entity that does not have significant business presence in Australia. The [Factsheet on Foreign Donations](#) available on the AEC website contains further information.

	<p>Section <a href="#">287AA</a> of the Electoral Act provides the meaning of a foreign donor.</p> <p>Sections <a href="#">302D</a> and <a href="#">302F</a> of the Electoral Act place restrictions on candidates, Senate groups and registered political parties from receiving gifts from foreign donors.</p>
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## Anti-avoidance provisions

The Electoral Act prevents schemes that are established to knowingly avoid foreign donations restrictions. The anti-avoidance provisions prohibit schemes for channelling foreign donations to political entities, political campaigners or third parties via a relevant person or entity (including associated entities).

It is an offence under section 302H to establish arrangements to avoid the foreign donations restrictions. The Electoral Commissioner can issue a written notice if:

- A relevant person or entity (alone or with others) enters into, begins to carry out or carries out a scheme
- There are reasonable grounds to conclude the relevant person did so for the sole or dominant purpose of avoiding foreign donation restrictions
- The scheme avoids the application of a foreign donation restriction, and
- The scheme involved donation splitting, conduit corporations or any other unspecified avoidance scheme.

A person or entity who commits an offence may be subject to civil or criminal penalties.

	<p>Section <a href="#">302H</a> of the Electoral Act prohibits anti-avoidance arrangements for donations.</p>
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# The return

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## Part 1: Donations made

	<p>Section 305A(2) of the Electoral Act requires that:</p> <p>where a person makes <b>donation/s</b>, to any candidate during the disclosure period; and the total amount or value of the donation/s was more than the disclosure threshold; and at the time the person made the donation/s the person was not:</p> <ul style="list-style-type: none"><li>▪ a registered political party; or</li><li>▪ a State branch of a registered political party; or</li><li>▪ an associated entity; or</li><li>▪ a candidate in an election; or</li><li>▪ a member of a Senate group</li></ul> <p>each donation/s made must be disclosed.</p>
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Where an individual makes donations to a candidate, the disclosure threshold applies to the **total of all donations made**. That is, where the total of all donations made to a candidate is more than the disclosure threshold, all donations made to that candidate, regardless of their value, must be disclosed in the 'donations made' part of the return.

For example – keeping in mind the disclosure threshold is for donations totalling more than \$14,000:

- A person makes three separate donations of \$5,000 to the same candidate on different days. The total amount of the donations made to that candidate is \$15,000. Even though the individual donations made are below the disclosure threshold, the person is required to disclose details of each individual donation made to that candidate.

Where a person or organisation is required to disclose 'donations made' in an Election Donor Return, the following details must be disclosed:

- full name and address of the candidate to whom the donation was made to
- the date each donation was made
- the value or amount of each donation.

Donations made include, but are not limited to the following:

- donations of money
- gifts-in-kind of services or goods.

In the case of donations made to an unincorporated association (other than a registered industrial organisation), where the unincorporated association is being used as a vehicle for a candidate in an election to receive donations, the name of the candidate, the name of the association and the name and address of each member of the executive committee of the association must be disclosed.

In the case of donations made to a trust or foundation, where the trust or foundation is being used as a vehicle for a candidate in an election to receive donations, the name of the candidate, the title and description of the trust or foundation and the names and addresses of the trustees must be disclosed.

In the case of donations made to a person or organisation, where the person or organisation is receiving donations on behalf of a candidate, the name of the candidate and the name and address of the person or organisation to whom the donation was made must be disclosed.

Following are examples of donations that are required to be included in 'donations made' at Part 1 of the Election Donor Return (for each example it is assumed that the disclosure threshold requirement in relation to the respective candidate has been met):

- Two separate donations made to a candidate on different days. One amount is \$9,500 and the other is \$35,000. Both the \$9,500 and \$35,000 amounts are included, because while the donation of \$9,500 is below the disclosure threshold, together these donations total above the disclosure threshold.
- A gift of \$5,000 cash, where the gift was made for the benefit of a candidate in relation to an election and not a registered political party or Senate group (see further detail in section below titled 'Donations to campaign committees').
- A donation of \$14,000 cash, where the donation was made for the benefit of a member of a Senate group in relation to an election (as distinct for the benefit of the Senate group).
- A donation of \$5,000 made to a candidate's family trust, where the donation was made for the benefit of a candidate in relation to an election.
- A gift of \$2,000 made to a person where the person is acting on the candidate's behalf or with their authority, and the gift is for the benefit of the candidate in relation to an election and not a registered political party or Senate group.
- A donation of printing of stationery that if purchased commercially would have been priced at \$350. This would include the production of leaflets using a home computer.

