

Election Funding and Disclosure Report

Federal Election 2013

April 2014

Election Funding and Disclosure Report

Federal Election 2013

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

Produced by: Australian Electoral Commission
Contact officer: Funding and Disclosure Branch
Australian Electoral Commission
West Block Offices
Queen Victoria Terrace
Parkes ACT 2600

PO Box 6172
Kingston ACT 2604

Phone: 02 6271 4552
Fax: 02 6293 7655
Email: fad@aec.gov.au
Website: www.aec.gov.au

ISBN: 9781921427282

The licence for this work is under the Creative Commons Attribution 3.0 Australia Licence. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/3.0/au>

The Australian Electoral Commission asserts the right of recognition as author of the original material. The report should be attributed *Election Funding and Disclosure Report, Federal Election 2013*.





Our Ref: Fad6720

April 2014

Senator the Hon Michael Ronaldson
Special Minister of State
Parliament House
CANBERRA ACT 2600

Dear Minister

In accordance with section 17(2) of the *Commonwealth Electoral Act 1918* (the Act) we submit the Australian Electoral Commission's (the AEC) report of the operation of Part XX in relation to the general election and half-Senate election held on 7 September 2013.

A report under subsection 17(2C) which requires a report on the particulars of the operation of subsection 316(2A) of the Act is included.

Yours sincerely

signature redacted

signature redacted

The Hon Peter Heerey AM QC
Chairperson

Tom Rogers
A/g Electoral Commissioner

Key terms

AEC	Australian Electoral Commission
CDPP	Commonwealth Director of Public Prosecutions
CPI	Consumer Price Index
Disclosure threshold	The disclosure threshold applied to the 2013 federal election is amounts of “more than \$12 400”
DRO	Divisional Returning Officer
Endorsed candidate or Senate group	A candidate or Senate group that was endorsed by a registered political party
FAD	Funding and Disclosure. A descriptor for the election funding and financial disclosure provisions of Part XX of the Act. Funding and Disclosure is also the name of the Branch in the AEC responsible for administering Part XX of the Act.
Independent candidate or Senate group	A candidate or Senate group that was not endorsed by a registered political party
JSCEM	Joint Standing Committee on Electoral Matters
The Act	The <i>Commonwealth Electoral Act 1918</i>
The Register	The Register of Political Parties

Copies are available free of charge by downloading from the AEC website at www.aec.gov.au or by requesting a printed copy from the AEC’s National Office in Canberra.

Data used to collate this report is current as at 19 March 2014.

Contents

Key terms	v
Background	1
General reporting obligations	1
The Report	2
Part XX	2
Election funding	3
Authority	3
Operation of the relevant provisions	3
Payments for the 2013 Election	5
Payments made	7
Financial disclosure	15
Authority	15
Operation of the relevant provisions	15
Disclosure returns for the 2013 election	18
Investigations report under section 17(2C)	22
Appendix A – List of Prescribed Persons	27
Appendix B – Key election dates	29
Appendix C – Legislation	31
Part XX Division 3 – Election funding	31
Part XX Division 4 – Disclosure of donations	38
Part XX Division 5 – Disclosure of electoral expenditure	41
Part XX Division 6 – Miscellaneous	41

Background

General reporting obligations

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

17 Reports by the Commission

- (1) The Commission shall, as soon as practicable, after 30 June in each year, prepare and furnish to the Minister a report of the operations of the Commission during the year that ended on that 30 June.
- (1A) A report under subsection (1) in relation to the operations of the Commission for the year ending on 30 June 2001, and for each subsequent year, must include particulars for that year of:
 - (a) each person or organisation to whom the Commission has provided a copy of a Roll under subsection 90B(1); and
 - (b) each person or organisation to whom the Commission has given a copy of a Roll, or an extract of a Roll, under subsection 90B(4).
- (2) The Commission shall, as soon as practicable after the polling day in:
 - (a) a general election and any Senate election that had the same polling day as that general election; or
 - (b) a Senate election (other than a Senate election referred to in paragraph (a)):

prepare and furnish to the Minister a report on the operation of Part XX in relation to that election or those elections.
- (2A) A report under subsection (2) in relation to an election must include a list of the names of all persons who, in the opinion of the Commission, are or may be required to furnish a return under subsection 305A(1) or (1A) in relation to that election.
- (2B) The Commission may prepare and furnish to the Minister, otherwise than under subsection (2), such reports on the operation of Part XX as the Commission thinks appropriate.
- (2C) Subject to section 17A, the Commission must include in any report under this section particulars of the operation of subsection 316(2A) since the preparation of the last report under this section that included particulars of the operation of that subsection.
- (3) Section 34C of the *Acts Interpretation Act 1901* does not apply in relation to a report under subsection (2).
- (4) The Minister shall cause a copy of a report furnished under subsection (1), (2) or (2B) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.
- (5) A report under this section need not include particulars of a matter if those particulars have been included in an earlier report under this section.

The Report

This report has been prepared and is furnished to the Minister pursuant to s.17(2) of the Act. It reports on the operation of Part XX of The Act in relation to the federal election held on 7 September 2013 (the 2013 election). Information required to be provided in accordance with sections 17(2A) and 17(2C) is also included in this report.

The 2013 election consisted of a general election for the House of Representatives and a half-Senate election. The scope of the federal election and relevant key dates in relation to the operation of Part XX are provided at Appendix B.

Part XX

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

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

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

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

Election funding

Authority

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

Operation of the relevant provisions

Entitlement

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

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

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

For the 2013 election the funding rate was 248.800 cents per eligible vote.¹

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

Eligibility

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

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

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

¹ This represents an increase of 7.6% compared to the 2010 federal election funding rate of 231.191 cents per eligible vote.

