



Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006

No. 65, 2006

**An Act to amend the law relating to elections and
referendums, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 65, 2006

An Act to amend the law relating to elections and referendums, and for related purposes

[Assented to 22 June 2006]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Electoral and Referendum
Amendment (Electoral Integrity and Other Measures) Act 2006*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	22 June 2006
2. Schedule 1, items 1 to 16	The day on which this Act receives the Royal Assent.	22 June 2006
3. Schedule 1, items 17 to 19	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 8 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
4. Schedule 1, item 20	The day on which this Act receives the Royal Assent.	22 June 2006
5. Schedule 1, items 21 to 23	At the same time as the provision(s) covered by table item 3.	
6. Schedule 1, item 24	The day on which this Act receives the Royal Assent.	22 June 2006
7. Schedule 1, items 25 to 27	At the same time as the provision(s) covered by table item 3.	
8. Schedule 1, item 28	The day on which this Act receives the Royal Assent.	22 June 2006
9. Schedule 1, items 29 to 35	At the same time as the provision(s) covered by table item 3.	
10. Schedule 1, item 36	The day on which this Act receives the Royal Assent.	22 June 2006

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
11. Schedule 1, items 37 and 38	<p>The later of:</p> <p>(a) immediately after the commencement of item 36 of Schedule 1 to this Act; and</p> <p>(b) the commencement of section 3 of the <i>Australian Citizenship Act 2006</i>.</p> <p>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</p>	
12. Schedule 1, items 39 to 91	The day on which this Act receives the Royal Assent.	22 June 2006
13. Schedule 1, item 92	<p>The later of:</p> <p>(a) immediately after the commencement of item 91 of Schedule 1 to this Act; and</p> <p>(b) the commencement of section 3 of the <i>Australian Citizenship Act 2006</i>.</p> <p>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</p>	
14. Schedule 1, items 93 to 114	The day on which this Act receives the Royal Assent.	22 June 2006
15. Schedule 1, items 115 and 116	<p>The later of:</p> <p>(a) immediately after the commencement of item 114 of Schedule 1 to this Act; and</p> <p>(b) the commencement of section 3 of the <i>Australian Citizenship Act 2006</i>.</p> <p>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</p>	
16. Schedule 1, items 117 to 132	The day on which this Act receives the Royal Assent.	22 June 2006

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
17. Schedule 1, item 133	<p>The later of:</p> <p>(a) immediately after the commencement of item 132 of Schedule 1 to this Act; and</p> <p>(b) the commencement of section 3 of the <i>Australian Citizenship Act 2006</i>.</p> <p>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</p>	
18. Schedule 1, item 134 to 139	The day on which this Act receives the Royal Assent.	22 June 2006
19. Schedule 2, items 1 to 27	The day on which the Bill for this Act is introduced into the Parliament.	8 December 2005
20. Schedule 2, item 28	The day on which this Act receives the Royal Assent.	22 June 2006
21. Schedule 2, item 29	The day on which the Bill for this Act is introduced into the Parliament.	8 December 2005
22. Schedules 3 and 4	The day on which this Act receives the Royal Assent.	22 June 2006

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Main amendments

Commonwealth Electoral Act 1918

1 Subsection 4(1)

Insert:

Immigration Department means the Department administered by the Minister who administers the *Migration Act 1958*.

2 Subsection 4(1)

Insert:

provisionally enrolled has the meaning given by subsection (1B).

3 Subsection 4(1)

Insert:

sentence of imprisonment has the meaning given subsection (1A).

4 After subsection 4(1)

Insert:

(1A) For the purposes of this Act, a person is serving a *sentence of imprisonment* only if:

- (a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and
- (b) that detention is attributable to the sentence of imprisonment concerned.

(1B) A person is *provisionally enrolled* if the person is provisionally enrolled under section 99B.

5 Subsection 17(2A)

Omit “305(1), 305A(1) or 309(4)”, substitute “305A(1) or (1A)”.

6 Section 38

Repeal the section, substitute:

38 Offices of Divisional Returning Officers

- (1) The office of a Divisional Returning Officer must be located within the Division, unless the Minister has given written authority for the office not to be so located.
- (2) However, subsection (1) does not apply if:
 - (a) the office was located within a Division, but immediately after a redistribution of the State or Territory that includes the Division, the office is no longer located within the Division; and
 - (b) either:
 - (i) within a reasonable time, the Electoral Commissioner seeks written authority for the office not to be located within the Division; or
 - (ii) the office is currently being relocated within the Division.
- (3) A written authority given under subsection (1) is not a legislative instrument.