**Gifts-in-kind** may be goods or services received for which no payment (in cash or in kind) or inadequate consideration is made. Inadequate consideration is where the **benefits obtained** are clearly of a lesser value than the payment made. Inadequate consideration includes discounts provided that are over and above those that would be offered under normal commercial arrangements.

These gifts are to be disclosed for an amount that reflects the fair value. That is, the normal commercial or sale value of the item or service as evidenced by arms-length transaction or comparative quotations or expert assessment.

Examples of gifts-in-kind include:

- free/discounted services such as legal advice, accounting services or web and IT services
- wages or salaries (including on-costs) incurred by an employer whose employee works for the party during normal working hours while continuing to receive salary or wages from the employer (but not if the employee takes paid leave to work for the party)
- free/discounted use of premises or equipment and facilities
- free use of a motor vehicle, or free fuel or servicing of a motor vehicle
- free/discounted time or production services by a broadcaster (except time provided by the ABC or SBS specifically for political broadcasting)
- free/discounted advertising by a publisher or advertising production service
- free air travel or the free use of a private aircraft
- loans provided interest free, or at rates that are less than those available in the commercial loan market
- free/discounted printing, typesetting or associated services
- free/discounted goods or services (for example, travel, artwork, sports memorabilia or electrical goods) for use in raffles or other fundraising activities
- excessive payments received for goods, services or other benefits provided.

### Donations to campaign committees

A donation made to the campaign committee of a candidate who has been endorsed by a registered political party, is considered to be a donation to the registered political party and not to the candidate. Such donations should be disclosed on a Donor to Political Party and Political Campaigner Disclosure Return and **not** an Election Donor Return.

When making donations, donors should be clear who the donation is being made to. This will assist both the donor and the recipient of the donation to disclose the donations on the appropriate return.

### Donations to multiple candidates or members of Senate groups

Donations made to two or more candidates, including where they may have been endorsed by different political parties, are to be listed on the one return.

The following examples may assist in clarifying some common issues where multiple donations are concerned:

- A person made several donations totalling \$12,000 to one candidate (the first candidate), and two donations of \$8,000 each to another candidate (the second candidate). The donations made to the first candidate are not required to be disclosed as they total less than the disclosure threshold. However, the two donations made to

the second candidate are required to be disclosed as they total to more than the disclosure threshold.

- A person made a donation of \$15,000 directly to a candidate and a second donation of \$15,000 to a member of a Senate group. Both donations must be disclosed as each donation to the respective candidate is more than the disclosure threshold.

## Special Issues

### Attendance at election functions

The issue of whether a payment to attend a function constitutes a donation requiring disclosure under the disclosure scheme is not always clear.

As a guideline:

- If a person made a payment for attendance at an election function and they **did not** receive services or adequate services equal to the value of the payment, the payment is considered a donation, that is, the payment is required to be disclosed on the Election Donor Return.
- Payment for attendance at an election function, conference or luncheon for commercial reasons may not be considered a donation if the commercial value or benefit of attending **is equal to or exceeds** the amount paid.
- Payment for attendance at a function with the intention of contributing to a candidate or Senate group member's election campaign, (that is, where the function is primarily a fundraiser), or where the amount paid is **in excess** of the value of the function, is a donation and is required to be disclosed.

### Items that do not require disclosure

Items that do not need to be disclosed as donations include:

- personal donations to a candidate (including a member of a Senate group) which are not used wholly or in part to fund campaign expenditure
- commercial discounts provided in the normal course of business
- volunteer labour, such as persons handing out how-to-vote cards
- interviews and news items published in a newspaper or broadcast in the electronic media.

### Advertising

While donations of advertising must be disclosed, interviews granted in the normal course of political activity do not need to be disclosed.

Material presented on an 'advertorial' basis (that is, a combination of paid advertising and interviews) should be disclosed consistent with the promotional intention of the activity.