Election payment arrangements

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

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

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

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

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

Given the eligibility requirements under s.299A(2), the direct credit payment option is available only to political parties and not to independent candidates or independent Senate groups. Independent candidates and Senate groups, therefore, receive election funding payments by cheque.

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

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

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

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

Sections 299(4)(ac)(i), (ad)(i), (ae)(i) and (af)(i) allow for members of groups endorsed by 2 registered parties to divide payments for election funding into agreed shares as determined either by the agents of the relevant parties or, in the absence of a formal agreement, by the Electoral Commission. In accordance with the requirements of s.299(5) these agreements must be signed by relevant agents and lodged with the Commission before the 20th day after the election polling date.

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

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

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

Payments for the 2013 Election

Method of payment

No notice requesting payment of specified percentages between the federal and a State branch was lodged by the Liberal Party under s.299(5A) for the 2013 election. Therefore the full entitlements for the 2013 election were paid to the federal division of the Liberal Party in accordance with s.299(1)(b) and s.299(4)(aa).

The Family First Party and the Australian Labor Party were the only registered political parties for the 2013 election which advised the AEC that they were choosing to be treated as designated federal parties in respect of their election funding entitlements.

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

No notice was lodged for the 2013 election under s.299(5H) by either the Family First Party or the Australian Labor Party. Payment of election funding entitlements for these parties was made, in full, to the designated federal parties.

All payment redirection arrangements in place for the 2013 election specified that the entitlements of State branches of political parties were paid to the party agent of the federal body of the party.

The only Senate groups at the 2013 election that were endorsed by more than one registered political party were the joint Liberal Party and National Party Senate groups in New South Wales and Victoria. The New South Wales and Victorian joint Senate groups lodged agreements with the AEC on the 23 and 29 August 2013 respectively, in accordance with s.299(5). The effect of the lodged agreements was that election funding was paid according to agreed percentage shares between the State branches for the Senate elections held on

7 September 2013 in New South Wales and Victoria. Table 1 below lists the details of the agreed percentage shares.

Table 1: Joint Senate groups – percentage shares

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

Candidates paid

For the 2013 election the AEC made election funding payments to nine independent candidates under s.299. Two of the nine candidates appointed candidate agents and therefore payments were made to the agent of the candidate in accordance with s.299(2). The remaining seven candidates were deemed to be their own agents under s.289(3) and therefore payments were made to the candidates directly.

Payment by cheque or credit

For the 2013 election the AEC made election funding payments to twenty-two registered political parties and nine independent candidates. Sixteen political parties which had nominated bank accounts which met the eligibility criteria under s.299(A)(2) chose to receive election funding by direct credit. The remaining six political parties and nine candidates received their election funding by cheque. The details of such payments are set out below in Table 2.

Table 2: Credit and cheque payments to political parties

Payment	Parties
Direct credit	Liberal Party of Australia
	Australian Labor Party
	National Party of Australia – N.S.W.
	National Party of Australia – Victoria
	National Party of Australia (WA) Inc.
	National Party of Australia (S.A.) Inc.
	The Greens NSW
	Australian Greens, Victorian Branch
	Queensland Greens
	The Greens (WA) Inc
	Tasmanian Greens
	ACT Greens
	Australian Greens, Northern Territory Branch

Payment	Parties
	Liberal Democratic Party
	Family First Party
	Bullet Train for Australia
Cheque	Country Liberals (Northern Territory)
	Nick Xenophon Group
	Palmer United Party
	Katter's Australian Party
	Australian Greens (South Australia)
	Christian Democratic Party (Fred Nile Group)

Payments made

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

The first payment totalling \$56 367 240.38 was based on the vote count as at Friday 27 September 2013 and paid in the first week of October 2013. The final payment totalling \$1 709 215.63 was made on 15 November 2013 following the recount of ballot papers for the seat of Fairfax and the Senate in Western Australia.

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

New Parties: eligibility for funding

A number of new parties were registered with the AEC between the 2010 and 2013 federal elections. Of these the following parties qualified for election funding at the 2013 election:

- Palmer United Party
- Nick Xenophon Group
- Katter's Australian Party; and
- Bullet Train for Australia.

Table 3 provides a list of the election funding payments distributed to the registered parties including new parties and independent candidates, listed in order of largest to smallest amount paid.

Table 3: Summary of payments – 2013 election

Recipients	First Payment (\$)	Final Payment (\$)	Total Payment (\$)
Parties			
Liberal Party of Australia	23 103 312.83	781 360.11	23 884 672.94
Australian Labor Party ^a	20 195 147.98	579 542.57	20 774 690.55
Australian Greens	5 356 184.97	175 686.48	5 531 871.45
National Party of Australia ^b	3 076 611.83	34 460.68	3 111 072.51
Palmer United Party	2 202 044.07	110 765.91	2 312 809.98
Liberal Democratic Party	1 033 845.36	12 649.74	1 046 495.10
Nick Xenophon Group	636 127.83	6 711.66	642 839.49
Country Liberals (Northern Territory)	207 512.94	2 098.57	209 611.51
Katter's Australian Party	166 711.35	1 664.05	168 375.40
Family First	103 724.45	1 042.74	104 767.19
Bullet Train for Australia	24 283.90	235.34	24 519.24
Christian Democratic Party (Fred Nile Group)	8 654.79	200.00	8 854.79
Independent candidates			
Catherine McGowan (Indi, Victoria)	68 381.14	693.20	69 074.34
Andrew Wilkie (Denison, Tasmania)	60 802.12	621.62	61 423.74
Robert Taber (New England, New South Wales)	30 968.80	315.31	31 284.11
Lawrie McKinna (Robertson, New South Wales)	19 136.74	177.60	19 314.34
Nathan Bracken (Dobell, New South Wales)	17 439.92	200.00	17 639.92
Richard Sage (Barker, South Australia)	16 263.10	200.00	16 463.10
Stephen Attkins (Lyne, New South Wales)	16 123.77	200.00	16 323.77
Jamie McIntyre (New England, NSW)	14 884.74	190.05	15 074.79
Mark Aldridge (Wakefield, South Australia)	9 077.75	200.00	9 277.75
Total	56 367 240.38	1 709 215.63	58 076 456.01

a Includes entitlement for Country Labor Party (NSW).

b The amounts reflect the relevant share agreed by the parties for joint Senate groups run in New South Wales and Victoria (75% for Liberal and 25% for National parties in NSW with 81% for Liberal and 19% for National parties in Victoria).

