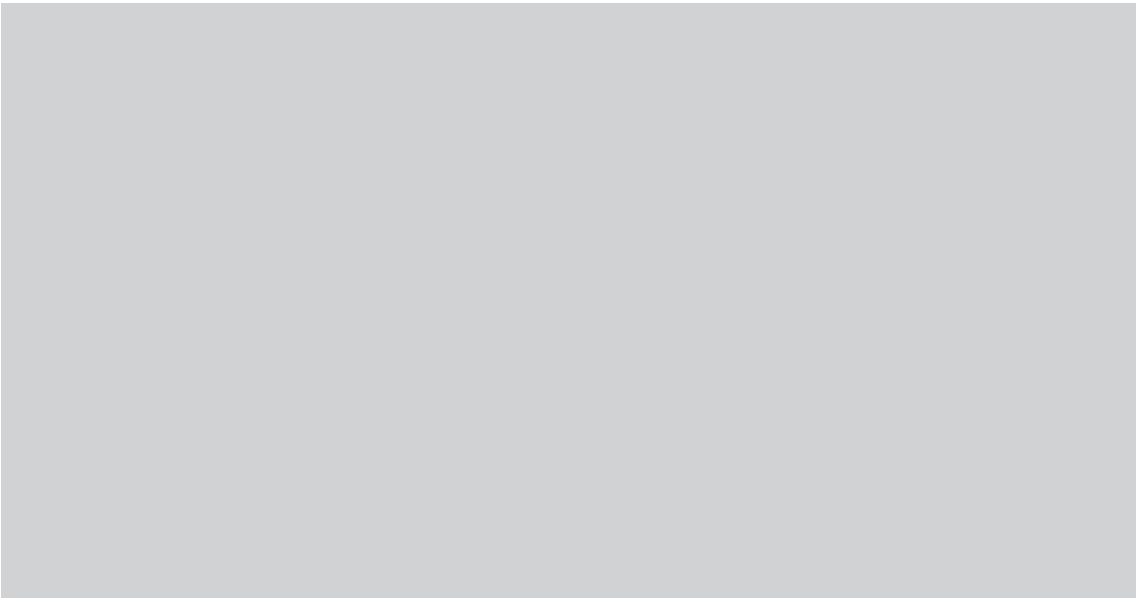


# Election Funding and Disclosure Report

Federal Election 2007



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# Introduction

This report on the operation of the election funding and financial disclosure provisions of Part XX of the *Commonwealth Electoral Act 1918* (the Act) is prepared for the purposes of subsection 17(2) of the Act in relation to the election held on 24 November 2007.

Subsection 17(2) requires the Australian Electoral Commission (AEC) to report on the operation of Part XX of the Act in relation to the election as soon as practicable after a general election, or a Senate election. The report includes the following information:

- the names of all persons and organisations falling within the terms of subsection 17(2A) of the Act who, in the AEC's opinion, were or might be required to furnish a return under subsection 305A(1) or (1A) in relation to the election. All donors who, to the AEC's knowledge, were required to furnish a return have done so;
- particulars of the operation of subsection 316(2A) of the Act, which provides for the investigation of financial disclosure compliance. These particulars are included in the Compliance Review chapter, but subject to s17A of the Act.

The report also addresses the operation of the party registration arrangements under Part XI of the Act in view of the close linkages between Parts XI and XX.

Information on the conduct of the election generally is contained in the separate AEC publication '*Behind the Scenes – the 2007 election report*'.

The performance of the AEC in its administration of the funding, disclosure and party registration provisions against performance indicators and targets set down in *Portfolio Budget Statements* and *Portfolio Additional Estimates Statements* is separately reported to Parliament in AEC Annual Reports.

Data used to collate this report is current at 1 February 2009.

## Key abbreviations

AEC or Commission	The Australian Electoral Commission established by the Act
Funding and Disclosure or FAD	A descriptor for the election funding and financial disclosure provisions of Part XX of the Act
JSCEM	Joint Standing Committee on Electoral Matters
The Act	The <i>Commonwealth Electoral Act 1918</i>
The 2006 Amendment Act	The <i>Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006</i> .

# Election funding

## Election funding

Part XX of the Act appropriates money for payment of election funding for Senate groups and candidates who contest federal elections. A total of \$49 002 638.51 in public election funding was paid following the 2007 Federal Election.

### Eligibility

House of Representatives candidates who receive at least four per cent of the formal first preference votes in an electoral division are entitled to election funding. Senate groups who receive at least 4 per cent of the formal first preference votes in a state or territory are also entitled to election funding.

### Entitlement

The funding entitlement is calculated by multiplying the number of formal first preference votes received by the funding rate.

The base-funding rate of \$1.50 (as set in 1995) is adjusted each six months in line with increases in the consumer price index. The funding rate is published on the AEC website.

For the period July to December 2007, and hence for the 2007 Federal Election, the funding rate was 210.027 cents (slightly over \$2.10) per eligible vote. This is an 8.04 per cent increase over the rate of 194.397 cents per eligible vote that applied for the 2004 Federal Election.

### Payments

Election funding for independent candidates or groups is paid to the agent of the candidate or group. Election funding for candidates and groups endorsed by a registered political party is paid to the party. A registered political party may elect not to receive election funding. All parties with an entitlement to funding for the 2007 Federal Election opted to receive the funding.

The Act requires that at least 95 per cent of the funding entitlement (calculated on the basis of votes counted as at the 20th day after polling day) is paid as soon as possible after that day. The first payment based on the count as at 14 December 2007, totalled \$46 536 277.23 and was made early in the week of 17 December 2007.

The balance is paid when the count is finalised and verified and the full entitlement is known. The final payments totalled \$2 466 361.28 and were made in the week beginning 7 January 2008.

A summary of the election funding payments for the 2007 Federal Election is at **Table 1**.

<b>Table 1 – 2007 Federal Election Funding Payments</b>	
<b>Parties</b>	<b>Amount</b>
Australian Labor Party	22 030 460.82
Liberal Party of Australia	18 133 645.07
Australian Greens	4 370 920.20
National Party of Australia	3 239 706.37
Pauline's United Australia Party	213 095.49
Northern Territory Country Liberal Party	169 178.85
Family First Party	141 016.33
<b>Independent Senate group</b>	
Nick Xenophon (South Australia)	312 497.07
<b>Independent candidates</b>	
Tony Windsor (New England, NSW)	110 755.64
Bob Katter (Kennedy, Qld)	68 336.48
Gavin Priestley (Calare, NSW)	39 978.64
Tim Horan (Parkes, NSW)	35 910.42
Caroline Hutchinson (Fisher, Qld)	22 254.46
Gavan O'Connor (Corio, Vic.)	22 115.84
Noel Brunning (Forrest, WA)	20 843.08
Aaron Buman (Newcastle, NSW)	13 322.01
Ben Quin (Lyons, Tas.)	12 794.84
Cate Molloy (Wide Bay, Qld)	11 711.11
Ray McGhee (Boothby, SA)	9 220.19
Rob Bryant (Murray, Vic.)	9 184.48
Tim Williams (Macquarie, NSW)	8 705.62
Jamie Harrison (Lyne, NSW)	6 985.50
<b>Total</b>	<b>49 002 638.51</b>

## Distribution of funding

Analysis of the distribution of election funding following the 2004 and 2007 Federal Elections is at **Table 2**.

Party	2004 Federal Election		2007 Federal Election		% change share
	\$ '000	% share	\$ '000	% share	
Australian Labor Party	16 710	39.86	22 030	44.96	+5.10
Liberal Party of Australia	17 956	42.83	18 134	37.01	-5.82
Australian Greens (all related parties)	3 317	7.91	4 371	8.92	+1.01
National Party of Australia	2 967	7.08	3 240	6.61	-0.47
Pauline's United Australia Party	-	-	213	0.43	+0.43
Northern Territory Country Liberal Party	159	0.38	169	0.34	-0.04
Family First	158	0.38	141	0.29	-0.09
One Nation	56	0.13	0	0	-0.13
Australian Democrats	8	0.02	0	0	-0.02
Others	595	1.41	705	1.44	+0.03
<b>Total</b>	<b>41 926</b>	<b>100%</b>	<b>49 003</b>	<b>100%</b>	

For the 2007 Federal Election, political parties received 98.6 per cent of the total amount paid. This amount is the same as at the previous election. This distribution reflects the reality that endorsed candidates normally attract a similar percentage of first preference votes (98.11 per cent for the 2007 Federal Election.)

The amount paid to the Australian Labor Party increased by 31.8 per cent whereas the amount paid to the Liberal Party of Australia increased by 1.0 per cent. Similarly, the Greens saw a 31.8 per cent increase in funding while the National Party of Australia increased 9.2 per cent. The overall increase in funding can be attributed to the combined factors of an increasing number of electors and an increased funding rate.

The 2007 payment of \$49.0 million is a 16.9 per cent increase over the amount paid for the 2004 Federal Election. That is, an increase double the inflation rate over the equivalent period of 8.1 per cent.