## Part 2: Donations received



Section 305A(2) of the Electoral Act requires that where a person receives a donation which is more than the disclosure threshold, and the person then uses that donation, **in whole or in part**, to make a donation or as a reimbursement for a donation made, during the disclosure period, to any candidate the donation **received** must be disclosed.

The 'donations received' part of the return applies to a donor:

- who is required to complete the 'donations made' part of the return, and
- who, at any time, received a donation of more than the disclosure threshold; **and**
- used that donation, or part of it, to make donations totalling more than the disclosure threshold to a candidate.

Cash donations, together with 'gifts-in-kind' received are required to be disclosed.

Where donations were made and were disclosed in Part 1 of the return, but no donations were received, Part 2 of the return should be marked 'nil'.

For **donations received** that meet the criteria for disclosure required by section 305A(2) the following details must be disclosed:

- full name and address details of the person or organisation from whom the donation was received
- the date each donation was received
- the value or amount of each donation.

### Period covered

Disclosure of donations received is not limited to those received during the current disclosure period. An election donor may have received the donation/s at any time and then used the donation/s to make donations in the disclosure period. This is in contrast to the 'donations made' part of the return, where only donations made within the disclosure period are required to be disclosed.

The following example may assist in clarifying the disclosure requirements when a person or organisation discloses donations made in the disclosure period having used donations that were received prior to the disclosure period to make those donations.

### Example:

On 30 June 2017 a donor receives a donation of \$15,000. On 31 January 2019, the same donor receives a donation of \$14,000.

On 1 June 2019, the donor made a donation of \$20,000 to the candidate. As the donor has made a donation that is more than the disclosure threshold, the donor is required to disclose the donation in the 'donations made' section of the return.

To make the \$20,000 donation the donor used the \$15,000 donation received on 30 June 2017 and part (\$5,000) of the \$14,000 donation received on 31 January 2019. As the donor has used donations that were received prior to the disclosure period to make a donation to a candidate in the current disclosure period, the donor is required to disclose each of the donations (\$15,000 and \$14,000) as 'donations received' in the return.

If in a subsequent disclosure period to the current disclosure period, the donor used the remaining part (\$9,000) of the \$14,000 donation received on 31 January 2019 to make a donation that is more than the disclosure threshold, the donor will be required to disclose the \$14,000 donation as a donation received in the subsequent disclosure period return. In this situation, to minimise confusion the donor can include an explanatory note on the return stating that the donation has previously been disclosed.

## Incomplete returns

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Where a donor is unable to obtain all the information required to fully complete the return, a Notice of Incomplete Return **must be completed** and lodged with the incomplete return.

Where it is necessary to submit a Notice of Incomplete Return:

- complete the donor return as fully as possible
- complete the Notice of Incomplete Return
- lodge the Notice of Incomplete Return and the incomplete return with the AEC at the same time.

**Note:** lodgement of a Notice of Incomplete Return does not relieve the donor of the responsibility of making reasonable efforts to obtain the information required to complete the return. The AEC may assess whether the lodgement of a Notice of Incomplete Return was used by an agent to avoid their responsibilities under the Electoral Act.



Section [318](#) of the Electoral Act provides for when a person who is required to furnish a return is unable to do so.

The Notice of Incomplete Return contains three parts:

Part 1 – requires the full details of the information believed to be missing from the return.

Part 2 – requires the:

- reason the particulars listed in Part 1 were unable to be obtained
- details of all attempts made to obtain the missing information.

Part 3 – requires:

- full name/s and address details of the person/s believed to possess the missing particulars
- reason why it is believed this person/s possesses the required information.

## Amending returns

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A request may be made to, or by the AEC seeking amendment of a return that has been lodged and subsequently found to be incomplete or incorrect.



Section [319A](#) of the Electoral Act provides for the amendment of returns.

If a donor considers they need to make an amendment to their Election Donor Return they should contact the Disclosure and Compliance section at [fad@aec.gov.au](mailto:fad@aec.gov.au).

# Administration

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## Date for public inspection of election returns

Election returns are made available for public inspection 24 weeks after polling day. For the 2020 Eden-Monaro by-election that date is **Monday 21 December 2020**.

Returns are available for inspection on the AEC's website at [www.aec.gov.au](http://www.aec.gov.au) and through public access terminals in AEC State Offices located in each state and territory and at the AEC's National Office in Canberra.