7 Application of item 6

The amendment made by item 6 applies to offices located after the commencement of this item.

8 Subsection 90B(4) (at the end of the table)

Add:

5	a prescribed person or organisation that verifies, or contributes to the verification of, the identity of persons for the purposes of the <i>Financial Transaction Reports Act 1988</i>	a copy of a Roll (or an extract of a Roll)	(a) on request by the person or organisation; and (b) on payment of the fee (if any) payable under subsection (9).
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9 Paragraph 90B(9)(b)

Omit “3 or 4”, substitute “3, 4 or 5”.

10 After subsection 91A(2B)

Insert:

(2C) For information provided under item 5 of the table in subsection 90B(4), the only permitted purpose in relation to a prescribed person or organisation is for the person or organisation to verify, or contribute to the verification of, the identity of persons for the purposes of the *Financial Transaction Reports Act 1988*.

11 At the end of subsection 91B(3)

Add “(other than information provided under item 5 of the table in subsection 90B(4) that is used for a permitted purpose)”.

12 Subsection 92(1)

Omit “all police, statistical, and electoral officers in the service of any State or Territory,”, substitute “a State or a Territory,.”.

13 Subsection 93(2)

Omit “(4) and (5)”, substitute “(4), (5) and (8AA)”.

14 Paragraph 93(8)(b)

Repeal the paragraph.

15 Subsection 93(8AA)

Repeal the subsection, substitute:

(8AA) A person who is serving a sentence of imprisonment for an offence against the law of the Commonwealth or of a State or Territory is not entitled to vote at any Senate election or House of Representatives election.

Note: For the definition of *sentence of imprisonment*, see subsection 4(1A).

16 Application of items 14 and 15

The amendments made by items 14 and 15 apply to sentences beginning before, on or after the commencement of this item.

17 Paragraph 94A(2)(c)

Omit “subsection”, substitute “subsections (2AA) and”.

18 At the end of subsection 94A(2)

Add:

; and (e) must be supported by the evidence of the person’s identity that is required by the regulations (but see subsection (2AB)).

19 After subsection 94A(2)

Insert:

- (2AA) The requirement in paragraph (2)(c) does not apply once the regulations in relation to evidentiary requirements for enrolment are in operation.
- (2AB) To avoid doubt, the requirement in paragraph (2)(e) does not apply unless regulations are in operation for the purposes of that paragraph when the application is made.

20 Paragraph 94A(4)(a)

Omit “the day of the close of the Rolls”, substitute “the date of the writ”.

21 Paragraph 95(2)(c)

Omit “subsection”, substitute “subsections (2AA) and”.

22 At the end of subsection 95(2)

Add:

- ; and (d) supported by the evidence of the person’s identity that is required by the regulations (but see subsection (2AB)).

23 After subsection 95(2)

Insert:

- (2AA) The requirement in paragraph (2)(c) does not apply once the regulations in relation to evidentiary requirements for enrolment are in operation.
- (2AB) To avoid doubt, the requirement in paragraph (2)(d) does not apply unless regulations are in operation for the purposes of that paragraph when the application is made.

24 Subsection 95(4)

Omit “the day of the close of the Rolls”, substitute “the date of the writ”.

25 At the end of paragraph 96(2)(c)

Add “(but see subsection (2AA))”.

26 At the end of subsection 96(2)

Add:

; and (d) supported by the evidence of the applicant's identity that is required by the regulations (but see subsection (2AB)).

27 After subsection 96(2)

Insert:

(2AA) The requirement in paragraph (2)(c) does not apply once the regulations in relation to evidentiary requirements for enrolment are in operation.

(2AB) To avoid doubt, the requirement in paragraph (2)(d) does not apply unless regulations are in operation for the purposes of that paragraph when the application is made.

28 Subsection 96(4)

Omit "the day of the close of the Rolls", substitute "the date of the writ".

29 Before section 98

Insert:

98AA Regulations

(1) If regulations are made to implement a requirement of this Part or Part VII, in relation to identification for enrolment, the regulations must require the applicant for enrolment to:

- provide documentary evidence of his or her name by providing his or her driver's licence number; or
- if the applicant does not possess a driver's licence—show to an elector in a prescribed class of electors a prescribed kind of document that identifies the applicant; or
- otherwise—have the application countersigned by two electors who:
 - can confirm the applicant's name; and
 - have known the applicant for at least one month.

(2) The regulations may impose additional requirements in relation to identification for enrolment.

