

Financial Disclosure Guide for Third Parties Incurring Electoral Expenditure

2020-21 financial year

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Introduction

The Commonwealth funding and disclosure scheme (the disclosure scheme) established under Part XX of the *Commonwealth Electoral Act 1918* (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 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, political campaigners, donors and other participants in the electoral process, to lodge an annual or election period financial disclosure return with the Australian Electoral Commission (AEC). The disclosure returns are then published on the [Transparency Register](#).

The Guide

This version of the Financial Disclosure Guide for Third Parties (the guide) applies to returns for the 2020-21 financial year. While the guide is intended to assist third parties with meeting their disclosure requirements, it does not address the whole of the Electoral Act. Users should familiarise themselves with the relevant part of the Electoral Act and seek independent legal advice where necessary.

The Electoral Act and all guides published by the AEC are available at www.aec.gov.au. The annual and election returns are also available for viewing on the [Transparency Register](#) after the public release date. A searchable database is 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:

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|  | 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. |

Definition of a third party

A person or entity is a third party for the purposes of the financial disclosure requirements in the Electoral Act if:

- a) during a financial year electoral expenditure incurred by or with the authority of the person or entity is more than the disclosure threshold; **and**
- b) the person or entity is not:
 - a political entity (i.e. a registered political party, a state branch of a registered political party, a candidate or member of a group);
 - a member of the House of Representatives or the Senate; or
 - required to be registered as a political campaigner under section 287F of the Electoral Act.

If a third party has branches, the branches are treated as a single third party.

Third parties are not required to register with the AEC. Third parties will be automatically included on the [Transparency Register](#) if they lodge a financial disclosure return for the current, or any of the previous three financial years. Third parties will remain on the Transparency Register for three years following a financial year for which they report.



Section [287\(1\)](#) of the Electoral Act provides the meaning of a third party and political campaigner.

Section [287F](#) of the Electoral Act provides for when a person or entity must register as a political campaigner.

Section [287N](#) of the Electoral Act provides for the establishment and maintenance of a Transparency Register.

Electoral matter and electoral expenditure

Electoral expenditure is expenditure incurred for the dominant purpose of creating or communicating electoral matter. Electoral matter is matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in a federal election (see also discussion at [Part 1](#)).



Section [287AB](#) of the Electoral Act provides the meaning of electoral expenditure, and section [4AA](#) of the Electoral Act provides the meaning of electoral matter.

Annual disclosure

Responsibility for lodging the Third Party Return (the return)

A person or entity that incurs electoral expenditure over the disclosure threshold must lodge a return. If the third party is an entity the return should be lodged by a person with the authority to do so. In the case of a company this may be the CEO, company secretary or financial controller. In the case of a trust it would be the trustee.


A third party return is not required to be lodged by a:

- registered political party
- registered political campaigner
- member of the Commonwealth Parliament
- candidate in a House of Representatives or Senate election.

Reporting period

The return covers the **financial year 1 July 2020 to 30 June 2021**. For a person or entity that becomes or ceases to be a third party during the financial year, the return must be provided in relation to the whole financial year.


Disclosure threshold

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|  | <p>The disclosure threshold for the 2020-21 financial year is for amounts of more than \$14,300. This figure is indexed annually.</p> |
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Due date for lodging returns

The AEC will advise third parties of their obligation to lodge a return following the conclusion of the financial year. Third parties should ensure their contact details with the AEC are current.

Returns are published on the [Transparency Register](#) on the first working day of February. Returns for the 2020-21 financial year will be published on **1 February 2022**.

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|  | <p>Completed returns, including nil returns must reach the AEC no later than 20 weeks after the end of the financial year.</p> <p>For the 2020-21 financial year, the due date is 17 November 2021.</p> <p>The AEC has no legislative discretion to extend this deadline.</p> |
|---|---|

Lodging your return

Third parties can prepare and lodge their returns online via the eReturns portal. The eReturns portal can be accessed from <https://ereturns.aec.gov.au>. The easiest way to lodge your return accurately and on time is to use the eReturns portal; it is quick, secure and allows importing/exporting of files which eliminates transcription errors. To assist with completing a return online, the [eReturns Third Party Quick Reference Guide](#), a step-by-step guide is available. See [Appendix 3](#) for more information.