Table 4 sets out the distribution of the election funding payments to registered political parties by State and Territory.

Table 4: Distribution of funding – registered political parties by State and Territory

	Number of votes		Election funding amount (\$)		Total
	House	Senate	House	Senate	
Liberal Party of Australia					
New South Wales	1 551 436	1 496 752	3 859 972.77	2 792 939.23	6 652 912.00
Victoria	1 320 417	1 357 153	3 285 197.50	2 735 043.30	6 020 240.80
Queensland	1 152 217	1 084 299	2 866 715.90	2 697 735.91	5 564 451.81
Western Australia	599 153	513 639	1 490 692.66	1 277 933.83	2 768 626.49
South Australia	447 286	285 058	1 112 847.57	709 224.30	1 822 071.87
Tasmania	132 961	126 400	330 806.97	314 483.20	645 290.17
ACT	83 612	81 613	208 026.66	203 053.14	411 079.80
TOTAL	5 287 082	4 944 914	13 154 260.03	10 730 412.91	23 884 672.94
Australian Labor Party					
New South Wales	1 358 546	1 381 047	3 380 062.45	3 436 044.94	6 816 107.39
Victoria	1 146 894	1 097 255	2 853 472.27	2 729 970.44	5 583 442.71
Queensland	751 230	747 096	1 869 060.24	1 858 774.85	3 727 835.09
Western Australia	364 252	348 401	906 258.98	866 821.69	1 773 080.67
South Australia	359 273	235 312	893 871.22	585 456.26	1 479 327.48
Tasmania	114 977	110 617	286 062.78	275 215.10	561 277.88
ACT	103 676	84 974	257 945.89	211 415.31	469 361.20
Northern Territory	37 221	33 889	92 605.85	84 315.83	176 921.68
Country Labor	75 296	N/A	187 336.45	N/A	187 336.45
TOTAL	4 311 365	4 038 591	10 726 676.13	10 048 014.42	20 774 690.55

	Number of votes		Election funding amount (\$)			Total
	House	Senate	House	Senate		
National Party of Australia						
New South Wales	414 772	1 496 752	1 031 952.74	930 979.74		1 962 932.48
Victoria	85 447	1 357 153	212 592.14	641 553.37		854 145.51
Western Australia	47 723	66 421	118 734.82	165 255.45		283 990.27
South Australia	4 021	0	10 004.25	0.00		10 004.25
TOTAL	551 963	2 920 326	1 373 283.95	1 737 788.56		3 111 072.51
Country Liberals						
Northern Territory	41 468	42 781	103 172.38	106 439.13		209 611.51
TOTAL	41 468	42 781	103 172.38	106 439.13		209 611.51
Australian Greens						
New South Wales	308 787	340 941	768 262.06	848 261.21		1 616 523.27
Victoria	343 066	366 720	853 548.21	912 399.36		1 765 947.57
Queensland	140 983	158 150	350 765.70	393 477.20		744 242.90
Western Australia	123 370	124 354	306 944.56	309 392.75		616 337.31
South Australia	79 963	73 612	198 947.94	183 146.66		382 094.60
Tasmania	27 467	39 284	68 337.90	97 738.59		166 076.49
ACT	32 356	47 553	80 501.73	118 311.86		198 813.59
Northern Territory	7 841	8 974	19 508.41	22 327.31		41 835.72
TOTAL	1 063 833	1 159 588	2 646 816.51	2 885 054.94		5 531 871.45

	Number of votes		Election funding amount (\$)			Total
	House	Senate	House	Senate	Senate	
Palmer United Party						
New South Wales	133 662	0	332 551.06	0.00	0.00	332 551.06
Victoria	63 686	0	158 450.77	0.00	0.00	158 450.77
Queensland	275 222	258 944	684 752.34	644 252.67		1 329 005.01
Western Australia	58 747	65 595	146 162.54	163 200.36		309 362.90
South Australia	21 101	0	52 499.29	0.00	0.00	52 499.29
Tasmania	18 450	22 184	45 903.60	55 193.79		101 097.39
Northern Territory	4 609	7 386	11 467.19	18 376.37		29 843.56
TOTAL	575 477	354 109	1 431 786.79	881 023.19		2 312 809.98
Family First						
South Australia	42 109	0	104 767.19	0.00	0.00	104 767.19
TOTAL	42 109	0	104 767.19	0.00		104 767.19
Nick Xenophon Group						
South Australia	N/A	258 376	N/A	642 839.49		642 839.49
TOTAL	N/A	258 376	N/A	642 839.49		642 839.49
Christian Democratic Party (Fred Nile Group)						
New South Wales	3 559	0	8 854.79	0.00	0.00	8 854.79
TOTAL	3 559	0	8 854.79	0.00		8 854.79

	Number of votes		Election funding amount (\$)			Total
	House	Senate	House	Senate	Senate	
Katter's Australian Party						
Queensland	67 675	0	168 375.40	0.00	0.00	168 375.40
TOTAL	67 675	0	168 375.40	0.00	0.00	168 375.40
Bullet Train for Australia						
ACT	9 855	0	24 519.24	0.00	0.00	24 519.24
TOTAL	9 855	0	24 519.24	0.00	0.00	24 519.24
Liberal Democratic Party						
New South Wales	0	415 901	0.00	1 034 761.69	0.00	1 034 761.69
Victoria	4 716	0	11 733.41	0.00	0.00	11 733.41
TOTAL	4 716	415 901	11 733.41	1 034 761.69	1 034 761.69	1 046 495.10

Table 5 provides a percentage breakdown of the total amount received by parties/candidates between the House of Representatives and the Senate.