30 At the end of paragraph 98(2)(c)

Add “(but see subsection (2AA))”.

31 At the end of subsection 98(2)

Add:

; and (d) be supported by the evidence of the claimant’s identity that is required by the regulations (but see subsection (2AB)).

32 After subsection 98(2)

Insert:

(2AA) The requirement in paragraph (2)(c) does not apply once the regulations in relation to evidentiary requirements for enrolment are in operation.

(2AB) To avoid doubt, the requirement in paragraph (2)(d) does not apply unless regulations are in operation for the purposes of that paragraph when the application is made.

33 Paragraph 99A(4)(c)

After “handwriting”, insert “(but see subsection (4A))”.

34 At the end of subsection 99A(4)

Add:

; and (e) supported by the evidence of the claimant’s identity that is required by the regulations (but see subsection (4B)).

35 After subsection 99A(4)

Insert:

(4A) The requirement in paragraph (4)(c) does not apply once the regulations in relation to evidentiary requirements for enrolment are in operation.

(4B) To avoid doubt, the requirement in paragraph (4)(e) does not apply unless regulations are in operation for the purposes of that paragraph when the application is made.

36 After section 99A

Insert:

99B Provisional enrolment by applicant for citizenship

Application by those about to become Australian citizens

- (1) A person may apply to a Divisional Returning Officer for provisional enrolment for a Subdivision if, at the time of making the application:
 - (a) either:
 - (i) a public announcement has been made of the proposed date for polling for an election for the Subdivision; or
 - (ii) a writ for an election for the Subdivision has been issued; and
 - (b) the person has been notified by the Immigration Department that the person will be granted a certificate of Australian citizenship under section 13 of the *Australian Citizenship Act 1948* between:
 - (i) the date of the writ; and
 - (ii) the polling day for the election; and
 - (c) the person is not enrolled; and
 - (d) the person is not qualified for enrolment, but would be so qualified if he or she were an Australian citizen.

Note: A person who is provisionally enrolled under this section is not immediately added to a Roll but can cast a postal, pre-poll, absent or provisional vote. However, the vote is excluded from further scrutiny if the person does not provide evidence of citizenship by the first Friday following the polling day (see paragraph 6 of Schedule 3).

Requirements for application

- (2) An application must:
 - (a) be in the approved form; and
 - (b) be signed by the person (but see subsection (3)); and
 - (c) be made between the following times:
 - (i) the earlier of the public announcement of the proposed date for polling for the election and the date of the writ;
 - (ii) 8 pm on the day of the close of the Rolls for the election; and
 - (d) in accordance with subsection (4), be supported by evidence of the Immigration Department's notification.

- (3) A person may fill out and sign an application under this section, on behalf of another person (the *applicant*), in accordance with the directions of the applicant if:
 - (a) the applicant wishes to make the application; and
 - (b) a registered medical practitioner has certified, in writing, that the applicant is so physically incapacitated that the applicant cannot sign the application.
- (4) For the purposes of paragraph (2)(d), an application is supported by evidence of the Immigration Department's notification if:
 - (a) all of the following apply:
 - (i) the original notification is shown to an officer;
 - (ii) the officer attests that he or she has sighted the notification;
 - (iii) the officer attests that he or she is satisfied that the notification relates to the person making the application; or
 - (b) all of the following apply:
 - (i) the original or a copy of the notification is shown to an elector in a prescribed class of electors;
 - (ii) the elector attests that he or she has sighted the notification;
 - (iii) the elector attests that he or she is satisfied that the notification relates to the person making the application.

Divisional Returning Officer to keep records

- (5) If a person makes an application in accordance with this section, then:
 - (a) the person is provisionally enrolled under this section for the Subdivision to which the application relates; and
 - (b) the Divisional Returning Officer for the relevant Division must keep a record of the details of the application.

Confirmation of citizenship

- (6) If, by the first Friday following the polling day for the election, the person provides an officer with the original certificate of Australian citizenship granted to the person, or a copy of the certificate that has been attested to by an elector in a prescribed class of electors, then:

- (a) the provisional enrolment ceases; and
- (b) the application is taken to be a claim for enrolment for the Subdivision to which the application relates; and
- (c) sections 102, 103 and 104 apply to the application as if it were a claim made under section 101.

(7) Otherwise, the Divisional Returning Officer for the relevant Division must notify the person, in writing, that the person's provisional enrolment has ceased.