## Record Keeping

Donors like all other entities and organisations should keep adequate records.

Financial recording systems and procedures must be sufficient to enable the return, which will be publicly available, to be properly completed.

All transactions should be supported by source documents recording the details of individual transactions. Examples of source documents are could be:

- receipts
- tax invoices
- wages records
- bank deposit books and cheque butts
- bank account statements
- credit card statements.

## Retention of records

Relevant records, whether formal or informal, must be retained for a minimum of 5 years following the end of the reporting period.

A record must also be kept in accordance with any other requirements as determined by the Electoral Commissioner.

A person or entity who fails to comply with these requirements will be subject to civil penalties.



Section [317](#) of the Electoral Act provides for the retention of records.

# Offences

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Sections 315 and 316 of the Electoral Act contain penalty provisions for offences against the funding and disclosure provisions. Refer to [Appendix 2](#) for details of penalties.

The AEC aims to assist political and electoral participants to fulfil their obligations under the Electoral Act. Where there has been a breach of the Electoral Act, the AEC may pursue legal action.

# Appendix 1 – Glossary of terms

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<b>AEC</b>	Australian Electoral Commission
<b>Anti-avoidance scheme</b>	<p>Donation splitting: a foreign donor avoiding a disclosure threshold by giving multiple gifts below the disclosure threshold.</p> <p>Conduit corporations: a foreign donor forming or participating in the formation of a body corporate in Australia in order to channel gifts through an allowable donor.</p> <p>Unspecified avoidance scheme: facilitates a foreign donor making a prohibited gift, that is not donation splitting or a conduit corporation.</p>
<b>Campaign committee</b>	A campaign committee, in relation to a candidate or group, means a body of persons appointed or engaged to form a committee to assist the campaign of the candidate or group in an election.
<b>Disclosure threshold</b>	Detailed disclosure must be made of receipts totalling more than \$14,000 and debts totalling more than \$14,000 at 30 June 2020. This threshold is indexed annually.
<b>Discretionary benefits</b>	Grants, contracts, payments and other benefits requiring the exercise of discretion by the Commonwealth or State or Territory.
<b>Donor</b>	A person, organisation or other body other than a political party, an associated entity or a candidate in an electoral event who is under an obligation to furnish a disclosure return because they made a donation.
<b>Electoral Act</b>	<i>Commonwealth Electoral Act 1918</i>
<b>Electoral expenditure</b>	<p>Expenditure incurred for the dominant purpose of creating or communicating electoral matter.</p> <p>The <a href="#">Factsheet on Electoral Matter and electoral expenditure</a> on the AEC website contains further information.</p>
<b>Electoral matter</b>	Matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in a federal election.
<b>Foreign donation</b>	<p>A donation or gift to a political entity, political campaigner or third party from a foreign donor.</p> <p>The <a href="#">Factsheet on Foreign Donations</a> available on the AEC website contains further information.</p>

<b>Foreign donor</b>	A person who does not have a connection with Australia, such as a person who is not an Australian Citizen or an entity that does not have significant business presence in Australia.
<b>Gift-in-kind</b>	<p>Non-cash donations for example, receipt of an asset or service, discounts other than in the normal course of business and non-commercial or excessive payment for goods or services (including membership). Gifts-in-kind must be disclosed for an amount that reflects the fair value, that is, normally the commercial or sale value of the item or service.</p> <p>Examples of gifts-in-kind:</p> <ul style="list-style-type: none"> <li>■ the donation of legal advice by a solicitor</li> <li>■ the donation of the use of premises to conduct campaign activities.</li> </ul>
<b>Indexation</b>	The disclosure threshold is indexed to the All Groups Consumer Price Index. A listing of past <a href="#">disclosure thresholds</a> is available on the AEC website.
<b>Penalty Unit</b>	See <a href="#">subsection 4AA(1A)</a> of the <i>Crimes Act 1914</i> for penalty unit information.
<b>Public inspection</b>	Disclosure returns are available for inspection by the public at <a href="http://www.aec.gov.au">www.aec.gov.au</a> , through public access terminals in AEC State Offices located in each state and territory capital city and at the AEC National Office in Canberra. Election returns are made available on the AEC website 24 weeks after polling day.
<b>Registered political party</b>	A political party registered with the AEC or any state or territory branch of a federally registered political party. Registration with a state or territory electoral authority does not confer federal registration.
<b>Related body corporate</b>	<p>Section 50 of the <i>Corporations Act 2001</i> provides that where a body corporate is:</p> <ul style="list-style-type: none"> <li>■ a holding company of another body corporate,</li> <li>■ a subsidiary of another body corporate, or</li> <li>■ a subsidiary of a holding company of another body corporate,</li> <li>■ the first-mentioned body and the other body are 'related' to each other.</li> </ul> <p>Transactions of related body corporates should be consolidated when determining whether the disclosure threshold has been reached.</p>