Table 5: Breakdown of payments by House of Parliament – 2013 election

Recipients	Election funding amount (\$)		Total (\$)	House of Reprs %	Senate %
	House of Reprs	Senate			
Liberal Party of Australia	13 154 260.03	10 730 412.91	23 884 672.94	55	45
Australian Labor Party	10 726 676.13	10 048 014.42	20 774 690.55	52	48
Australian Greens	2 646 816.51	2 885 054.94	5 531 871.45	48	52
National Party of Australia	1 373 283.95	1 737 788.56	3 111 072.51	44	56
Palmer United Party	1 431 786.79	881 023.19	2 312 809.98	62	38
Liberal Democratic Party	11 733.41	1 034 761.69	1 046 495.10	1	99
Nick Xenophon Group	N/A	642 839.49	642 839.49	NA	100
Country Liberals Northern Territory	103 172.38	106 439.13	209 611.51	49	51
Katter's Australian Party	168 375.40	N/A	168 375.40	100	N/A
Family First	104 767.19	N/A	104 767.19	100	N/A
Bullet Train for Australia	24 519.24	N/A	24 519.24	100	N/A
Christian Democratic Party (Fred Nile Group)	8 854.79	N/A	8 854.79	100	N/A
Independent candidates	255 875.86	N/A	255 875.86	100	N/A
Total	30 010 121.68	28 066 334.33	58 076 456.01	52	48

Compensation following the voiding of the Western Australia Senate election

Following the order of the High Court sitting as the Court of Disputed Returns on 20 February 2014 to void the result of the Western Australia Senate election held on 7 September 2013, the AEC sought approval from the Special Minister of State to make payments to affected parties under the *Scheme for Compensation for Detriment caused by Defective Administration* (the CDDA Scheme). The AEC sought to pay compensation for the loss of nomination fees and election funding. The Special Minister of State, Senator the Hon. Michael Ronaldson, approved the payment of compensation under the CDDA Scheme on 3 March 2014. The CDDA Scheme payments to the relevant three parties affected were paid on 13 March 2014 by direct deposit into the respective bank accounts nominated by them.

Compensation for election funding was based upon the first preference votes recorded for each of the lost 1 370 ballot papers based on the original vote count. Not all of the lost votes were eligible for the payment of election funding, with a number of votes having been cast for Senate groups that did not reach the 4% threshold to qualify for payment of election funding. Furthermore, not all parties that were paid election funding from the votes cast at the Western Australia Senate election gained first preference votes amongst the 1 370 ballot papers lost and therefore did not suffer any detriment from the loss of those votes.

In total, 1 162 of the 1 370 ballot papers would have been counted towards the payment of election funding entitlements. This amounted to a total of \$2 891.06. Table 6 provides details of the compensation payments made under the CDDA Scheme.

Table 6: Payments made under the CDDA Scheme

Recipient	Votes	Payment (\$)
Liberal Party of Australia	886	2 204.37
Australian Labor Party (ALP)	164	408.03
The Greens (WA) Inc	112	278.66
Total	1 162	2 891.06

Financial disclosure

Authority

Divisions 4 and 5 of Part XX of the Act set out the requirements for financial disclosure. The relevant provisions which apply in respect of an election are sections 304, 305A and 309. These sections are set out in full, along with other relevant legislative provisions relevant to this report, in Appendix C. A summary of these provisions however, is set out below in order to provide a context for the operation of these provisions in relation to the 2013 election.

Operation of the relevant provisions

Candidates and Senate Groups

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

Section 321A of the Act provides for the indexation of the dollar amounts of the disclosure threshold referred to in sections 304(5)(b)(ii), 304(5)(c), 304(6)(b) and (c) and 305A. For the 2013 election the dollar amount was \$12 400.

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

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

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

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

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

Sections 307 and 313 of the Act both provide that where no details are required to be included in a return by a candidate or Senate group under the applicable Division, (these being Divisions 4 and 5, which respectively, concern disclosure of donations and disclosure of electoral expenditure), the candidate or Senate group shall, nevertheless, lodge a return and include a statement to the effect that no gifts or expenditure of a kind that is required to be disclosed were received or expended. These returns are termed "nil" returns.

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

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

Donors to candidates

Under s.305A a person (excluding under s.305A(1A)(c)), a person who is a registered political party or a State branch of a registered political party, an associated entity, a candidate in an election or member of a Senate group) who donates amounts in excess of the disclosure threshold to candidates, including members of Senate groups, must report details of those donations. Under s.305A(2) election donors are also required to report donations that they received above the disclosure threshold and used, in whole or in part, to make donations to candidates including to members of Senate groups.

Table 6 summarises the information that was required under the various provisions of the Act in candidate, Senate group and election donor returns for the 2013 election.

Table 6: Information required in candidate, Senate group and election donor returns – 2013 election

Election returns	
Candidates	
s.304(2)	Number and amount of donations received
s.304(4)	Details of donations received of more than \$12 400
s.309(2)	Amounts of electoral expenditure spent on certain categories
Senate groups	
s.304(3)	Number and amount of donations received
s.304(4)	Details of donations received of more than \$12 400
s.309(3)	Amounts of electoral expenditure spent on certain categories
Donors	
s.305A(1)&(4)	Details of donations totalling more than \$12 400 made to candidates
s.305A(2)&(4)	Details of donations received of more than \$12 400 used to make donations to candidates

Note: For endorsed groups (other than jointly endorsed groups) transactions are included on the party's annual return.