37 Paragraph 99B(1)(b)

Omit "be granted a certificate of Australian citizenship under section 13 of the *Australian Citizenship Act 1948*", substitute "become an Australian citizen under the *Australian Citizenship Act 2006*".

38 Subsection 99B(6)

Omit "with the original certificate of Australian citizenship granted to the person, or a copy of the certificate that has been attested to by an elector in a prescribed class of electors", substitute "with evidence that the person has become an Australian citizen".

39 Subsection 102(1)

Omit "subsection (4)", substitute "subsections (4) and (4AA)".

40 Subsection 102(2A)

Omit "the day on which the Rolls for the election close", substitute "the date of the writ or writs for the election".

41 Subsection 102(4)

Repeal the subsection, substitute:

(4) If a claim by a person for enrolment under section 101 (other than a claim that is taken, by subsection 99B(6), to be made under section 101) is received during the period:

- (a) beginning at 8 pm on the date of the writ or writs for an election for the Division to which the claim relates; and
- (b) ending at the close of the polling at the election;

then the claim must not be considered until after the end of the period.

(4AA) If a claim by a person for transfer of enrolment under section 101, or a claim that is taken, by subsection 99B(6), to be made under section 101, is received during the period:

- (a) beginning at 8 pm on the date of the close of the Rolls for an election for the Division to which the claim relates; and
- (b) ending at the close of the polling at the election;

then the claim must not be considered until after the end of the period.

(4AB) A claim that is taken, by subsection 100(2), to be made under section 101:

- (a) is to be treated in accordance with subsection (4AA) if the claim is made by a person who will turn 18 years old during the period:
 - (i) beginning at 8 pm on the date of the writ or writs for an election for the Division to which the claim relates; and
 - (ii) ending at the end of the polling day for the election; and
- (b) otherwise—is to be treated in accordance with subsection (4).

42 Paragraph 102(4A)(a)

After “(4)”, insert “or (4AA) (as the case requires)”.

43 Subparagraph 102(4A)(b)(ii)

After “(4)”, insert “or (4AA) (as the case requires)”.

44 Subsection 102(4B)

Omit “subsection (4)” (first occurring), substitute “subsections (4) and (4AA)”.

45 Paragraphs 102(4B)(a) and (b)

After “(4)”, insert “or (4AA) (as the case requires)”.

46 Paragraphs 105(1)(b) and (ba)

Repeal the paragraphs.

47 Subsection 105(1A)

Omit “(1)(ba) or (h)”, substitute “(1)(h)”.

48 Subsection 105(3A)

Repeal the subsection.

49 Subsection 105(4)

Repeal the subsection, substitute:

(4) If a vote is:

- (a) admitted to further scrutiny at a preliminary scrutiny of declaration votes because of paragraph 12 of Schedule 3; or
- (b) admitted to further scrutiny at a preliminary scrutiny conducted under section 89A of the *Referendum (Machinery Provisions) Act 1984* because of paragraph 11 of Schedule 4 to that Act;

the Divisional Returning Officer for the relevant Division must enter the elector's name on the Roll for the Subdivision for which, but for the error or mistake, the name would have appeared.

50 Section 109

Repeal the section, substitute:

109 Lists of convictions to be forwarded

(1) The Controller-General of Prisons must, as soon as practicable after the beginning of each month, forward to the Australian Electoral Officer a list of:

- (a) the names, addresses, occupations and sexes of all persons who:
 - (i) were convicted in the State; and
 - (ii) began serving a sentence of imprisonment for any offence; and
- (b) the names, addresses, occupations and sexes of all persons who ceased to serve a sentence of imprisonment for any offence;

during the preceding month.

Note: For the definition of *sentence of imprisonment*, see subsection 4(1A).

(2) Within 4 days of the date of the writ for an election for a Division in a State, the Controller-General of Prisons must forward to the Australian Electoral Officer a list of:

- (a) the names, addresses, occupations and sexes of all persons who:

- (i) were convicted in the State; and
- (ii) began serving a sentence of imprisonment for any offence; and
- (b) the names, addresses, occupations and sexes of all persons who ceased to serve a sentence of imprisonment for any offence;

between the time the last list was forwarded by the Controller-General under subsection (1) and the date of the writ.

51 Subsection 118(5)

Omit “the close of the Rolls”, substitute “8 pm on the date of the writ”.

52 Section 155

Repeal the section, substitute:

155 Date for close of Rolls

- (1) The date fixed for the close of the Rolls is the third working day after the date of the writ.

Note: However, generally names are not added to or removed from the Rolls after the date of the writ.