## Underlying trends

**Table 3** shows comparative voting, candidate and funding data for the 2004 and 2007 Federal Elections.

<b>Table 3 – Underlying trends</b>			
	<b>2004 Federal Election</b>	<b>2007 Federal Election</b>	<b>Change %</b>
Number of formal 1st preference Senate and House of Representatives votes	23.669m	25.077m	+5.95
Number of votes funded (House and Senate)	21.567m	23.332m	+8.18
Percentage of votes funded (House and Senate)	91.1%	93.3%	+2.2
Number of House of Representatives candidates	1,091	1054	-3.4
House Candidates with at least 4 per cent of the 1st preference vote	482 (44.2%)	580 (55.0%)	+20.3
Number of Senate groups	119	136	+12.6
Senate groups with at least 4 per cent of the 1st preference vote	27 (22.7%)	26 (19.1%)	-3.85

## Payment arrangements

The election funding of independent (unendorsed) candidates and Senate groups is paid to the agent of the candidate or group. Election funding of endorsed candidates and Senate groups is normally paid to the agent of the state or territory branch of the party that endorsed a candidate or Senate group. However, parties and their branches may re-direct funding entitlements pursuant to funding agreements provided for under the Act and lodged with the AEC.

Funding redirections for the 2007 Federal Election operated as follows:

- Liberal Party of Australia – all payments due to state or territory branches were made to the Federal Divisions of the party
- Australian Labor Party – all payments due to state or territory branches were made to the National Secretariat of the party
- Family First – all payments due to state or territory branches were made to the federal party
- Australian Democrats – all payments due were made to the federal party.

Arrangements were also put in place for payment for joint Senate tickets to be apportioned on a basis agreed by the parties and advised to the AEC. Agreements were notified by both:

- the New South Wales, Victorian and Queensland branches of the Liberal Party of Australia and the National Party of Australia for their respective states
- the Shooters Party and the Australian Fishing and Lifestyle Party for NSW only.

## Administration

Election funding payments may only be made to a party, candidate or Senate group agent.

These agents are persons appointed and notified to the AEC for election funding and financial disclosure purposes. Parties must appoint an agent whereas candidates and groups (other than groups endorsed by a single party) may do so.

The AEC contacted all parties and as many candidates and groups as was possible to inform them of the opportunity to appoint candidate and group agents. To be valid, candidate agent and group agent appointments must be received by the AEC by close of nominations.

Deeming arrangements apply where no candidate or Senate group agent is appointed. A candidate is deemed to be their own agent; and the person whose name appears first on the ballot paper for a Senate group is deemed to be agent of the group.

The AEC wrote to parties, candidates and groups to inform them of the agency requirements and to request banking details for direct deposit purposes. The letter re-affirmed existing (ongoing) funding agreements and ensured parties were aware of the opportunity to make new funding agreements.

## Funding history

Federal election funding was introduced in 1984. The scheme operated on a reimbursement of expenditure basis from 1984 until 1995 when it was amended to operate on an entitlement basis. The 1995 changes also brought the payment entitlement for Senate and House of Representatives votes into line, and increased the base rate of payment.

Payment rates and amounts since the current base rate of payment (\$1.50 prior to indexing) was set by Parliament in 1995 are outlined in **Table 4**:

<b>Election</b>	<b>Funding rate per vote</b>	<b>Total payments</b>	<b>Change %</b>
1996	\$1.57594	32.15	-
1998	\$1.62210	33.92	5.51
2001	\$1.79026	38.56	13.68
2004	\$1.94397	41.93	8.74
2007	\$2.10027	49.00	16.86

## Parliamentary review

The JSCEM reviewed the history and philosophy of election funding and considered issues associated with the operation of the funding scheme in its report on *The 2004 Federal Election*.

The issues considered related to alleged profiteering and a possible return to a reimbursement scheme. The JSCEM also reviewed a number of international funding models and canvassed a possible increase in the funding entitlement threshold.

In the event, no recommendations were made for change to the election funding arrangements, and no legislative changes were made.

Subsequent to the election the new government introduced the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*. This Bill sought to make several changes to the election funding and financial disclosure scheme, including a return to a reimbursement scheme. The Government also announced an electoral reform green paper, the first part of which addresses political funding and disclosure and was released on 17 December 2008.

# Financial disclosure

## Financial disclosure

The financial disclosure scheme established under Part XX of the Act requires the lodgement of disclosure returns by various participants in the political process. Returns are required either on an annual (parties, associated entities, donors to parties and third parties incurring political expenditure) or an election cycle (candidates, senate groups and donors to candidates) basis. The information disclosed differs between the types of return, but more detailed information on certain amounts received by parties and debts outstanding at 30 June each year is required when the amount is above the minimum disclosure threshold. More information about the individual returns is contained below and an overview is available at *Appendix 1*.

### Legislative changes

The *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* (2006 Amendment Act) made a number of changes to the financial disclosure scheme subsequent to the 2004 Federal Election. These changes:

- increased the minimum financial disclosure thresholds from \$200 (candidates), \$1 000 (groups) and \$1 500 (parties) to 'more than \$10 000', indexed annually to the consumer price index, the effect of which has been to reduce the number of transactions subject to detailed disclosure requirements
- abolished the requirement for election period broadcaster and publisher returns of election advertisements
- abolished the requirement for an election period return of third party electoral expenditure
- introduced a new annual return of political expenditure covering similar requirements to the third party return of electoral expenditure.

These changes also extended the definition of 'associated entity' to include all of the following:

- an entity that is a financial member of a registered political party
- an entity on whose behalf another person is a financial member of a registered political party
- an entity that has voting rights in a registered political party
- an entity on whose behalf another person has voting rights in a registered political party.

### Summary of scheme – annual returns

The financial disclosure scheme as amended in 2006 requires annual returns to be lodged with the AEC by:

- **political parties** – federally registered political parties and their organised state or territory branches each report total receipts, payments and debts, and specific details of amounts received and debts incurred in excess of the disclosure threshold

- **associated entities** – organisations controlled by, or operating wholly or to a significant extent for the benefit of political parties. Associated entities report the same information as detailed above for political parties with the addition of capital contributions received. Associated entities may also be required to report political expenditure as discussed below. They do not report donations to parties
- **donors** – people or organisations that donate more than \$10 000 (indexed) in money or gifts-in-kind directly to political parties (or indirectly for the benefit of political parties) must report specific details of those gifts, and report donations received of more than \$10 000 (indexed) and applied to such donations to parties
- **third parties** – with effect from the 2006–07 financial year, expenditure of more than \$10 000 (indexed) on the public expression of views on a political party, candidate or member of the Federal Parliament, or an issue in an election; advertisements requiring authorisation; or opinion polling and other research relating to an election or the voting intention of voters must be reported, together with details of donations received of more than \$10 000 (indexed) and applied to such expenditure.

This cycle can lead to delayed reporting of information in respect of key events such as the 2007 Federal Election. Annual returns for the financial year 2007–08, the period during which the 2007 Federal Election was held, were not made publicly available until 2 February 2009.

## Summary of scheme – election returns

The financial disclosure scheme requires election period returns to be lodged with the AEC by:

- **candidates** – all candidates must lodge a return of donations received and electoral expenditure (the electoral expenditure of members of Senate groups is to be included in the return of the Senate group as a whole rather than in individual candidate returns). In the case of endorsed candidates this is often a 'nil' return as their transactions are included in the party annual return
- **Senate groups** – independent and jointly endorsed Senate groups must lodge a return substantially similar to candidate returns. Information in respect of groups endorsed by a single party (the majority of Senate groups) is incorporated into the annual return of the endorsing party
- **donors** – subject to the disclosure threshold, donors to candidates and Senate groups must report specific details of their donations, and donations received by the donor making up part of those donations.

The election period returns previously lodged by broadcasters and publishers were discontinued prior to the 2007 Federal Election. The third party return of electoral expenditure became an annual return of political expenditure from the 2006–07 financial year.

The financial disclosure returns are prepared on a cash accounting and GST inclusive basis.

A tabular summary of the scheme and lodgement timetable is at *Appendix 1*.

## Return forms

With effect from the 2005–06 financial year, the AEC moved to an Internet-based system of providing return forms and supporting information to people and organisations with disclosure obligations. The practice of automatically providing paper-based returns and guidance information did not occur from that year. Return forms and other material were only provided in a paper format on request.

The return forms and handbooks are available on the AEC website ([www.aec.gov.au](http://www.aec.gov.au)).

## Public information

Completed annual returns for the preceding financial year are made publicly available on the AEC website on the first working day in February each year. Annual returns for the 1998–99 and subsequent financial years are available on the website.

Election period returns are made publicly available on the AEC website 24 weeks after an election. Election returns for the 2001 and subsequent elections are also available on the website.

The website includes a search and analysis facility for annual returns and is updated periodically as late and amended returns are received. Scanned copies of return forms are provided, with the search and analysis facility based on data extracted from the returns. Election returns with amounts other than 'nil' are available to view as scanned copies.

The financial disclosure information included in this report is, in large part, extracted from the public website. Because the website is regularly updated it may contain data not included in this report.