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 third parties to comply with their disclosure obligations.

The AEC deals with non-compliance as appropriate to the circumstances, including possible referral to the Commonwealth Director of Public Prosecutions. Refer to [Appendix 2](#) of this guide for a list of civil and criminal penalties that may apply to third parties under the Electoral Act.

For more information on compliance and enforcement, see the [Financial Disclosure Compliance and Enforcement Policy](#).



Political parties, political campaigners, associated entities, third parties, candidates, Senate groups and donors may be subject to a compliance review by the AEC to assess the completeness and accuracy of lodged disclosure returns.



Please note that a number of state and territory jurisdictions have their own disclosure schemes, which are separate to the Commonwealth disclosure scheme. Entities should check with state and territory electoral commissions to determine any potential obligations under state and territory electoral laws.

Important information

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.



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

Foreign donations

Third parties are restricted:

- from receiving donations of \$100 or more if:
 - the third party knows the donor is a foreign donor; and
 - the third party 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; or
 - the gift is accepted with the intent of using it to incur electoral expenditure, or for the dominant purpose of creating or communicating electoral matter.
- from receiving donations equal to or more than the disclosure threshold from a foreign donor, if the donation is used for:
 - incurring electoral expenditure; or
 - for the dominant purpose of creating or communicating electoral matter.

If a third party receives a donation from a foreign donor in contravention of the restrictions in the Electoral Act, the Electoral Act provides six weeks from the gift being made for it, or an equivalent amount, to be returned to the donor or transferred to the Commonwealth.

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 a significant business presence in Australia.

The [Factsheet on Foreign Donations](#) available on the AEC website contains further information.



Section [287AA](#) of the Electoral Act provides the meaning of a foreign donor.

Sections [302E](#) and [302F](#) of the Electoral Act restricts third parties from receiving gifts from foreign donors.

Anti-avoidance provisions

The Electoral Act prohibits schemes that are established to avoid the restrictions on foreign donations. 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 donations restrictions
- The scheme avoids the application of foreign donations restriction, and
- The scheme involves donation splitting, conduit corporations or any other unspecified avoidance scheme.

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



Section [302H](#) of the Electoral Act prohibits schemes or arrangements for receiving foreign donations.

Federal accounts

The *Electoral Legislation Amendment (Miscellaneous Measures) Act 2020* amended the Electoral Act to provide certain immunities for gifts received for federal purposes. From 1 December 2020, immunities from state and territory electoral laws have been established for donors, gift recipients and the agents of gift recipients in relation to the offering, seeking, giving, receipt, retention and use of gifts expressly for federal purposes. A federal purpose means the purpose of incurring electoral expenditure, or creating or communicating electoral matter.

Immunities from state and territory electoral disclosure laws have also been established for donors, gift recipients and the agents of gift recipients in relation to the amounts and expenditure.


It is the responsibility of regulated entities to establish and maintain federal accounts for the purpose of dealing with gifts of money that are expressly for federal purposes.

A federal account means an account where:

- (a) The only amounts deposited into the account are amounts to be used only for a federal purpose; and
- (b) The only amounts withdrawn or transferred from the account are amounts:
 - (i) withdrawn or transferred for a federal purpose; or
 - (ii) transferred to another federal account.

Gifts from donors which are expressly given for state or territory electoral purposes, or unconditional gifts that the recipient intends to allocate to state or territory electoral purposes, must not be placed into a federal account.


Refer to the [AEC website](#) for further information.

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|  | Sections 302CA and 314B of the Electoral Act provide immunities for gifts received for federal purposes. |
|---|--|

Related bodies corporate

The Electoral Act deems related bodies corporate to be the same entity. Related bodies corporate has the same meaning under the Electoral Act as defined in [section 50 of the Corporations Act 2001](#).