- (2) In this section:

working day means any day except:

- (a) a Saturday or a Sunday; or
- (b) a day that is a public holiday in any State or Territory.

53 Paragraph 170(3)(a)

Omit “\$700”, substitute “\$1,000”.

54 Paragraph 170(3)(b)

Omit “\$350”, substitute “\$500”.

55 Section 182

Before “In this”, insert “(1)”.

56 At the end of section 182

Add:

(2) In this Part (other than in sections 184A to 186) and in Schedule 3:

- (a) a reference to an elector includes a reference to a person who has applied for a postal vote under subsection 183(2); and
- (b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

57 Section 183

Before “An elector”, insert “(1)”.

58 At the end of section 183

Add:

(2) A person who is provisionally enrolled may apply for a postal vote.

59 Section 200A

Before “An elector”, insert “(1)”.

60 At the end of section 200A

Add:

(2) A person who is provisionally enrolled may apply for a pre-poll vote.

(3) In this Part and in Schedule 3:

- (a) a reference to an elector includes a reference to a person who has applied for a pre-poll vote under subsection (2); and
- (b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

61 At the end of subsection 208(2)

Add:

; and (c) is not covered by subsection 93(8AA) (sentences of imprisonment).

62 Subsection 221(3)

After “polling in the election”, insert “, or a person who is covered by subsection 93(8AA) (sentences of imprisonment)”.

63 After subsection 222(1)

Insert:

- (1A) On polling day a person who is provisionally enrolled is entitled to vote as an absent voter, on making a declaration in an approved form, at any polling place within the State or Territory for which he or she is provisionally enrolled at which a polling booth is open (other than a polling place for the Division for which he or she is provisionally enrolled).
- (1B) In this Part (other than section 245) and in Schedule 3:
 - (a) a reference to an elector includes a reference to a person who has cast an absent vote under subsection (1A); and
 - (b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

64 Subsection 222(2)

Omit “subsection (1)”, substitute “subsections (1) and (1A)”.

65 Subsection 222(3)

After “subsection (1)”, insert “or (1A)”.

66 Subsection 226A(1) (note)

After “93(8)”, insert “, (8AA)”.

67 Subsection 232(2)

After “subsection 222(1)”, insert “or (1A)”.

68 Subsection 233(2)

After “subsection 222(1)”, insert “or (1A)”.

69 Paragraphs 234(4)(a) and 234A(8)(a)

After “subsection 222(1)”, insert “or (1A)”.

70 At the end of subsection 235(1)

Add:

; or (e) the person is provisionally enrolled.

71 After subsection 235(1)

Insert:

(1A) In this Part (other than section 245) and in Schedule 3:

- (a) a reference to an elector includes a reference to a person who casts a provisional vote under paragraph (1)(e); and
- (b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

(1B) A person to whom this section applies (other than a person to whom subsection 104(4) applies) may cast a provisional vote on the polling day for an election if the person provides the evidence of the person's identity that is required by the regulations either:

- (a) at the time the person casts the provisional vote; or
- (b) by the first Friday following the polling day.

Note: The regulations are made under subsection (9).

72 At the end of section 235

Add:

Regulations

- (9) If regulations are made to implement a requirement of subsection (1B) in relation to identification for provisional voting, the regulations must require the person claiming to vote to provide documentary evidence of the person's name by showing either of the following to an officer:
 - (a) the person's driver's licence;
 - (b) a prescribed kind of document that identifies the person.
- (10) The regulations may impose additional requirements in relation to identification for provisional voting.

73 At the end of paragraph 268(1)(e)

Add "or (1A)".

74 Subsection 287(1) (definition of *associated entity*)

Repeal the definition, substitute:

associated entity means:

- (a) an entity that is controlled by one or more registered political parties; or
- (b) an entity that operates wholly, or to a significant extent, for the benefit of one or more registered political parties; or
- (c) an entity that is a financial member of a registered political party; or
- (d) an entity on whose behalf another person is a financial member of a registered political party; or
- (e) an entity that has voting rights in a registered political party; or
- (f) an entity on whose behalf another person has voting rights in a registered political party.

75 Subsection 287(1) (definition of *broadcaster*)

Repeal the definition.

76 Subsection 287(1) (paragraph (f) of the definition of *disclosure period*)

Omit “305(1) or 305A(1)”, substitute “305A(1) or (1A)”.

77 Subsection 287(1)

Insert:

financial member, in relation to a registered political party, means a person or entity that pays an annual subscription to the party.

78 Section 305

Repeal the section.