## Disclosure thresholds

Disclosure of detailed information, such as the source of donations is subject to a minimum disclosure threshold. The 2006 Amendment Act operated to increase the thresholds from \$200 (for candidate donations), \$1 000 (for Senate group donations) and \$1 500 (for party and associated entity revenue and debt items) to an amount of 'more than \$10 000' with effect from 8 December 2005. The annual returns for financial year 2005–06 were designed to provide for the \$1 500 disclosure threshold up to 7 December 2005 and the 'more than \$10 000' threshold after this date.

The threshold amount of more than \$10 000 is indexed with effect from 1 July each year based on increases in the consumer price index. The thresholds that have applied since 8 December 2005 are:

- 8 December 2005 to 30 June 2006 – \$10 000
- 1 July 2006 to 30 June 2007 – \$10 300
- 1 July 2007 to 30 June 2008 – \$10 500
- 1 July 2008 to 30 June 2009 – \$10 900.

The threshold amounts for each financial year are calculated and published on the AEC website when Australian Bureau of Statistics consumer price index data for the March quarter become available.

## Returns lodged – annual returns

**Table 5** provides details of the number of annual returns lodged with the AEC between the 2003–04 financial year (the year in which the 2004 Federal Election fell) and the 2007–08 financial year (the year in which the 2007 Federal Election fell).

<b>Table 5 – Annual returns received</b>					
<b>Return</b>	<b>2003–04</b>	<b>2004–05</b>	<b>2005–06</b>	<b>2006–07</b>	<b>2007–08</b>
Political Party – original	83	79	89	51	69
Political Party – amended	67	69	34	14	10
Associated Entity – original	78	75	121	325	231
Associated Entity – amended	17	15	3	4	9
Donor – original	947	1 442	395	229	340
Donor – amended	33	38	11	16	36
Political expenditure – original	n/a	n/a	N/a	65	72
Political expenditure – amended	n/a	n/a	N/a	1	0

### Political party returns

**Table 5** highlights the number of amended returns lodged by political parties (registered parties and their organised state or territory branches). The number of amended returns includes multiple amendments for some parties and branches.

The amended returns are as a result of deficiencies in the original returns identified by the party and the AEC through analysis of discrepancies (that is, between party returns and donor returns) and compliance review activity.

### Associated entity returns

**Table 5** highlights, for associated entities, an increase in the number of returns beginning in 2005–06, when compared to 2004–05.

This in large part is a result of a change to the definition of associated entity extending its coverage. This change has had the effect of classifying trade unions who are affiliates of one of the branches of the Australian Labor Party as associated entities, as well as a number of rural businesses, with corporate membership of the National Party of Australia – NSW.

These 2006 Amendment Act provisions, effective from 23 June 2006, resulted in ‘new’ associated entities being required to lodge a 2005–06 annual return.

A number of concerns were raised by new associated entities, including the commercially sensitive nature of the information required to be provided, and that some of the new associated entities were not politically active.

## Donors

The significant reduction in the number of donor annual returns received in 2006–07 and 2007–08 when compared to 2004–05 and 2005–06 is a reflection of the increase in the minimum disclosure threshold from \$1 500 to more than \$10 000 (indexed).

## Annual returns – financial information

A summary of recent annual financial disclosure information is at **Table 6**.

<b>Table 6 – Annual return summary</b>				
	<b>Federal election year 2004–05 (\$m)</b>	<b>Non-federal election year 2005–06 (\$m)</b>	<b>Non-federal election year 2006–07 (\$m)</b>	<b>Federal election year 2007–08 (\$m)</b>
<b>Political parties</b>				
Revenue	159.8	76.9	128.5	214.5
Expenditure	152.3	67.6	133.5	212.1
Debts	19.9	18.2	26.0	24.1
<b>Associated entities</b>				
Revenue	68.3	121.6	665.0	689.2
Expenditure	68.1	110.8	626.5	645.3
Debts	47.6	35.1	104.4	100.4
<b>Donors</b>				
	30.0	12.2	17.5	22.2
<b>Political Expenditure</b>				
	N/a	N/a	24.9	50.6

**Table 6** highlights, for political parties, the significantly higher revenue, expenditure and donations in an election year when compared to a non-election year. Revenue in election years includes public funding of \$41.9 million in 2004–05 and \$49.0 million in 2007–08.

It also highlights, for associated entities, the increased revenue and expenditure as a consequence of changes made by the 2006 Amendment Act as discussed under **Table 5** above.

The distribution of political party revenue is shown in **Table 7**. This shows the majority of registered political parties and their branches reporting less than \$1 million in revenue.

<b>Table 7 – Distribution of party revenue</b>				
<b>Revenue range</b>	<b>Number of party returns</b>			
	<b>2004–05</b>	<b>2005–06</b>	<b>2006–07</b>	<b>2007–08</b>
\$10m or more	4	1	5	6
\$1m to \$10m	19	15	13	18
\$100 000 to \$1m	17	18	14	17
Less than \$100 000	39	55	19	28
Number of parties	79	89	51	69



## Donor returns

**Table 8** is derived from annual returns of donations made to political parties lodged for the financial years 2004–05 to 2006–07. The returns for 2004–05 include 2004 Federal Election donations.

The donation size parameters in the table reflect the applicable minimum disclosure thresholds. Twenty five thousand was chosen as the upper limit, because this is a threshold at which the Act (subsection 316(2D)) requires individual receipts to be investigated by the AEC.

<b>Table 8 – Donor Return summary 2004–2005 (election year)</b>				
<b>Donation size</b>	<b>Amount and percentage of donations</b>		<b>Amount and percentage of donations</b>	
Less than \$1 500	2 073	42%	\$1.10m	4%
\$1 500 to \$10 000	2 102	43%	\$7.63m	25%
\$10 001 to \$24 999	529	11%	\$6.77m	23%
\$25 000 or more	211	4%	\$14.52m	48%
<b>Total</b>	<b>4 915</b>	<b>100%</b>	<b>\$30.02 m</b>	<b>100%</b>
<b>Donor Return summary 2005–2006 (non-election year)</b>				
Less than \$1 500	750	41%	\$0.48m	4%
\$1 500 to \$10 000	725	40%	\$2.63m	22%
\$10 001 to \$24 999	249	14%	\$3.36m	27%
\$25 000 or more	95	5%	\$5.75m	47%
<b>Total</b>	<b>1 819</b>	<b>100%</b>	<b>\$12.22m</b>	<b>100%</b>
<b>Donor Return summary 2006–2007 (non-election year)</b>				
Less than \$10 300	1 780	81%	\$4.79m	27%
\$10 301 to \$24 999	235	11%	\$3.76m	22%
\$25 000 or more	177	8%	\$8.97m	51%
<b>Total</b>	<b>2 192</b>	<b>100%</b>	<b>\$17.52m</b>	<b>100%</b>
<b>Donor Return summary 2007–2008 (non-election year)</b>				
Less than \$10,500	1 775	79%	\$5.06m	23%
\$10,501 to \$24,999	250	11%	\$3.94m	17%
\$25,000 or more	215	10%	\$13.30m	60%
<b>Total</b>	<b>2 240</b>	<b>100%</b>	<b>\$22.30m</b>	<b>100%</b>

## Annual returns relating to political expenditure

This return was introduced by the 2006 Amendment Act with effect from the 2006–07 financial year.

It requires (see s314AEB of the Act as amended) disclosure of expenditure incurred on:

- i. the public expression of views on a political party, a candidate in an election or a member of the House of Representatives or the Senate by any means;
- ii. the public expression of views on an issue in an election by any means;
- iii. the printing, production, publication or distribution of any material (not being material referred to in subparagraph (i) or (ii)) that is required under section 328 or 328A to include a name, address or place of business;
- iv. the broadcast of political matter in relation to which particulars are required to be announced under subclause 4(2) of Schedule 2 to the *Broadcasting Services Act 1992*; and
- v. the carrying out of an opinion poll, or other research, relating to an election or the voting intentions of electors;

The AEC received a significant number of inquiries and comments in relation to the interpretation of this requirement and in particular the broadness of items (i) and (ii). A selection of some of the issues raised includes the following:

### ‘Issue in an election’

Inquiries were received in relation to several aspects of this phrase, especially in relation to what could be determined to be an issue and on what basis. For example, a person lobbying on a particular issue may believe that the issue should be an issue for the election, but this belief may not be reflected in the election platform or material put forward by any party or candidate.

Additionally, on what geographic level would an issue need to have effect in order to become an election issue? For example, could a proposed development in a particular area be an election issue for an electorate? If so, would someone incurring political expenditure on that issue outside of that area be commenting on an issue in an election? In addition, the fact that the reporting of expenditure could come in a non-election year, when issues in the upcoming election may not be certain, could limit the relevant issues in that year.

### Categorisation of expenditure

This issue was raised by some organisations that have public expression of political views as one of their ordinary functions. For example, media organisations employing political correspondents, or organisations where lobbying is one of their functions. To what extent, if any, would the costs associated with these functions be political expenditure?