The parent company of the group, therefore, should lodge under its name a return consolidated across the entire group and list in this part of the return the names of all related bodies corporate.

| | |
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|  | Section 287(6) of the Electoral Act deems related bodies corporate to be the same entity. |
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The return

A third party must disclose the following information in the return:

- total electoral expenditure—see [Part 1](#)
- details of donations totalling more than the disclosure threshold used for electoral expenditure—see [Part 2](#)



Sections [314AEB](#) and [314AEC](#) of the Electoral Act govern the lodgement of annual returns by third parties.

The third party must also sign the certification on the return. The certification is a statement of compliance with section 302E of the Electoral Act, which relates to foreign donations.

Part 1: Total electoral expenditure

Part 1 of the return requires disclosure of the total amount of [electoral expenditure](#) incurred by or with the authority of the third party.

Note: Communications that have the dominant purpose of educating their audience, raising awareness of, or encouraging debate on a public policy or issue are not considered electoral matter.



Section [314AEB\(2\)\(a\)](#) of the Electoral Act requires a third party to disclose the total amount of electoral expenditure incurred by or with the authority of the third party.

Below are examples of electoral matter and electoral expenditure:

- A local progress association is formed by a group of local businesses to champion proposals for the urban renewal of the town centre and surrounds. The association decides to campaign in the federal election to call for the handover of former Defence land, to allow for construction of a business park. They hire a campaign manager, open a campaign shop front, coordinate volunteers, rent phone lines and issue a voting guide indicating preferred candidates. Although the election campaign is a short-term activity and the association has wider purposes, the dominant purpose of these campaign-related expenses make these electoral expenditure. The dominant purpose of the association (urban renewal) does not determine the dominant purpose of the expenditure.

- A bilingual education company is campaigning for increased Commonwealth investment in school language programs. Their campaign strategy is to support candidates who pledge to increase funding for school language programs. The company buys campaign software, public relations training for staff and general creative content for the campaign, such as image libraries.

Subsection [287AB\(2\)](#) of the Electoral Act clarifies that the purchase of the software, training and creative content is electoral expenditure. The purchase is made to create and communicate electoral matter generally, rather than being intended or used exclusively for a specific communication of electoral matter.

- A public health advocacy group designs a pamphlet assessing the policies of different parties, regarding subsidies of expensive medicines. The pamphlet summarises how much money each party has committed to spend on drugs and summarises each party's policies on limits to patent periods to indicate how closely aligned each party is to the priorities of the group. The pamphlet includes a smiley face next to some parties and a frowning face next to other parties. The symbols represent support for some parties and opposition towards others, makes this an implicit comment promoting or opposing political parties. Hence this is more likely to be electoral matter.
- A business peak body releases a video online criticising the economic policies of a major political party contesting an upcoming election through the framework of commonly taught economic theory. Given the dominant purpose of the peak body's other communications, it is reasonable to conclude the peak body's dominant purpose is political, rather than educative. Any costs associated with the production and release of the video would be electoral expenditure.

Following are examples of what is not considered electoral matter and electoral expenditure:

- Kerrie is the Chief Executive Officer of a not-for-profit organisation that encourages healthy eating. The organisation occasionally issues material to influence how electors vote, but Kerrie's primary role involves organising the delivery of healthy eating programs in schools and workplaces. As the dominant purpose of employing Kerrie is not for her to create or communicate electoral matter, her salary is not electoral expenditure.
- A novel public policy issue emerges. To assist it in forming a policy position, an industry association commissions a think tank to conduct research and write a report on the issue. As the dominant purpose of the industry association in commissioning the report is not to influence the way electors vote in an election, the research report is not electoral matter and therefore the association's expenditure on commissioning the report is not electoral expenditure.

Further information and examples can be found in the [Factsheet on Electoral Matter and Electoral Expenditure](#) available on the AEC website.

The above guidance should not be used as a substitute for specific legal advice on what does or does not constitute electoral expenditure for the purpose of the Electoral Act. Users of this guide are urged to seek their own independent advice where necessary.