Table 7 shows the dates by which information was required to be disclosed and the publication of returns which applied to the 2013 election in accordance with the time frames prescribed under the Act.

Table 7: Key dates for disclosure of information and publication of returns for the 2013 election

Return	Disclosure date	Period covered	Public release
Candidates	23 December 2013 (1st working day, 15 weeks after polling day – s.304(2))	Donations received commencement date to 30 days after polling day	24 February 2014 (1st working day, 24 weeks after polling day)
		Expenditure from the issue of the writ until election day	
Senate groups	23 December 2013 (1st working day, 15 weeks after polling day – s.304(3))	Donations received From the date the request to the AEC to be grouped until 30 days after polling day	24 February 2014 (1st working day, 24 weeks after election day)
		Expenditure from the issue of the writ until polling day	
Donors	23 December 2013 (1st working day, 15 weeks after polling day – s.305A(3)(a))	The disclosure period relating to the candidate to whom the gift was made. That is, from the announcement of their candidacy	24 February 2014 (1st working day, 24 weeks after polling day)

Disclosure returns for the 2013 election

Candidate and Senate group returns

There were 1 717 candidates at the 2013 election, comprising 1 188 House of Representatives candidates and 529 Senate candidates. There were 227 Senate groups of which 10 were independent or jointly endorsed groups and therefore were required to furnish election disclosure returns.

For the 2013 election 1 277 candidates (74%) lodged a 'nil' return. The high percentage of 'nil' returns was due to the majority of gifts being made directly to political parties or their campaign committees and those political parties and campaign committees incurring expenditure on behalf of their endorsed candidates. Annual returns for the financial year during which the 2013 election occurred are due to be lodged by political parties, pursuant to s.314AB, by 20 October 2014.

Subsections 304(2), 304(3), 309(2) and 309(3) of the Act require candidate and Senate group returns to be lodged within 15 weeks after polling day. For the 2013 election this date was Saturday 21 December 2013. As the last day to lodge candidate and Senate group returns fell on a Saturday, s.36(2) of the *Acts Interpretation Act 1901* (Interpretation Act) applies. Section 36(2) of the Interpretation Act, provides that where an act allows or requires a thing to be done and the last date for doing the thing falls on a Saturday, Sunday or public holiday, then the thing may be done on the next day that is not a Saturday, Sunday or public holiday. Therefore candidate and Senate group returns could be lodged until 23 December 2013.

Table 8 provides lists the number of candidate, Senate group and election donor returns which were furnished for the 2013 election.

Table 8: Candidate, Senate group and election donor returns – 2013 election

Candidate returns	Number	% of total
Number of candidates	1 717	
Number of returns received	1 707	99
Number of outstanding returns	10	1
Number of 'nil' returns	1 277	75
Number of returns disclosing transactions	430	25
Senate Group returns		
Number of groups	227	
Number of groups required to lodge	10	
Number of returns received	10	100
Number of outstanding returns	0	0
Other returns received		
Returns of donations made	9	
Total election returns received as at 19 March 2013	1 726	

Tables 9 and 10 provide a summary of data as reported in candidate and Senate group returns for the 2013 election.

Table 9: Summary of donations – 2013 election

Candidate returns	
Total number of donations reported	4 641
Total amount of donations reported	\$1 768 054
Number of individually detailed donations	72
Percentage of number of donations individually detailed	1.55
Total of individually detailed donations	\$1 100 037
Percentage of amount of donations individually detailed	62.26
Senate Group returns	
Total number of donations reported	53
Total amount of donations reported	\$61 354
Number of individually detailed donations	0
Percentage of number of donations individually detailed	0
Total of individually detailed donations	0
Percentage of amount of donations individually detailed	0

Table 10: Summary of expenditure – 2013 election

Category	Candidates (\$)	Senate groups (\$)
Broadcast advertisements	625 327	24 654
Published advertisements	852 618	152 369
Displayed advertisements	34 271	0
Production of campaign material	1 258 010	57 366
Direct mailing	108 673	2 210
Polling & Research	125 269	0

Publication

Section 320(1) of the Act requires the Electoral Commission to keep a copy of returns furnished under Divisions 4 and 5. The AEC meets this requirement by keeping the returns in hard copy and also publishing returns on its website. Section 320(4) does not allow a person to peruse or obtain a copy of a return under Division 4 or 5 until after the end of 24 weeks after the polling day in the election to which the return relates. At the end of the 24 week period the AEC makes returns available on its website. Returns relating to the 2013 election were published on the AEC website on 24 February 2014.

Supporting compliance with Part XX

The AEC has introduced a number of initiatives to support compliance of lodging disclosure returns under Part XX. These initiatives include:

- the promotion of eReturns to agents of candidates and groups as a means of lodging their return, including eReturns Quick Reference Guides
- publication of financial disclosure guides which include both details of the financial disclosure requirements and step by step instructions on how to complete a return

- the adoption of email as the primary means of correspondence with agents of candidates and groups to enable fast turnaround of advice and support
- an early notification and follow-up approach to advising agents of candidates and groups of their obligation to lodge a return with subsequent reminder notifications; and
- prompt follow-up with agents of candidates and groups who fail to lodge by the due date and identifying appropriate opportunities for the AEC to assist them to lodge returns where possible.

For the 2013 election, as a result of these initiatives the level of compliance at key points in the disclosure cycle increased significantly from the previous federal election. Table 11 provides a comparison of the number of returns received by the due date and public release date for the 2010 and 2013 federal elections.