The AEC adopted a dominant purpose test in relation to the return, the effect of which is that the identification of persons with a disclosure obligation requires case-by-case assessment. For example, a media outlet in its reporting and commentary on the news of the day may not have a disclosure obligation while a political publication using the same article may have a disclosure obligation.

As a result of the complexities associated with the definition, release of the 2006–07 return form and its accompanying information material was delayed while the AEC prepared a comprehensive guidance note to assist in the completion of the return.

The AEC wrote to more than 800 people and organisations that it considered could have incurred political expenditure. The AEC has received 63 political expenditure returns, primarily from trade unions.

**Table 9** reports on the aggregated political expenditure reported in all returns received.

<b>Table 9 – Annual return relating to political expenditure</b>		
<b>Category</b>	<b>2006–07 (\$)</b>	<b>2007–08 (\$)</b>
Public expression of views on a political party, candidate or member of the Federal Parliament by any means	3 882 720.35	2 698 432.24
Public expression of views on an issue in an election by any means	8 503 965.38	13 280 787.74
Advertisements requiring authorisation under ss328 or 328A of the <i>Commonwealth Electoral Act 1918</i>	1 672 714.79	5 880 190.36
Advertisements requiring authorisation under subclause 4(2) of schedule 2 to the <i>Broadcasting Services Act 1992</i>	9 629 879.05	26 660 177.48
Opinion polling and other research relating to an election or the voting intention of voters	1 171 755.55	2 072 617.07

## Returns lodged – election returns

### Candidate and Senate group returns

Candidates and Senate groups (other than groups endorsed by a single party) must lodge returns setting out the total amount and number of donations received, details of donations received of more than \$10 500 and total payments made across certain categories of 'electoral expenditure'.

There were 1 421 candidates at the 2007 Federal Election, 1 054 House of Representatives candidates and 367 Senate candidates. There were 136 Senate groups of which 24 were independent or jointly endorsed groups and therefore required to lodge returns.

If no donations are received or expenditure incurred a 'nil' return must be lodged. A majority of candidates lodge 'nil' returns, as all donations received, and expenditure incurred is reported by their endorsing political party.

Candidate and Senate group returns must be lodged within 15 weeks after polling day. For the 2007 Federal Election, having regard to a public holiday in the Australian Capital Territory, this date was 11 March 2008.

A list of those candidates, who have not lodged disclosure returns, with the name of their endorsing party where applicable, is at *Appendix 3*. These outstanding returns continue to be pursued, including in consultation with the Director of Public Prosecutions. All required Senate group returns have been received.

**Table 10** provides a summary of the number of returns received, including 'nil' returns.

<b>Table 10 – Election returns received</b>		
	<b>2004 Federal Election</b>	<b>2007 Federal Election</b>
<b>Candidate returns</b>		
Number of candidates	1 421	1 421
Number of returns received	1 369	1 399
Number of 'nil' returns	949	1 083
Number of outstanding returns	51	22
Number of returns excluding 'nil' returns	421	316
<b>Senate group returns</b>		
Number of groups	119	136
Number of groups required to lodge a return	17	24
Number of returns received	17	24
Number of outstanding returns	0	0
<b>Other returns received</b>		
Return of donations made	371	5
Return of donations received	34	0
Third party return of electoral expenditure	161	n/a
Broadcasters	467	n/a
Publishers	543	n/a
Total election returns (total of candidates, senate groups and other returns)	2 962	1 428

### **Candidate obligations**

Information about candidate disclosure obligations was included in the Candidates Handbook provided to candidates as they nominated for the election. A letter advising the disclosure obligations was sent to each candidate and independent or jointly endorsed Senate group (or their agents as appropriate) following the end of the disclosure period. Candidates with returns outstanding have been followed up.

A Guidance Note was issued to clarify the reporting obligation where an endorsed candidate receives donations or incurs electoral expenditure other than through the endorsing party.

The Guidance Note (available on the AEC website) outlined the legislative requirements and established the following reporting principles:

- As a general rule, a donation paid to a party's account (including a campaign committee account) is likely to be revenue of the party. A donation which is paid to a candidate's account is likely to be revenue of the candidate.
- As a general rule, expenditure from a party's account (including a campaign committee account) is likely to be expenditure of the party. Expenditure from a candidate's account is likely to be expenditure of the candidate.

## Total donations

**Table 11** provides a summary of the total number and total amount of donations reported by candidates at the 2004 and 2007 Federal Elections.

<b>Table 11 – Total donations received</b>		
	<b>2004 Federal Election</b>	<b>2007 Federal Election</b>
<b>Candidate returns</b>		
Total number of donations reported	2 498	3 073
Total amount of donations reported	\$95 ,954	\$1 488 050
Number of individually declared donations	623	36
Percentage of number of donations individually declared	25.0%	1.2%
Total of individually declared donations	\$850 704	\$606 425
Percentage of amount of donations individually declared	88.8%	40.7%
<b>Senate group returns</b>		
Total number of donations reported	55	537
Total amount of donations reported	\$82 715	\$236 831
Number of individually declared donations	15	1
Percentage of number of donations individually declared		
Total of individually declared donations	\$76 995	\$40 000
Percentage of amount of donations individually declared	93.1%	16.9%

Analysis of donations reported in excess of the minimum disclosure threshold is provided below. Please note the threshold for the 2004 Federal Election was \$200 or more, while for 2007 it was more than \$10 500.

**Table 12** provides an aggregation of the electoral expenditure disclosed by candidates and Senate groups. This is not a complete picture of electoral expenditure as items such as travel and office accommodation are not included and expenditure by endorsed candidates is generally incorporated into party annual returns.

**Table 12 – Candidate and Senate group electoral expenditure**

Category	Candidates (\$)	Senate groups (\$)
Broadcast advertisements	697 536	108 820
Published advertisements	689 857	87 925
Displayed advertisements	12 704	0
Production of campaign material	696 142	113 863
Direct mailing	394 211	11 669
Polling and research	48 517	5 454
<b>Total</b>	<b>2 538 967</b>	<b>327 732</b>

### Donor returns

Persons or organisations who made donations totalling in excess of the \$10 500 disclosure threshold to individual candidates or to a member of a Senate group were required to lodge a disclosure return providing details of the donation. The return also required disclosure of donations received in excess of the threshold used for such donations.

As required by s17(2A) of the Act, the names of the persons who in the opinion of the Commission are or may be required to furnish an election donor return must be listed in this report. A list of those persons is at *Appendix 4*.

All persons or organisations the AEC is aware of who are required to furnish a return have done so. The returns were required to be lodged within 15 weeks after polling day. Donors may also be required to lodge separate annual returns for donations to political parties.

**Table 13** provides a summary of donations to candidates as reported in candidate returns.

**Table 13 – Candidate Returns – Analysis of Detailed Disclosures**

Donation size \$	Number and percentage of donations		Amount and percentage of donations	
	\$	%	\$	%
<b>Federal Election 2004</b>				
Less than 1 500	520	84	228 527	27
1 500 to 2 999	50	8	104 173	12
3 000 to 4 999	14	2	51 578	6
5 000 to 24 999	34	5	252 503	30
25 000 or more	5	1	213 922	25
<b>Total</b>	<b>623</b>	<b>100</b>	<b>850 704</b>	<b>100</b>
<b>Federal Election 2007</b>				
Less than 10 500	26	72	21 033	3
10 501 to 24 999	7	19	112 697	19
25 000 or more	3	8	472 695	78
<b>Total</b>	<b>36</b>	<b>100%</b>	<b>606,425</b>	<b>100</b>

## Unlawful loans and donations

Loans in excess of the minimum disclosure threshold from a source other than a financial institution such as a bank or credit union that are not properly documented are unlawful. Anonymous donations in excess of the threshold are similarly unlawful. No unlawful loans or donations were reported.

Advice to this effect is included in the candidate return and other information material provided to candidates.

## Outcome

The AEC seeks to ensure returns are received from all people or organisations with disclosure obligations.

Obligation letters are sent to all parties, associated entities, candidate agents and Senate group agents. Their returns are used to identify possible donors who are in turn contacted by the AEC about their disclosure obligation.

Media and web monitoring is used to identify third parties who may be incurring political expenditure.

Discrepancy reports are used to identify anomalies and inconsistencies within and between returns. The compliance review program is similarly used to assess reporting quality. Issues raised in the media or in political debate are investigated where this appears warranted.

The returns and any amendments are made available on the AEC website.

# Compliance reviews

## Compliance reviews

Subsection 316(2A) of the Act gives the AEC authority to investigate whether persons with specified financial disclosure obligations have met those obligations. Subsection 17(2C) of the Act requires the AEC to include particulars of the operation of subsection 316(2A) in this report, but subject to s17A.

The compliance review program checks whether financial disclosure returns comply with the statutory disclosure obligations. It also seeks to take a proactive role in educating and informing parties and others who may have a compliance obligation.