Part 2: Gifts received for the purpose of incurring electoral expenditure for financial year 1 July 2020 to 30 June 2021

Part 2 of the return requires a person or entity that was required to complete Part 1 of the return to disclose details of any gifts received (whether within the 2020-21 financial year or not) totalling more than the threshold that were used, either wholly or partly, to incur electoral expenditure reported in Part 1.



Section [314AEC](#) of the Electoral Act provides for the disclosure of the gifts received and their details where the gift is used to incur electoral expenditure.



Section [287AA](#) of the Electoral Act provides the meaning of a foreign donor.

Sections [302E](#) and [302F](#) of the Electoral Act restricts third parties from receiving gifts from foreign donors.

Where a gift/donation totalling more than \$14,300 was received and used, in whole or in part, to incur electoral expenditure or reimburse such expenditure the following details must be disclosed:

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

Amounts received from unincorporated associations, trusts or foundations

Where an amount has been received from an unincorporated association (other than a registered industrial organisation), the name of the association and the names and addresses of all members of the executive committee of the association must be disclosed.

Where an amount has been received from a trust fund or foundation fund, the name and description of the trust or foundation and the names and addresses of all trustees must be disclosed.

If no gifts/donations for electoral expenditure were received, Part 2 of the return should be marked 'nil'.

Period covered

Unlike the disclosure of electoral expenditure which is limited to the 2020-21 financial year, gifts/donations used to fund that expenditure must be disclosed even where they were received prior to 1 July 2020.

The following example may assist in clarifying the disclosure requirements when electoral expenditure is made in the 2020-21 financial year using gifts/donations that have been received in prior years.

A third party received a gift of \$15,000 in the 2019-20 financial year:

- in the 2020-21 financial year the third party incurred electoral expenditure of \$50,000 which is required to be disclosed in Part 1 of the return; and
- as part of the \$50,000 of electoral expenditure incurred in the 2020-21 financial year, the third party used \$3,000 of the \$15,000 gift received in the 2019-20 financial year,
- as the third party used part of a gift received in the previous financial year to incur electoral expenditure and the gift received (\$15,000) was more than the 2020-21 threshold (\$14,300) the third party is required to disclose the total amount of the gift in Part 2 of the return.

If in a subsequent financial year to the 2020-21 financial year:

- the third party used the remaining \$12,000 of the \$15,000 gift received in the 2019-20 financial year to incur electoral expenditure; and
- the electoral expenditure is greater than the disclosure threshold for that financial year; then
- the third party will be required to disclose the \$15,000 as a gift received in the subsequent financial year's return.

In this situation, the third party should include an explanatory note on the subsequent financial year's return that the gift has been disclosed previously.

Incomplete returns

Where the person responsible for lodging the return 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 Third Party Return of Electoral Expenditure as fully as possible
- complete the Notice of Incomplete Return
- lodge the Notice of Incomplete Return and the incomplete Third Party Return of Electoral Expenditure with the AEC at the same time.

Note: lodgement of a Notice of Incomplete Return does not relieve the person 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 the person 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
- the reason why it is believed this person/s possesses the required information.

Amending returns

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.

Amendments to the return require previously submitted amounts to be provided together with the amended amount/s.

Changes to details of receipts or debts should be separated into:

- additional information not previously provided
- amendment of information previously provided.

In order to avoid confusion or ambiguity the record/s being changed should be clearly identified. Amendments are processed through eReturns.

Administration

Date for public inspection of annual returns

Annual returns are made available for public inspection on the first working day of February each year.

Returns are available for inspection on the [Transparency Register](#).

Record keeping

Third Parties 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:

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

Source documents should contain information required to complete the return, such as the:

- date of the transaction
- name of person and/or organisation from whom a receipt was received
- name of person and/or organisation to whom a payment was made
- total payment made or amount received
- amount of GST
- merchant fees.

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 is subject to civil penalties.