Table 11: Comparison of returns received by the due date and public release date for the 2010 and 2013 elections

Category	2010	2013
Total number of candidate returns expected	1 198	1 717
Candidates outstanding at due date	610	116
Candidates outstanding at publication date	72	12
Total number of Senate group returns expected	24	10
Senate group returns outstanding at due date	12	2
Senate group returns outstanding at publication date	6	Nil
Total number of election donor returns expected	7	11
Election donor returns outstanding at due date	6	5
Election donor returns outstanding at publication date	3	2

Election donor returns

Section 17(2A) provides that a report under s.17(2) must include a list of the names of all persons who, in the opinion of the Commission, are or may be required to furnish a return under subsection 305A (1) or (1A)⁴ in relation to that election. There were nine election donor returns furnished pursuant to s.305A(1) in relation to the 2013 election. Pursuant to s.17(2A), in the opinion of the Commission, these nine persons and a further two further persons should have furnished returns in accordance with s.305(A) and s.305(1A) in relation to the 2013 election.

⁴ Section 305A(1A) relates to donations made to any person or organisation specified by legislative instrument by the Electoral Commission. No person or organisation is presently specified so currently, there is no requirement for any return to be lodged under s.305A(1A).

Table 12: Persons required to furnish returns under s305(A)(1) for the 2013 election

Donor name	Return status
Australian Services Union – National Office	Received
Booth, Don	Received
Chung-Nan Su	Outstanding
Creasy, Mark Gareth	Received
Dickinson, Doug	Received
Gulf Coast Aviation Pty Ltd	Received
Heath, Peter	Received
Katter, Mrs S	Received
Nioa Nominees	Received
OGNIS Pty Ltd	Received
Ping Hu Gui	Outstanding

Section 305(A)(3) requires that returns required to be provided under s.305A must be provided to the Electoral Commission in an approved form before the end of 15 weeks after the polling day for the election. Under s.305B gifts totalling more than \$12 400 (as indexed in accordance with s.321A) to political parties must be disclosed.

Table 13 provides a summary of donations to candidates as reported in returns lodged by election donors for the 2013 election in accordance with s.305A(3) and s.305B.

Table 13: Summary of donations to candidates for the 2013 election

Donation amount	Number and percentage of donations		Amount and percentage of donations	
	No.	%	\$	%
Less than \$12 400	99	86	189 451	21
\$12 401 to \$24 999	13	11	257 509	28
\$25 000 or more	3	3	469 110	51
Total	115	100	916 070	100

Investigations report under section 17(2C)

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

- (2A) An authorised officer may, for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:
- (a) the agent or any officer of the political party; or
 - (aa) the financial controller of the associated entity or any officer of the associated entity; or
 - (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers;
- as the case may be, require the agent, financial controller, person or officer:
- (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
 - (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.

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

The purpose of investigating documents and evidence produced in response to the notices issued under s.316(2A) is to determine whether the person lodging the disclosure return has complied with their obligations under Part XX of the Act. Under s.316(2A) for political parties the person lodging the return is the party agent. In respect of associated entities the person who must comply is the financial controller. A s.316(2A) notice allows for any documents and evidence in the possession of the particular party or associated entity to be obtained to assess the completeness and accuracy of disclosures of:

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

The last report under s.17(2C) which included particulars of the operation of s.316(2A) was the “Election Funding and Disclosure Report, Federal Election 2010”. That report contained particulars of the operation of s.316(2A) investigations (which are also called compliance reviews by the AEC) for notices issued between 2007 and 2011.

This report, therefore, sets out particulars of the operations of s.316(2A) between 1 July 2011 and up to 1 April 2014.

Between 1 July 2011 and 1 April 2014 the AEC issued 104 s.316(2A) notices in respect of registered political parties, State branches of registered political parties and associated entities. As at the date of the publication of this report, 93 compliance reviews have been completed, consisting of 23 in the 2011–12 financial year, 37 in 2012–13 and 33 so far in the 2013–14 financial year. A further 11 compliance reviews remain active.

Table 14 lists the compliance reviews completed. It also indicates the areas where errors were identified in disclosure returns from an analysis of documents produced under s.316(2A) notices.

Table 14: Investigations (compliance reviews) conducted under s.316(2A) between 1 July 2011 and 1 April 2014

Investigations	Total receipts	Total payments	Total debts	Detailed receipts	Detailed debts
Christian Democratic Party (Fred Nile Group) WA Branch	✓	✓			
One Nation	✓	✓			
Australian Greens				✓	
Australian Labor Party (ALP)					
Australian Labor Party (Legacies and Gifts) Ltd					
John Curtin House Limited					
The Chifley Research Centre Ltd					
The Green Institute	✓	✓	✓		
Building Australia Party					✓
Stable Population Party of Australia					
Australian Labor Party (N.S.W. Branch)				✓	
Labor Campaign Pty Ltd					
NSW Labor Campaign Investment Pty Ltd					
Australian Labor Party (Victorian Branch)	✓	✓	✓		
Emily’s List Australia	✓	✓	✓		
Progressive Business Association Inc			✓		
Labour Movement Education Association Inc.					
Democratic Labor Party (DLP) – Victorian Branch	✓				
Health Services Union – HSU East					