### Compliance review program

Compliance reviews begin with a request to a political party or associated entity to supply relevant documents against which the furnished disclosure return can be verified, such as their general ledger and copies of receipt books. This request is accompanied by a notice under subsection 316(2A) which requires the agent of a political party to produce the required documents.

The review process uses audit procedures and techniques to verify the annual returns of political parties and associated entities by reference to underlying financial and other records and systems. The review process also considers whether the records and systems capture all relevant information, including 'in-kind' transactions. The AEC is moving towards a practice of requesting and analysing documents electronically. Most major parties now use some kind of electronic accounting package. Electronic records allow for compliance reviews to be undertaken faster and more comprehensively at the AEC's own premises and with less disruption to the political parties and associated entities.

At the completion of the initial review of these documents a second s316(2A) notice will normally be produced, requiring the production of receipts, cashbooks and other original source material by the party. These original documents are compared to the general ledger to ensure that transactions have been captured in the ledger. This portion of the review will normally take place at the premises of the party, at a mutually agreed time.

The operation of s316(2A) during the period under report as described has enabled the Commission to investigate the compliance by those mentioned in the subsection with Part XX of the Act in the manner for which the subsection provides. It has not been found necessary to utilise the power under subsection 4 to require evidence to be given on oath or affirmation, nor has the occasion arisen for a prosecution under subsection 5, 5A or 6.



The AEC also investigates financial disclosure matters that come to its notice such as through media reports. Where there is reasonable evidence of a possible offence under the Act's disclosure provisions the AEC will utilise the more substantial investigatory powers available under subsection 316(3). Such investigations are discussed below under 'special matters'.

The review of a political party may include some or all of the underlying party units (e.g. branches, clubs and committees) and associated entities. As a major party may have more than 500 party units, these are examined on a sample basis.

The compliance review approach for the 2005 and 2006 years was based on an assessment of priority, including factors such as transaction volumes, the outcome of previous reviews and apparent disclosure anomalies. The likely educative benefit of a review was also considered.

The majority of compliance reviews result in amended returns being lodged (information about amended returns is provided at *Table 5*).

In some cases, multiple amendments are necessary in order to achieve proper compliance.

The compliance review program gave rise to:

- identification of understated and overstated transactions (involving amounts of up to \$1.5 million and multiple unreported or incorrectly reported transactions). These largely reflect, at least to some extent, a failure to understand the obligation to report all revenue (including gifts-in-kind) and expenditure rather than any intention to mislead. They also reflect the difficulty parties have in establishing and enforcing an effective reporting regime over their diverse party structure, and
- the identification of issues requiring clarification and guidance by the AEC. These include the treatment of barter transactions, the disclosure of operational and financial leases and the definition of debt for the purposes of the financial disclosure scheme.

## Internal review

The compliance review program was subject to further review under the AEC internal audit program. This involved a quality assurance review of a sample of compliance review files completed over the period June 2006 to May 2007. This was a follow-up to previous reviews and the redevelopment of the compliance review procedures.

The review identified issues relating to the adequacy of documentation supporting the exposure assessment upon which the program is based, and made better practice recommendations on issues such as accessing and analysing electronic data, reconciliation of source material and AEC reporting to parties and entities. It also noted that the compliance review procedures package was not finalised. The development of procedures is an ongoing process, with improvements taking into consideration regard to review experience and findings, and flexibility required, particularly for desk reviews and specific purpose reviews.

## Special matters

The AEC considers matters which come to its attention to determine whether disclosure obligations exist and, if so, whether these have been met.

Matters which come to the attention of the AEC are the subject of a preliminary assessment, using the information which has come to notice and routine enquiries, as to whether further investigation is merited. Where appropriate the AEC will utilise its powers to investigate under s316(3) of the Act. In particular, the investigation powers are often necessary to obtain information on transactions from media organisations and financial institutions, and to obtain information from parties and donors where a less formal approach has proved unsuccessful.

Special matter enquiries and investigations undertaken since the 2004 Federal Election include the following matters:

- *Ryan FEC Dinner* – raised the question of whether there was appropriate disclosure of an amount of \$10 000 donated to the Liberal Party of Australia – Queensland Division. The AEC’s investigation determined that there had been appropriate disclosure.
- *Wielangta Fighting Fund* – the question whether this is an associated entity of the Australian Greens was raised with the AEC by Senator the Hon. Eric Abetz on 18 July 2006. The AEC’s investigation led to the conclusion that the Wielangta Fighting Fund is not an entity within the meaning of s287 of the Act and as a result cannot be an associated entity.
- *Exclusive Brethren* – Senator Bob Brown raised the question whether there were outstanding disclosure obligations in relation to advertisements and pamphlets published during the 2004 Federal Election by the Exclusive Brethren. AEC investigations, including the use of subsection 316(3) powers to obtain financial information from publishers and banks resulted in this matter being referred to the Australian Federal Police (AFP) for further investigation. The AEC’s investigations (assisted by the AFP investigations) concluded that an organisation, Willmac Enterprises and not the Exclusive Brethren, had incurred the expenditure and it had fulfilled its obligations to disclose.
- *GetUp and the Bennelong Institute* – the question whether these are associated entities was raised with the AEC by the then Special Minister of State in August 2005. The AEC considered public information from company and internet searches, and media reports and interviews. It concluded that the entities were not associated entities (as then defined) as they did not appear to be controlled by one or more registered political parties, nor did they appear to operate wholly or to a significant extent to the benefit of one or more registered political parties. The available information did not show a real or actual benefit to any party or parties, nor did it show a sufficiently direct link between the entities and any political party or parties. The AEC had insufficient grounds to undertake a more formal investigation.
- *Windsor/Maguire* – Senator Michael Forshaw, then Chair of the Senate Finance and Public Administration References Committee wrote to the AEC on 7 October 2005 following conflicting evidence about campaign donations that may have been made to Mr Tony Windsor MP by Mr Greg Maguire and a possible breach of the financial disclosure provisions. As preliminary enquiries and searches did not reveal evidence of payments made by Mr Maguire to Mr Windsor, there were insufficient grounds to exercise powers for the compulsory production of information to investigate the matter further.

- *Friends of Indi* – in February 2007, News Ltd published reports alleging that the Friends of Indi failed to disclose significant donations received from the tobacco industry during the 2005–06 financial year. The AEC subsequently received associated entity disclosure returns from Friends of Indi for the 2004–05 and 2005–06 financial years, and agreed at a Senate Finance and Public Administration Committee's Additional Estimates hearing to examine the matter further. AEC Investigation of the Friends of Indi required the use of the AEC's investigative powers under s316 of the Act. The enquiry confirmed it was an associated entity of the Liberal Party of Australia (Victoria). This was because it promoted and advanced the Member for Indi in compliance with the party's constitution, which deemed contributions to endorsed candidates as being the same as Party contributions. A compliance review of the Friends of Indi determined that this group had met its disclosure obligations at that time. The party subsequently lodged an amended return for the 2004–05 financial year, disclosing \$23 514 additional total receipts and \$16 158 additional detailed receipts.
- *South Australian Labor Unity Society (SALUS)* – the question was whether a fund operated by a faction of the Australian Labor Party (South Australian Branch) is an associated entity. Articles in the South Australian press in March and April 2007 claimed that SALUS is a social and policy development fund used to help with the day-to-day running of the faction. The AEC's investigation has determined that SALUS is not an associated entity.
- *Liberal Party of Australia, Queensland Division* – the Senate Finance and Public Administration Committee drew the AEC's attention to an article in The Australian on 31 August 2006 to the effect that the Liberal Party paid legal expenses incurred by Mr Russell Galt for a court appeal against Dr Bruce Flegg's pre-selection for a Queensland State seat. The AEC's investigation concluded that two payments totalling \$110 000 were paid by the Liberal Party of Australia – Federal Secretariat. An additional payment of \$30 000 was paid by another person. The limitation period for any action for an alleged offence of non-compliance has now passed and no further investigation will be undertaken.
- *Kirribilli House function hosted by the Prime Minister* – the question was whether a function hosted by the Prime Minister at Kirribilli House on 1 June 2007 attracted a potential disclosure obligation under the Act. This matter drew significant political comment and debate. The AEC's investigation concluded that the provision of Kirribilli House as a venue for the function in question was not a gift under s287 of the Act.
- *Reporting by Commonwealth government departments* – Mr Kelvin Thomson, then Shadow Minister for Public Accountability, raised possible breaches of s311A of the Act. Section 311A requires Commonwealth departments and agencies to include in their annual reports amounts paid to advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising organisations. The names of the organisations must also be reported. The AEC's review of the information provided by Mr Thomson showed that all the identified payments had been disclosed.
- *Contributions by Unions to the ALP* – Senator Fierravanti-Wells raised the matter of five donations which may not have been disclosed. The AEC's investigation dealt with this matter as part of its regular compliance reviews. Of the five donations one was correctly disclosed, two were not required to be disclosed and two had not been disclosed and were included in an amended return.