<b>Senate group</b>	Two or more candidates for election to the Senate who made a written request to the AEC with their nominations that their names be grouped on the ballot-paper, or grouped in a specified order.
<b>State branch</b>	A branch or division of a federally registered political party organised on the basis of a state or territory. State branches are treated as separate political parties for funding and disclosure purposes.
<b>Transparency Register</b>	A <a href="#">register</a> established and maintained by the AEC that contains information about registered political parties, associated entities, third parties, political campaigners, candidates and Senate groups.
<b>Volunteer labour</b>	<p>A service provided free of charge to a candidate by any other person where that service is not one for which that person normally receives payment. Volunteer labour provided to a registered political party does not need to be disclosed as a gift by that person or the registered political party.</p> <p>An example of volunteer labour would be a person handing out how-to-vote cards.</p>

## Appendix 2 – Penalties relating to the Commonwealth disclosure scheme

In addition to the penalties below section 137.1 of the *Criminal Code Act 1995* also applies for providing false or misleading information. A person contravenes this section if they knowingly give information to the Commonwealth that is false or misleading or omits any matter which would make the information misleading. The penalty is a criminal penalty of imprisonment for 12 months.

**Note:** a political entity includes registered political parties, candidates and Senate groups.

### Foreign donations restrictions

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Failure of political entity or political campaigner to take acceptable action in regards to a foreign donation	302D(1)	<ul style="list-style-type: none"> <li>■ Political entity or its agent</li> <li>■ Political campaigner or its financial controller</li> </ul>	Whichever is higher of: <ul style="list-style-type: none"> <li>■ 200 penalty units, or</li> <li>■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302D(3))</li> </ul>	200 penalty units (s302D(2))
Failure to take acceptable action in regards to a foreign gift	302F(1)	<ul style="list-style-type: none"> <li>■ Political entity or its agent</li> <li>■ Political campaigner or its financial controller</li> <li>■ Third party</li> </ul>	For contravention of s302F(1) by a third party: <ul style="list-style-type: none"> <li>■ 100 penalty units (s302F(5))</li> </ul> For contravention of s302F(1) by a person or entity other than a third party, whichever is higher of: <ul style="list-style-type: none"> <li>■ 200 penalty units, or</li> <li>■ three times the amount of the value of the gift (if there is sufficient evidence for the</li> </ul>	For contravention of s302F(1) by a third party: <ul style="list-style-type: none"> <li>■ 50 penalty units (s302F(3))</li> </ul> For contravention of s302F(1) by a person or entity other than a third party: <ul style="list-style-type: none"> <li>■ 100 penalty units (s302F(3))</li> </ul> For contravention of s302F(2):

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
			<p>court to determine the amount, or an estimate of the amount, of the value of the gift) (s302F(5))</p> <p>For contravention of s302F(2) whichever is higher of:</p> <ul style="list-style-type: none"> <li>■ 200 penalty units, or</li> <li>■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302F(5))</li> </ul>	<ul style="list-style-type: none"> <li>■ 100 penalty units (s302F(3))</li> </ul>
Knowingly providing a false affirmation or information that a donor is not a foreign donor	302G(1)	<ul style="list-style-type: none"> <li>■ Political entity or its agent</li> <li>■ Political campaigner or its financial controller</li> <li>■ Third party</li> <li>■ Donor</li> </ul>	<p>Whichever is higher of:</p> <ul style="list-style-type: none"> <li>■ 200 penalty units, or</li> <li>■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302G(4))</li> </ul>	100 penalty units (s302G(2))
Establishing a scheme to avoid sections 302D, 302E or 302F	302H	<ul style="list-style-type: none"> <li>■ Political entity</li> <li>■ Political campaigner</li> <li>■ Third party</li> <li>■ Donor</li> </ul>	<p>Whichever is higher:</p> <ul style="list-style-type: none"> <li>■ 200 penalty units, or</li> <li>■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302H(5))</li> </ul>	200 penalty units (s302H(3))