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

Compliance Reviews

The AEC conducts compliance reviews of annual returns lodged by third parties to verify the accuracy and completeness of disclosures.

Compliance reviews are undertaken 'off-site', however officers of the AEC may still attend third party premises to inspect original documentation and to hold an exit interview to discuss the review.

A written report will be issued detailing any findings. This may include advice to amend the third party's return.



Section [316\(2A\)](#) of the Electoral Act provides for the conduct of compliance reviews.

Further information on the conduct of compliance reviews can be found at [Compliance Reviews](#) on the AEC website.

Appendix 1 - Glossary of terms

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| AEC | Australian Electoral Commission |
| Anti-avoidance scheme | <p>Can be:</p> <ul style="list-style-type: none"> ■ Donation splitting: a foreign donor avoiding a disclosure threshold by giving multiple gifts below the disclosure threshold. ■ 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. ■ Unspecified avoidance scheme: facilitates a foreign donor making a prohibited gift, that is not donation splitting or a conduit corporation. |
| Disclosure threshold | Disclosure of total electoral expenditure and details of donations received totalling more \$14,300. This threshold is indexed annually. |
| Donation / gift | Any disposition of property made by a person to another person without consideration or with inadequate consideration. |
| Electoral Act | <i>Commonwealth Electoral Act 1918</i> |
| Electoral expenditure | <p>Expenditure incurred for the dominant purpose of creating or communicating electoral matter.</p> <p>The Factsheet on Electoral Matter and electoral expenditure on the AEC website contains further information.</p> |
| Electoral matter | Matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in a federal election. |
| Foreign donation | <p>A donation or gift to a political entity, political campaigner or third party from a foreign donor.</p> <p>The Factsheet on Foreign Donations available on the AEC website contains further information.</p> |
| Foreign donor | 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. |
| Gifts-in-kind | <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"> ■ the donation of legal advice by a solicitor ■ the donation of the use of premises to conduct campaign activities. |

| | |
|-------------------------------|---|
| Indexation | The disclosure threshold is indexed to the All Groups Consumer Price Index. A listing of past disclosure thresholds is available on the AEC website. |
| Penalty Unit | In accordance with subsection 4AA(1A) of the <i>Crimes Act 1914</i> a penalty unit is indexed annually. |
| Period of disclosure | Annual returns cover a financial year, that is, the period from 1 July to 30 June. |
| Political campaigner | <p>A person or entity that is registered with the AEC as a political campaigner.</p> <p>A person or entity is required to register as a political campaigner when their electoral expenditure during the current, or in any of the previous three financial years, was \$500,000 or more, or electoral expenditure during the year was \$100,000 or more and during the previous financial year their electoral expenditure was a least two-thirds of the revenue for that year.</p> <p>A political campaigner that has branches is treated as a single political campaigner</p> |
| Public inspection | Disclosure returns are available for inspection by the public at https://transparency.aec.gov.au/ . Annual returns are made available from the first working day in February each year. |
| Related body corporate | <p>Section 50 of the <i>Corporations Act 2001</i> provides that where a body corporate is:</p> <ul style="list-style-type: none"> ■ a holding company of another body corporate ■ a subsidiary of another body corporate or ■ a subsidiary of a holding company of another body corporate ■ the first-mentioned body and the other body are 'related' to each other. <p>Transactions of related body corporates should be consolidated when determining whether the disclosure threshold has been reached.</p> |
| Third Party | A person or organisation who incurs electoral expenditure above the disclosure threshold. Other than political entities, members of the House of Representatives or the Senate, and is not required to register and is not registered as a political campaigner. |
| Transparency Register | A register established and maintained by the AEC that contains information about registered political parties, associated entities, third parties, political campaigners, candidates and Senate groups. |
| Volunteer labour | <p>A service provided free of charge to a party by an office holder of the party or a party member, or 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. Examples of volunteer labour could include:</p> <ul style="list-style-type: none"> ■ the donation of legal advice by a solicitor who is a party member ■ a person handing out how-to-vote cards. |

Appendix 2 – Penalties relating to the Commonwealth funding and disclosure regulations

In addition to the penalties in the Electoral Act listed below, it is also an offence to provide false or misleading information under section 137.1 of the *Criminal Code Act 1995*. 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.