- *Independent Candidates Advisory Network (ICAN)* – Senator Nash raised this matter at Senate estimates. The investigation was to identify whether ICAN had any disclosure obligations. The AEC’s investigation determined that ICAN, while it existed, has not engaged in any activities that would attract a disclosure obligation.
- *Alleged robbing* – ALP fund raising anomalies – an article in *The Age* newspaper raised this matter in relation to fundraising activities in Melbourne in 2004. The AEC’s investigation found no sufficient evidence to support the allegation.
- *Gavin O’Connor’s Allegations Regarding Richard Marles the Member for Corio* – this matter was raised by the then Special Minister of State Gary Nairn. The AEC’s investigation into this matter could find no evidence to support further investigation of the matter.
- *Donations Made from the Transport Workers Union (TWU) Industrial Rights, Training and Education Fund* – Media reports, including on the Channel 9’s *Sunday* program, the *Sydney Morning Herald* and the *Australian Financial Review*, raised issues concerning donations made out of this fund including donations to candidates’ election campaigns. As a result of inquiries made by the AEC, an amendment was made to the 2005–2006 annual disclosure return for the Australian Labor Party (N.S.W. Branch) to list details of a donation of \$1 500 made out of this Fund.

## Prosecutions

No disclosure matter has been prosecuted since the 2004 Federal Election.

# Party Registration

## Party registration

Part XI of the Act provides for the registration of political parties and the maintenance by the AEC of a public Register of Political Parties.

While it is not a requirement of this report to provide information on the operation of party registration it is included because it is one of the functions undertaken by the Funding and Disclosure section.

Registration, which is not compulsory, provides the following significant benefits to parties:

- party affiliation (party name or abbreviation) may be shown next to the names of endorsed candidates and Senate groups on ballot papers
- access to the electoral roll and habitation index for each state and territory in which the party is organised, on a regular basis in electronic format
- access to historic voting information (that is, where people vote)
- access to a list of postal vote applicants
- election funding entitlements for endorsed candidates and Senate groups are paid to the party, rather than to the candidate.

Registered political parties, and their state and territory branches and associated entities, have financial disclosure obligations as discussed earlier in this report.

## Deregistration of certain parties

Schedule 3 of the 2006 Amendment Act operated to deregister parties that had not had representation in the Commonwealth Parliament. These parties were able to re-register subject to the current restrictions applying to party names and abbreviations.

The deregistration process operated as follows:

- 22 June 2006 (commencement of the 2006 Amendment Act) – the Register of Political Parties was frozen (except for changes to registered officer details) for six months.
- 25 September 2006 (three months after commencement) – deadline for parties without current representation to submit a claim for exemption from deregistration on the basis of prior representation.
- 27 December 2006 (six months after commencement) – deadline for the AEC to determine which parties were exempt from deregistration as a result of representation. Parties that were not able to claim current or previous parliamentary representation were deregistered on this date. The Register of Political Parties was re-opened to allow normal processing to be undertaken.
- 25 June 2007 (12 months after commencement) – deadline for the waiver of the \$500 registration fee for parties that apply for re-registration.

The following 19 registered political parties were deregistered by the operation of the 2006 Amendment Act on 27 December 2006:

- Christian Democratic Party (Fred Nile Group) <sup>a</sup>
- Citizens Electoral Council of Australia <sup>a</sup>
- Citizens Electoral Council Australia (NSW Division)
- Help End Marijuana Prohibition <sup>b</sup>
- Hope Party Australia
- liberals for forests
- New Country Party
- No Goods and Services Tax Party
- Non-Custodial Parents Party <sup>a</sup>
- One Nation Queensland Division <sup>c</sup>
- One Nation Western Australia <sup>a c</sup>
- People Power <sup>c</sup>
- Progressive Labour Party <sup>b</sup>
- Queensland Greens <sup>b</sup>
- Republican Party of Australia <sup>b</sup>
- Socialist Alliance <sup>a</sup>
- The Australian Shooters Party <sup>a c</sup>
- The Fishing Party <sup>a</sup>
- The Great Australians

<sup>a</sup> These seven parties re-registered prior to the 2007 Federal Election. The Non-Custodial Parents Party added the words 'Equal Parenting' to its name when it re-registered.

<sup>b</sup> These four parties had applications for re-registration pending when the 2007 Federal Election was called.

<sup>c</sup> These four parties were registered after the 2004 Federal Election and then deregistered as a result of the 2006 Amendment Act.

The following four parties successfully claimed exemption from deregistration on the basis of parliamentary representation in previous parliaments:

- Democratic Labor Party of Australia
- Nuclear Disarmament Party of Australia
- Pauline Hanson's One Nation (NSW Division)
- The Greens (WA) Inc.

## Registered parties

There were 53 registered political parties at the 2007 Federal Election, 46 of which endorsed candidates or Senate groups. This compares with 62 registered political parties at the 2004 Federal Election, 56 of which endorsed candidates. The 53 registered parties include a number of related party groups with multiple registrations:

- Australian Labor Party – ten registrations
- Liberal Party of Australia – eight registrations
- National Party of Australia – seven registrations
- Greens – four registrations

A list of parties registered at the 2007 Federal Election is at **Table 14**. The seven parties marked with a ‘\*’ did not field a candidate at the 2007 Federal Election.

**Table 14 – Registered political parties as at 24 November 2007**

Name	Name
Australian Democrats	Liberal Party of Australia*
Australian Fishing and Lifestyle Party	Liberal Party of Australia (SA Division)
Australian Greens	Liberal Party of Australia (Vic. Division)
Australian Labor Party (A.C.T Branch)	Liberal Party of Australia – ACT Division
Australian Labor Party (ALP) *	Liberal Party of Australia – Queensland Division
Australian Labor Party (NSW Branch)	Liberal Party of Australia – Tasmanian Division
Australian Labor Party (Northern Territory) Branch	Liberal Party of Australia, NSW Division
Australian Labor Party (South Australian Branch)	Liberty and Democracy Party
Australian Labor Party (State of Queensland)	National Party of Australia*
Australian Labor Party (Tasmanian Branch)	National Party of Australia (Queensland)
Australian Labor Party (Victorian Branch)	National Party of Australia (SA) Inc.
Australian Labor Party (Western Australian Branch)	National Party of Australia (WA) Inc.
Country Labor Party	National Party of Australia – N.S.W.
Carers Alliance	National Party of Australia – Vic.
Christian Democratic Party (Fred Nile Group)	Young National Party of Australia*
Citizens Electoral Council of Australia	Non-Custodial Parents Party (Equal Parenting)
Climate Change Coalition	Northern Territory Country Liberal Party
Conservatives for Climate and Environment Incorporated	Nuclear Disarmament Party of Australia
Democratic Labor Party (DLP) of Australia	One Nation
Family First Party	One Nation Western Australia
Hear Our Voice	Peter Andren Independent Group*
Liberal Party (W.A. Division) Inc.	Pauline's United Australia Party

**Table 14 – Registered political parties as at 24 November 2007 (continued)**

Name	Name
Senator On-Line	The Fishing Party
Socialist Alliance	The Greens (WA) Inc*
Socialist Equality Party	The Greens NSW*
The Australian Greens – Vic.	What Women Want (Australia)
The Australian Shooters Party	

## Registration activity

Table 15 shows the party registration changes subsequent to the 2004 Federal Election:

**Table 15 – Registration activity**

Change	Deregistrations	Registrations	Number of parties
Parties registered at 2004 Federal Election			62
New registrations prior to 2006 Amendment Act measures		4	66
2006 Amendment Act deregistrations	19		47
Other de-registrations	12		35
Deregistered parties subsequently re-registered		7	42
New registrations after 27 December 2006		11	53
<b>Parties registered at 2007 Federal Election</b>			<b>53</b>

## Deregistration

Thirty-one parties were deregistered over the period between the 2004 and the 2007 Federal Elections. The reasons for deregistration were:

- nineteen parties – pursuant to the 2006 Amendment Act bulk deregistration provisions
- three parties – s136(1)(a) failure to endorse a candidate in an election for four years
- one party – s137(1)(b) ceased to have at least 500 members
- five parties – voluntarily deregistered
- three parties – s137(1)(cb) failure to comply with a notice issued as part of a review of their eligibility to remain registered.

## Registration

The key requirements to be established by a party seeking registration are that it fulfills the following criteria:

- is an organisation established on the basis of a written constitution
- has an object or activity to endorse candidates for House of Representatives or Senate elections
- has a name and abbreviation that are not prohibited under the Act



- satisfies membership requirements either as:
  - a parliamentary party with at least one member who is a member of the Commonwealth Parliament
  - a non-parliamentary party with at least 500 members entitled to enrolment on the Commonwealth electoral roll.

The party name and abbreviation prohibition relates to names that are too long; obscene, likely to be confused with or suggest a relationship with another (unrelated) party, or use the word 'independent' in a prohibited manner.

All applications must be advertised in the national press and are subject to a one-month period during which public objections may be lodged.

The AEC determined 25 applications for registration since the 2004 Federal Election resulting in 22 successful registrations prior to the 2007 Federal Election. Two parties were each registered twice as they were first registered prior to the 2006 Amendment Act, deregistered under the new provisions and then registered again.