Investigations	Total receipts	Total payments	Total debts	Detailed receipts	Detailed debts
Australian Labor Party (Western Australian Branch)			✓		
Perth Trades Hall Inc					
Australian Labor Party (ALP)					
Liberal Party of Australia				✓	
National Party of Australia – N.S.W.	✓	✓	✓	✓	
Mehring Books Pty Ltd					
Animal Justice Party	✓	✓			
Australian Greens, Northern Territory Branch					
Australian Labor (Northern Territory Branch)				✓	
Australian Labor Party (ALP)				✓	
Australian Protectionist Party					
CLP Gifts and Legacies Pty Ltd					
Country Alliance					
Country Liberals (Northern Territory)	✓	✓	✓	✓	
Democratic Labor Party (DLP) – Queensland Branch	✓	✓			
Family First Party – Queensland					
Katter's Australian Party	✓	✓		✓	
NT ALP Investment Trust	✓	✓			
NTN Services	✓	✓	✓	✓	✓
Queensland Greens					
The First Nations Political Party					
Liberal Party of Australia				✓	
Free Enterprise Foundation					
John McEwen House Pty Ltd					
Parakeelia Pty Ltd				✓	
The Greenfields Foundation					
The Menzies Research Centre Limited					
Goulburn 100 Club	✓				
Business First	✓				
Scoresby City Club					
Berwick Ranges 500 Club	✓	✓			
Bulleen Supporters Group					
Yarra Plenty Women's Group					

Investigations	Total receipts	Total payments	Total debts	Detailed receipts	Detailed debts
Chinese Liberal Association 08/09	✓	✓			
Chinese Liberal Association 09/10					
Australia First Party (NSW) Incorporated					
Liberal Party of Australia, NSW Division	✓	✓		✓	
Bunori Pty Ltd					
Dame Pattie Menzies Foundation Trust					
Liberal Asset Management (Custodians) Limited					
Liberal Properties Ltd					
The Warringah Club	✓	✓		✓	
Liberal National Party of Queensland	✓	✓		✓	
6 St Paul's Terrace Trust		✓		✓	
Altum Property Trust	✓	✓		✓	
Forward Brisbane Leadership	✓			✓	
YLNP No. 1 Ltd (James Killen Foundation)	✓	✓		✓	
Mornington Gold					
Altum ATF The HQ Trust	✓	✓		✓	
Australian Greens					
The Free Enterprise Foundation					
John McEwen House Pty Ltd					
Liberal Party of Australia				✓	
National Party of Australia					
The Green Institute Limited					
Gatenby Investment Trust					
Liberal Party of Australia – Tasmanian Division					
National Party of Australia (S.A.) Inc.					
Australian Greens (South Australia)	✓	✓	✓	✓	
Canberra Labor Club Ltd					
Citizens Electoral Council of Australia				✓	
CEC Australia (Services) Pty Ltd				✓	✓
Citizens Media Group Pty Ltd				✓	
Secular Party of Australia	✓	✓			
Australian Greens, Victorian Branch	✓	✓		✓	
Family First Party – Victoria	✓	✓		✓	
National Party of Australia – Victoria	✓	✓		✓	

Investigations	Total receipts	Total payments	Total debts	Detailed receipts	Detailed debts
The Climate Sceptics	✓	✓			
Christian Democratic Party (Fred Nile Group)	✓	✓		✓	
The Greens NSW	✓	✓		✓	
Non-Custodial Parents Party (Equal Parenting)					
Socialist Equality Party					
LNP Nominees Pty Ltd ATF 6 St Paul's Terrace Trust	✓	✓	✓	✓	✓
Altum Pty Ltd ATF Altum Property Trust	✓	✓	✓	✓	✓
Altum Pty Ltd ATF Altum the HQ Trust	✓	✓	✓		✓
Total	35	32	12	31	6

Of these compliance reviews:

- 50 (54%) resulted in the disclosure return requiring amendment
- 35 returns (38%) required amendment to the reported total value of receipts
- 32 returns (34%) required amendment to the reported total value of payments
- 12 returns (13%) required amendment to the reported total value of debts
- 31 returns (33%) required amendment to the details of individual receipts, either by correcting the details disclosed or adding receipts not included on the return
- 6 returns (6%) required amendment to the details of outstanding debts, either by correcting the details disclosed or adding debts not included on the return.

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

Between 1 July 2011 and 1 April 2014 the AEC wrote to 50 party agents and financial controllers highlighting errors in financial returns lodged by them and suggesting that they consider lodging an amendment of the return pursuant to s.319A(2). As a result of the AEC's recommendations all 50 lodged an amended return under s.319A(2) which resulted in the Commission permitting each of the amended returns to be made in accordance with s.319A(4).

Appendix A – List of Prescribed Persons

LIST OF PRESCRIBED PERSONS

7 September 2013 Federal Election

Under s.17(2) of the *Commonwealth Electoral Act 1918* (the Act) the Australian Electoral Commission must, as soon as practical after the polling day in a general election and Senate election or a Senate-only election, prepare and furnish to the Minister a report of the operation of Part XX (the election funding and financial disclosure provisions) in relation to that election or elections. Section 17(2A) of the Act obliges any report under s.17(2) to include a list of the names of all persons who, in the opinion of the Australian Electoral Commission, are or may be required to furnish a return under s.305A(1) or (1A) in relation to that election. Persons included in this list are referred to in the Act as 'prescribed persons'.

For the 7 September 2013 federal election a person is required by s.305A(1) to furnish a return where they donated to a candidate or member of a Senate group a sum totalling in excess of the disclosure threshold of \$12,400. Registered political parties, state branches of registered political parties, associated entities, candidates and members of Senate groups are exempted from having to furnish this return. Section 305A(1A) requires a person to furnish a return where they donated a sum totalling in excess of the disclosure threshold to a person or organisation specified by legislative instrument by the Australian Electoral Commission. There was no relevant legislative instrument active for the 7 September 2013 federal election and so no disclosure obligation arose under s.305A(1A).

The Australian Electoral Commission has formed the opinion that the following persons are or may be required to furnish a return under s.305A(1) or (1A) in relation to the 7 September 2013 general and half-Senate election:

Australian Services Union - National Office

Booth, Don

Chung-Nan Su

Creasy, Mark Gareth

Dickinson, Doug

Gulf Coast Aviation Pty Ltd

Heath, Peter

Katter, Mrs S

Nioa Nominees

OGNIS Pty Ltd

Ping Hu Gui

signature redacted

signature redacted

The Hon Peter Heerey AM QC

Chairperson

Tom Rogers

**Acting Electoral
Commissioner**

Appendix B – Key election dates

The electoral event held on 7 September 2013 was a combined general election for the House of Representatives and a half-Senate election.