Foreign donation restrictions

| Offence | Section of the Electoral Act | Applies to | Maximum civil penalty | Maximum criminal penalty |
|---|------------------------------|---|--|--|
| Failure of a third party to take acceptable action in regards to a foreign donation | 302E(1) | <ul style="list-style-type: none"> Third party | Whichever is higher of: <ul style="list-style-type: none"> 100 penalty units, or 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) (s302E(4)) | 50 penalty units (s302E(3)) |
| Failure to take acceptable action in regards to a foreign gift | 302F(1) | <ul style="list-style-type: none"> Political entity or its agent Political campaigner or its financial controller Third party Third party donor | For contravention of s302F(1) by a third party: <ul style="list-style-type: none"> 100 penalty units (s302F(5)) 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"> 200 penalty units, or 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)) For contravention of s302F(2) whichever is higher of: <ul style="list-style-type: none"> 200 penalty units, or 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)) | For contravention of s302F(1) by a third party: <ul style="list-style-type: none"> 50 penalty units (s302F(3)) For contravention of s302F(1) by a person or entity other than a third party: <ul style="list-style-type: none"> 100 penalty units (s302F(3)) For contravention of s302F(2): <ul style="list-style-type: none"> 100 penalty units (s302F(3)) |

| Offence | Section of the Electoral Act | Applies to | Maximum civil penalty | Maximum criminal penalty |
|--|------------------------------|--|---|------------------------------|
| Knowingly providing a false affirmation or information that a donor is not a foreign donor | 302G(1) | <ul style="list-style-type: none"> Political entity or its agent Political campaigner or its financial controller Third party Donor | Whichever is higher of: <ul style="list-style-type: none"> 200 penalty units, or 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)) | 100 penalty units (s302G(2)) |
| Establishing a scheme to avoid sections 302D, 302E or 302F | 302H | <ul style="list-style-type: none"> Political entity Political campaigner Third party Donor | Whichever is higher: <ul style="list-style-type: none"> 200 penalty units, or 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)) | 200 penalty units (s302H(3)) |

Annual returns

| Offence | Section of the Electoral Act | Applies to | Maximum civil penalty | Maximum criminal penalty |
|--|------------------------------|-------------|---|--------------------------|
| Failure of third party to provide an annual return | 314AEB | Third party | Whichever is higher of: <ul style="list-style-type: none"> 60 penalty units, or three times the value of the amount not disclosed (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed) (s314AEB(1)) | 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"> Political entity or its agent Political campaigner or its financial controller Associated entity or its financial controller Third party Donor Prescribed person under s17(2A) | Not applicable | <p>For a refusal to comply with a notice under s316(2A), (3) or (3A):</p> <ul style="list-style-type: none"> 10 penalty units (s316(5)) <p>For a failure to comply with a notice under s316(2A), (3) or (3A):</p> <ul style="list-style-type: none"> 10 penalty units (s316(5A)) |
| Providing false or misleading information during a compliance review or investigation | 316(6) | <ul style="list-style-type: none"> Political entity or its agent Political campaigner or its financial controller Associated entity or its financial controller Third party Donor Prescribed person under s17(2A) | 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"> Political entity or its agent Political campaigner or its financial controller Associated entity or its financial controller Third party Donor Prescribed person under s17(2A) | 200 penalty units (s317(1)) | Not applicable |

Appendix 3 – eReturns

The [eReturns portal](#) allows political parties, political campaigners, associated entities, donors and third parties to fulfil their obligations under Part XX of the Electoral Act. By preparing and lodging disclosure returns electronically the need to re-key data is eliminated and it ensures that information is accurately reported on the AEC website when returns are made publically available.

To use the eReturns portal you need an account with a unique username and password.

Third parties can register online before they receive an 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.