The AEC also determined two applications to change a party name and party abbreviation on the *Register of Political Parties*.

The AEC is required to publish its reasons for a decision by which it has rejected any of the following:

- an application for registration of a political party
- an application for a change of registered party name or abbreviation
- an application to enter a party abbreviation in the *Register of Political Parties*.

The three applications for registration and an application to change a party name and party abbreviation that were refused were:

- Pauline Hanson's One Nation (NSW Division) – the Commission determined that an application to change the registered party name and registered party abbreviation under s134 should be refused as the proposed name and abbreviation were prohibited. The party proposed the name One Nation Australia. Objectors argued that this would imply that this party was a national body for the One Nation group of parties, where in fact that was not the case. The party subsequently applied to change its name to One Nation and this was approved.
- Brandon Raynor's Green Liberals – the party failed to satisfy the delegate that it was an eligible political party under s123 of the Act in that the party did not demonstrate that it had at least 500 members.
- Human Rights Party – the Party failed to satisfy the delegate that it was an eligible political party under s123 of the Act in that the party did not demonstrate that it had at least 500 members.
- Cheaper Petrol Party – the party failed to satisfy the delegate that it was an eligible political party under s123 of the Act in that the party did not demonstrate that it had at least 500 members. The Party also failed to clarify who performs the function of the secretary in accordance with s123 of the Act (see s126).

No action can be taken on an application for the registration of a political party during the election period from the issue of the writ to the return of the writ. There were six applications for registration on hand over the period of the 2007 election, four of which were applications for re-registration. One application for re-registration was being prepared for the delegate's refusal and three were awaiting further information from the party. The two other applications were lodged at a time which did not allow the period for lodging objections to expire prior to the writ for the 2007 election. They could therefore not be registered before the election.

## Appeals

Two applications for review of party registration decisions were lodged.

The Human Rights Party applied to the Commission for a review of a delegate's decision to refuse the party's application for registration. The application for review addressed the steps the AEC takes to be satisfied that a party applying is eligible for registration under the Act, in particular the steps the AEC takes to be satisfied that a party has the 500 members entitled to electoral enrolment required for eligibility. The Commission affirmed the decision to refuse registration. The Human Rights Party then appealed to the Federal Court of Australia. That appeal was subsequently withdrawn.

The Fishing Party also applied to the Commission for a review of a delegate's decision to register the Australian Fishing and Lifestyle Party (the AFLP). This party was The Fishing Party's Queensland Branch, which had not held separate federal registration before. The basis of this application was that the 500 members relied on to prove the AFLP's eligibility were actually members of The Fishing Party.

The Commission affirmed the decision to register the AFLP and The Fishing Party applied to the Administrative Appeals Tribunal (the AAT) for further review. The Act prevents the AAT hearing such an application while there are writs outstanding for a federal election. This meant that the AAT could not proceed to hear this application for periods totalling almost six months while writs were outstanding for the 2007 Federal Election, the 2008 Gippsland by-election and the 2008 Lyne and Mayo by-elections. The AAT held a hearing into this application in mid-November 2008 and on 17 March 2009 it affirmed the decision of the Commission.

The Fishing Party and its officers also pursued a number of legal proceedings in the Federal Court of Australia in 2007 in an attempt to prevent the election results involving the AFLP from being accepted and included with the return of the writs. The Fishing Party and its officers also challenged the election results in the Court of Disputed Returns. None of these challenges have been successful. However, the AEC is awaiting the written judgment of the Full Federal Court of Australia which heard a challenge to the decision of the Court of Disputed Returns and dismissed that challenge at a hearing held on 20 November 2008.

# Legislative Review

## Legislative review

### **JSCEM report – the 2004 Federal Election**

The JSCEM tabled its report on the *Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto* on 10 October 2005. Among other matters, the report addressed issues associated with election funding, financial disclosure and party registration. It made a number of recommendations for reform of the financial disclosure and party registration schemes, most of which were incorporated into the 2006 Amendment Act.

The government also took the opportunity to incorporate additional measures not addressed by the JSCEM into the 2006 Amendment Act. The government response to the JSCEM report, tabled on 30 August 2006, noted the measures included in the 2006 Amendment Act. It did not support the remaining JSCEM recommendations for minimum requirements for the constitution of a registered political party on the basis that these would be an unwarranted intrusion into the internal affairs and activities of parties.

### **JSCEM report – Inquiry into disclosure of donations to political parties and candidates**

The JSCEM tabled its report *Funding and Disclosure: Inquiry into disclosure of donations to political parties and candidates* on 31 March 2006. This inquiry originated from a reference in 2000 and was re-referred by subsequent Parliaments. The original reference was to inquire into those recommendations of the AEC's 1996 and 1998 reports on funding and disclosure not currently incorporated in legislation or not previously examined by the Committee. The AEC made submissions and appeared at JSCEM hearings on both inquiries.

The report concluded that the JSCEM did not see the need to add to the recommendations made in its report on the 2004 Federal Election.

### **The Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006**

The chapters of this report on financial disclosure and party registration comment on the changes made by the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* and the administration of those changes.

The AEC held meetings with parties and associated entities in all State and Territory capitals to discuss and explain the legislative changes. It revised the various reporting forms and associated guidance material, and provided additional guidance and information as necessary.

## Electoral Reform Green Paper

On 17 December 2008, the Government released the *Electoral Reform Green Paper – Donations, Funding and Expenditure* for public comment. This paper, the first of two on electoral reform, covers issues relating to the disclosure of political donations, and the funding and expenditure of political parties and others involved in the political process. Comments on the green paper were invited.

### **The Commonwealth Electoral Amendment (Political Donations and other Measures) Bill 2008**

The government introduced this Bill on 15 May 2008. The Bill proposed several changes to the disclosure scheme, including:

- Reduce the disclosure threshold for donors, registered political parties, candidates and others from 'more than \$10 000' (indexed annually to the CPI) to a flat rate of \$1 000.
- Treat donations to different branches of a political party as donations to the same party, so that donors will need to disclose donations totalling \$1 000 or more to any combination of the branches of the party.
- Reduce the timeframes for the lodgement of returns by political parties to every 6 months, and shorten a range of other reporting periods under the Act.
- Make it unlawful for registered political parties, candidates and members of a Senate group to accept overseas donations, and unlawful for associated entities and other third parties to receive overseas gifts that are used solely or substantially to incur political expenditure.
- Tie public funding for elections to election expenditure.
- Introduce a range of new offences to the reporting and disclosure regime and increase the level of penalties in the Act.

The Bill was rejected by the Senate on 11 March 2009.

### **The Commonwealth Electoral Amendment (Political Donations and other Measures) Bill 2009**

The Government introduced this Bill on 13 March 2009. The Bill is in almost identical terms to the *Commonwealth Electoral Amendment (Political Donations and other Measures) Bill 2008*, apart from the inclusion of government amendments proposed to the earlier Bill. These amendments include:

- reducing the threshold for accepting anonymous gifts to \$50, with some limitations in respect of the circumstances in which they can be accepted
- extending the categories of expenditure for the purposes of claiming election funding.

This Bill was passed by the House of Representatives on 16 March 2009, but is yet to be passed by the Senate. If enacted this Bill would commence on 1 July 2009, with the first returns due in February 2010.

## Matters for further consideration

There are a number of matters affecting the effective operation and administration of Parts XI and XX of the Act that might be considered for legislative review.

### Annual return relating to political expenditure

The disclosure requirement as it applies to expenditure on the public expression of views on a party, candidate, Member of Parliament or issue in an election is so broad and general in scope that it raises the question whether it needs to be read as being subject to a dominant purpose test. Publication of a political or policy opinion piece in a newspaper may be an adjunct to normal reporting activity not seen as constituting political expenditure while publication of the same opinion piece in a journal with a more overt political objective may well be seen as involving political expenditure.

Similarly, public political commentary by a trade union as an adjunct to its role of acting in the interests of members may or may not involve political expenditure as defined.

The reference to 'issue in an election' is similarly broad. Because the return is an annual return, it might not be made during an election period, and there might be a question whether an issue on which views have been expressed should be regarded as 'an issue in an election'.

These questions give rise to the need for case-by-case analysis to determine whether a disclosure obligation arises. Issues of estimation and apportionment of costs, including overhead costs, are also relevant.

While the AEC issued a comprehensive guidance note in an effort to help clarify the disclosure requirements for those potentially incurring expenditure, the provision as drafted is, in practical terms, difficult to implement.