Key dates for this election are detailed below.

Last day for registration of Political Parties (the day before the writ is issued)	Sunday 4 August 2013
Issue of the Writ	Monday 5 August 2013
Close for appointment of Agents (close of nominations)	midday Thursday 22 August 2013
Polling day	Saturday 7 September 2013
Calculation of interim election funding entitlements (20 days after polling day)	Friday 27 September 2013
Conclusion of donations disclosure period (30 days after polling day)	Monday 7 October 2013
Writ returned and political party registration resumed	Wednesday 6 November 2013
Final payment of balance of election funding entitlements	Friday 15 November 2013
Candidates', Senate groups' & Donors' returns due (15 weeks after polling day)	Monday 23 December 2013
Public inspection of disclosure returns begins (24 weeks after polling day)	Monday 24 February 2014

Appendix C – Legislation

Part XX Division 3 – Election funding

294 General entitlement to funds

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

297 Payment not to be made in certain circumstances

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

299 Making of payments

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

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

(bb) if:

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

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

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

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

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

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

(a) if:

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

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

(aa) if:

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

(aaa) if:

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

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

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

(aab) if:

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

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

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

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

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

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

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

- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or,

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

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

must be 100%.

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

299A Method of making payments

Payment by direct credit or by cheque

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

Nominated bank account

- (2) A bank account nominated by a party for the purposes of this section must satisfy the following conditions:
- (a) the account must be maintained by the party;
 - (b) the account must be with a bank;
 - (c) the account must be kept in Australia;
 - (d) the account name must consist of, or include:
 - (i) if the account is maintained by a registered political party—the name of the party as it appears in the Register of Political Parties; or
 - (ii) if the account is held by a State branch of a political party, and the branch is not a registered political party—the name of the State branch.

Name on cheque

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

Abbreviation of party names

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

Dispatch of cheques

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

Definitions

- (9) In this section:
 - bank** means a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*.
 - party** means a registered political party or a State branch of a registered political party.

Part XX Division 4 – Disclosure of donations

304 Disclosure of gifts

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

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

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

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

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

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

305A Gifts to candidates etc.

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

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

- (1A) A person must provide a return in accordance with this section if:
 - (a) the person makes a gift or gifts, during the disclosure period in relation to an election, to any person or body (whether incorporated or not) specified, by legislative instrument, by the Electoral Commission; and
 - (b) the total amount or value of the gift or gifts was:
 - (i) equal to or more than the amount prescribed for the purposes of this paragraph; or

- (ii) if no amount is prescribed—more than \$10,000; and
- (c) at the time the person makes the gift or gifts the person is not:
 - (i) a registered political party; or
 - (ii) a State branch of a registered political party; or
 - (iii) an associated entity; or
 - (iv) a candidate in an election; or
 - (v) a member of a group.

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

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

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

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

Part XX Division 5 – Disclosure of electoral expenditure

309 Returns of electoral expenditure

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

Part XX Division 6 – Miscellaneous

316 Investigation etc.

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

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

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

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

- (7) Where:
- (a) an authorized officer has reasonable grounds for suspecting that there may be, at any time within the next following 24 hours, upon any land or upon or in any premises, vessel, aircraft or vehicle, a document or other thing that may afford evidence relating to a contravention of section 315; and
 - (b) the authorized officer has reasonable grounds to believe that, if a notice under this section were issued for the production of the document or other thing, the document or other thing might be concealed, lost, mutilated or destroyed;
- the authorized officer may make an application to a magistrate for the issue of a warrant under subsection (8).
- (8) Subject to subsection (9), where an application under subsection (7) is made by an authorized officer to a magistrate, the magistrate may issue a warrant authorizing the authorized officer or any other person named in the warrant, with such assistance as the officer or person thinks necessary and if necessary by force:
- (a) to enter upon the land or upon or into the premises, vessel, aircraft or vehicle;
 - (b) to search the land, premises, vessel, aircraft or vehicle for documents or other things that may afford evidence relating to a contravention of section 315, being documents or other things of a kind described in the warrant; and
 - (c) to seize any documents or other things of the kind referred to in paragraph (b).
- (9) A magistrate shall not issue a warrant under subsection (8) unless:
- (a) an affidavit has been furnished to the magistrate setting out the grounds on which the issue of the warrant is being sought;
 - (b) the authorized officer applying for the warrant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
 - (c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (10) Where a magistrate issues a warrant under subsection (8), the magistrate shall state on the affidavit furnished in accordance with subsection (9) which of the grounds specified in that affidavit he or she has relied on to justify the issue of the warrant and particulars of any other grounds so relied on.
- (11) A warrant issued under subsection (8) shall:
- (a) include a statement of the purpose for which the warrant is issued, which shall include a reference to the contravention of section 315 in relation to which the warrant is issued;
 - (b) state whether entry is authorized to be made at any time of the day or night or during specified hours of the day or night;
 - (c) include a description of the kind of documents or other things authorized to be seized; and
 - (d) specify a date, not being later than one month after the date of issue of the warrant, upon which the warrant ceases to have effect.

- (12) Where a document or other thing is seized by a person pursuant to a warrant issued under subsection (8):
- (a) the person may retain the document or other thing so long as is reasonably necessary for the purposes of the investigation to which the document or other thing is relevant; and
 - (b) when the retention of the document or other thing by the person ceases to be reasonably necessary for those purposes, the person shall cause the document or other thing to be delivered to the person who appears to the firstmentioned person to be entitled to possession of the document or other thing.