## Disclosure of donations

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Failure to provide a return disclosing the value of gifts received	304	Candidate (including members of a group who were candidates) or the candidate agent	Whichever is higher of: <ul style="list-style-type: none"> <li>■ 60 penalty units, or</li> <li>■ three times the amount of the value of the gifts not disclosed (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gifts not disclosed) (s304(2))</li> </ul>	Not applicable
Failure to provide a return disclosing the value of gifts received	304	Agent of a group whose members were candidates	Whichever is higher of: <ul style="list-style-type: none"> <li>■ 60 penalty units, or</li> <li>■ three times the amount of the value of the gifts not disclosed (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gifts not disclosed) (s304(3))</li> </ul>	Not applicable
Failure to provide a return disclosing gifts valued at more than the disclosure threshold	305A	Donor who is not a political entity or an associated entity	Whichever is higher: <ul style="list-style-type: none"> <li>■ 60 penalty units, or</li> <li>■ three times the amount of the value of the gifts not disclosed (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gifts not disclosed) (s305A(2))</li> </ul>	Not applicable
Failure to disclose gifts totalling more than the disclosure threshold in a financial year	305B	Donor who is not a political entity or an associated entity	Whichever is higher of: <ul style="list-style-type: none"> <li>■ 60 penalty units, or</li> <li>■ three times the amount of the value of the gifts not disclosed (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gifts not disclosed) (s305B(1))</li> </ul>	Not applicable

## Disclosure of electoral expenditure

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Failure by the agent of a person who was a candidate to provide a return disclosing the amount of electoral expenditure	309	Candidate (but not a candidate who was the member of a group) or the candidate's agent	Whichever is higher of: <ul style="list-style-type: none"> <li>■ 60 penalty units, or</li> <li>■ three times the amount of the value of the electoral expenditure not disclosed (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the electoral expenditure not disclosed) (s309(2))</li> </ul>	Not applicable
Failure by the agent of a group to provide a return disclosing the amount of electoral expenditure	309	Agent of a group whose members were candidates	Whichever is higher of: <ul style="list-style-type: none"> <li>■ 60 penalty units, or</li> <li>■ three times the amount of the value of the electoral expenditure not disclosed (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the electoral expenditure not disclosed) (s309(3))</li> </ul>	Not applicable

## AEC investigations

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Refusal or failure to comply with a notice relating to a compliance review or investigation	316(5)-(5A)	<ul style="list-style-type: none"> <li>■ Political entity or its agent</li> <li>■ Political campaigner or its financial controller</li> <li>■ Associated entity or its financial controller</li> <li>■ Third party</li> <li>■ Donor</li> <li>■ Prescribed person under s17(2A)</li> </ul>	Not applicable	<p>For a refusal to comply with a notice under s316(2A), (3) or (3A):</p> <ul style="list-style-type: none"> <li>■ 10 penalty units (s316(5))</li> </ul> <p>For a failure to comply with a notice under s316(2A), (3) or (3A):</p> <ul style="list-style-type: none"> <li>■ 10 penalty units (s316(5A))</li> </ul>
Providing false or misleading information during a compliance review or investigation	316(6)	<ul style="list-style-type: none"> <li>■ Political entity or its agent</li> <li>■ Political campaigner or its financial controller</li> <li>■ Associated entity or its financial controller</li> <li>■ Third party</li> <li>■ Donor</li> <li>■ Prescribed person under s17(2A)</li> </ul>	Not applicable	Imprisonment for 6 months, or 10 penalty units, or both (s316(6))

## Keeping records

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Failure to keep records	317(2)-(4)	<ul style="list-style-type: none"><li>■ Political entity or its agent</li><li>■ Political campaigner or its financial controller</li><li>■ Associated entity or its financial controller</li><li>■ Third party</li><li>■ Donor</li><li>■ Prescribed person under s17(2A)</li></ul>	200 penalty units (s317(1))	Not applicable