# Appendices

## Appendix 1– Overview of the Financial Disclosure Scheme

**Table 16 – Financial disclosure scheme as at 2007 Federal Election**

Annual returns		
Donors	Political parties	
Details of donations made to parties totalling more than \$10 500	Total receipts, payments and debts	
Details of donations received of more than \$10 500 applied to donations made to parties	Details of amounts received of more than \$10 500	
Political expenditure	Details of debts incurred of more than \$10 500	
Political expenditure incurred in excess of \$10 500	Associated Entities	
Details of donations received of more than \$10 500 applied to political expenditure	Total receipts, payments and debts	
Parties registered at 2007 Federal Election	Details of amounts received of more than \$10 500	
	Details of debts incurred of more than \$10 500	
	Details of capital contributions received	
Election returns		
Donors	Candidates	Senate groups
Details of donations totalling more than \$10 500 made to candidates	Number and amount of donations received	Number and amount of donations received
Details of donations received of more than \$10 500 applied to donations made to candidates	Details of donations received of more than \$10 500	Details of donations received of more than \$10 500
	Amounts of electoral expenditure	Amounts of electoral expenditure
		Endorsed groups (other than jointly endorsed groups) report through party annual returns
The returns are not necessarily audited and are prepared on a GST inclusive basis. Revenue and donations are reported on a cash accounting basis. Electoral and political expenditure is reported on an ‘incurred’ (accruals) basis. This table is to be read in conjunction with <b>Table 18</b> .		

**Table 17 – Financial Disclosure Timetable as at the 2007 Federal Election**

Return	Lodgement date		Period covered	Public release
	Annual returns	Election returns		
Political party and associated entity	16 weeks after end of financial year	n/a	1 July to 30 June	1st working day in February
Donor and political expenditure	20 weeks after end of financial year	n/a	1 July to 30 June	1st working day in February
Donor to candidates	n/a	15 weeks after election day	31 days after last election to 30 days after election day	24 weeks after election
Candidate	n/a	15 weeks after election day	31 days after the last election contested within 4 years (House of Reps) or 7 years (Senate), or from commencement of candidacy, or from date of appointment to Senate vacancy, to 30 days after election day	24 weeks after election
Senate group	n/a	15 weeks after election day	From request to AEC to be grouped until 30 days after election day	24 weeks after election

The AEC has no authority to vary the lodgement and public release dates.

The election was held on 24 November 2007. This table should be read in conjunction with **Table 19**.

## Appendix 2 – Political parties which did not lodge returns by the public release date

### 2005–06 financial year

Several political parties submitted a return after the 20 October deadline. Below is the list detailing these political parties and the dates their returns were received:

- The Greens NSW (23 October 2006)
- Australian Labor Party – State of Queensland (23 October 2006)
- Family First Party – Qld (23 October 06)
- National Party of Australia (WA) Inc. (24 October 2006)
- Australian Democrats Queensland Division (24 October 2006)
- People Power (24 October 2006)
- Australian Democrats – National (25 October 2006)
- Family First Party – WA (27 October 2006)
- Liberal Party of Australia, NSW Division (30 October 2006)
- Australian Democrats ACT Division (06 November 2006)
- Australian Labor Party (Western Australian Branch) (07 November 2006)
- Australian Democrats Victorian Division (12 November 2006)
- The Fishing Party (15 November 2006)
- National Party of Australia (SA) Inc. (16 November 2006)
- Citizens Electoral Council Australia (NSW Division) (17 November 2006)
- The Australian Shooters Party (23 November 2006)
- liberals for forests (24 November 2006)
- No Goods and Services Tax Party (27 November 2006)
- Ex-Service, Service & Veterans Party (27 November 2006)
- Christian Democratic Party (Fred Nile Group) – WA (29 November 2006)
- Australian Greens (NT Branch) (30 November 2006)
- Queensland Greens (01 December 2006)
- New Country Party (05 December 2006)
- Australian Democrats, Western Australian Division (12 December 2006)
- National Party of Australia (Queensland) (22 December 2006)
- Christian Democratic Party (Fred Nile Group) – NSW (22 January 2007)
- Australian Greens – SA (02 February 2007)
- Nuclear Disarmament Party of Australia (25 May 2007)



- Help End Marijuana Prohibition (30 May 2007)
- One Nation Queensland Division (30 May 2007)
- Christian Democratic Party (Fred Nile Group) – ACT (06 June 2007)
- Australian Democrats NSW Division (13 July 2007).

## 2006–07 financial year

Several political parties submitted a return after the 22 October deadline. Below is the list detailing these political parties and the dates their returns were received:

- Australian Labor Party (State of Queensland) (23 October 2007)
- Australian Greens – NT (23 October 2007)
- Australian Labor Party (Western Australian Branch) (24 October 2007)
- Pauline Hanson's One Nation – Vic. (25 October 2007)
- Australian Democrats – NATIONAL (13 December 2007)
- Australian Democrats NSW Division (13 December 2007)
- Young National Party of Australia – NATIONAL (17 January 2008)
- Pauline Hanson's One Nation – SA (23 January 2008)
- Queensland Greens (13 March 2008).

## 2007–08 financial year

On 1 February 2009, 69 political party returns were available for public release. Of these 69 returns, several political parties submitted a return after the 20 October deadline. Below is the list detailing these political parties and the dates their returns were received:

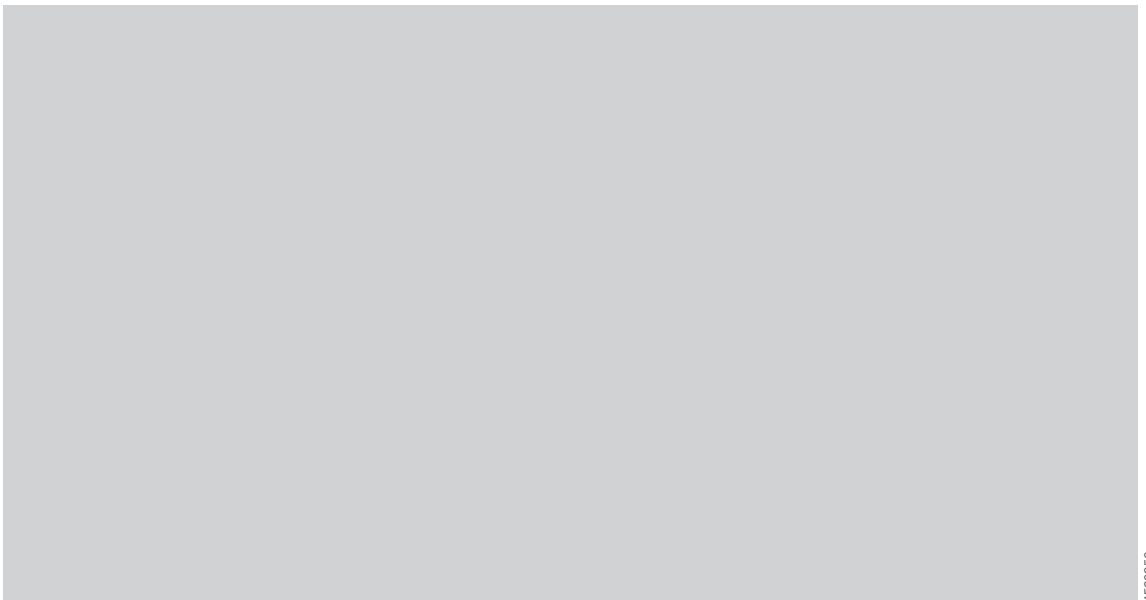
- Citizens Electoral Council of Australia (21 October 2008)
- Christian Democratic Party (Fred Nile Group) WA Branch (21 October 2008)
- Australian Fishing and Lifestyle Party (22 October 2008)
- Family First Party – NSW (23 October 2008)
- One Nation Queensland Division (24 October 2008)
- National Party of Australia (WA) Inc. (2 January 2009)
- Christian Democratic Party (Fred Nile Group) (15 January 2009)
- Young National Party of Australia (2 February 2009)
- Climate Change Coalition (3 February 2009)
- Australian Democrats (NSW) (14 May 2009)

## Appendix 3 – 2007 Federal Election candidates who have not lodged returns by the publication date of this report

Given name	Surname	Party
Pierce Gordon	Field	Australian Democrats
David Scott	Kane	Australian Democrats
David John	King	Australian Democrats
Robert John Michael	Leach	Australian Greens
Vlaurdin Rodrigo	Vega	Australian Greens
Bernard Hugh	Neville	Christian Democratic Party (Fred Nile Group)
Ben	Buckley	Independent
Maurice Mary	Foley	Independent
F	Ivor	Independent
Patricia May	Petersen	Independent
Aubrey Benedict	Clark	Liberty and Democracy Party
Daniel Douglas	Farmilo	Liberty and Democracy Party
Bede	Ireland	Liberty and Democracy Party
John	Mackenzie	Liberty and Democracy Party
Darrin Jeffrey	Welden	Liberty and Democracy Party
Koulla	Mesaritis	Not affiliated
Eric William	Wynne	Not affiliated
Daniel John	Shore	One Nation
Ian John	Nelson	One Nation Western Australia
Liam Shaun	Farrelly	The Australian Greens – Victoria
Brook	Shaune	The Australian Greens – Victoria
Garth William	Bridge	The Fishing Party

## Appendix 4 – Persons who were required to lodge a 2007 Federal Election donor return

Donor	Return received
Anthony Windsor MP	Yes
Hills Transport Pty Ltd	Yes
Kindilan Investments Pty Ltd	Yes
Manildra Group	Yes
Mist Consulting Pty Ltd	Yes



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