79 Subsections 305A(1), (2) and (3)

Repeal the subsections, substitute:

- (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.

Note: The headings to sections 305A and 305B are altered by omitting “**Donations**” and substituting “**Gifts**”.

80 Paragraph 308(1)(e)

After “section 328”, insert “, 328A”.

81 Subsections 309(4) and (5)

Repeal the subsections.

82 Sections 310 and 311

Repeal the sections.

83 Division 5A of Part XX (heading)

Repeal the heading, substitute:

Division 5A—Annual returns by registered political parties and other persons

84 After section 314AEA

Insert:

314AEB Annual returns relating to political expenditure

(1) A person must provide a return for a financial year in accordance with this section if:

- (a) the person incurred expenditure for any of the following purposes during the year, by or with his or her own authority:

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

- (b) the amount of the expenditure incurred was more than \$10,000; and
- (c) at the time the person gave the authority the person was not:
 - (i) a registered political party; or
 - (ii) a State branch of a registered political party; or
 - (iii) the Commonwealth (including a Department of the Commonwealth, an Executive Agency or a Statutory Agency (within the meaning of the *Public Service Act 1999*)); or
 - (iv) a member of the House of Representatives or the Senate; or
 - (v) a candidate in an election; or
 - (vi) 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 for the financial year setting out details of the expenditure incurred.
- (3) The return must:
 - (a) be provided before the end of 20 weeks after the end of the financial year; and
 - (b) be in the approved form.

314AEC Annual returns relating to gifts received for political expenditure

- (1) A person must provide a return for a financial year in accordance with this section if:
 - (a) the person is required to provide a return for the year under section 314AEB; and
 - (b) the person received a gift or gifts, at any time, that the person used during the year (either wholly or partly):
 - (i) to enable the person to incur expenditure for a purpose mentioned in paragraph 314AEB(1)(a); or
 - (ii) to reimburse the person for incurring expenditure for such a purpose; and
 - (c) the amount of at least one such gift was more than \$10,000.

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

- (2) The person must provide to the Electoral Commission a return for the financial year setting out the following details in respect of each gift of more than \$10,000 that is mentioned in paragraph (1)(b):
 - (a) the amount of the gift;
 - (b) the date on which the gift was made;
 - (c) 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;
 - (d) 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;
 - (e) in any other case—the name and address of the person who made the gift.

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

- (3) The return must:
 - (a) be provided before the end of 20 weeks after the end of the financial year; and
 - (b) be in the approved form.
- (4) For the purposes of subsection (2), 2 or more gifts made, during the financial year, by the same person to another person are taken to be one gift.

85 Application of item 84

The amendment made by item 84 applies to the 2006-07 financial year and later financial years.

86 Section 318A

Repeal the section.

87 After section 328

Insert:

328A Publication of electoral advertisements on the Internet

- (1) A person commits an offence if:
 - (a) either:
 - (i) the person publishes an electoral advertisement on the Internet; or
 - (ii) the person causes, permits or authorises an electoral advertisement to be published on the Internet; and
 - (b) the electoral advertisement is intended to affect voting in an election; and
 - (c) the electoral advertisement is paid for by the person or another person; and
 - (d) the name and address of the person who authorised the advertisement do not appear at the end of the advertisement.

Penalty: 10 penalty units.

- (2) Subsection (1) does not apply if the matter published on the Internet forms part of a general commentary on a website.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

(3) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against subsection (1).

(4) In this section:

address of a person means an address, including a full street address and suburb or locality, that is located in Australia at which the person can usually be contacted during the day. It does not include a post office box.

88 Subsection 351(5)

After “section 328”, insert “or 328A”.

89 After paragraph 385A(1)(a)

Insert:

(aa) an electoral advertisement published on the Internet that includes a statement that it was authorised by a specified person is admissible as evidence of that fact; and

90 At the end of subparagraphs 6(a), (b) and (c) of Schedule 3

Add “and”.

91 After subparagraph 6(c) of Schedule 3

Insert:

(ca) in the case of an envelope purporting to contain a provisional vote ballot-paper—if the elector (other than an elector to whom subsection 104(4) applies) did not provide evidence of his or her identity in accordance with section 235 at the time of casting the vote, the elector has provided that evidence by the first Friday following the polling day for that election; and

(cb) in the case of an envelope purporting to contain a postal ballot-paper, a pre-poll vote ballot-paper, an absent vote ballot-paper or a provisional vote ballot-paper, cast by an elector who is provisionally enrolled—that, by the first Friday following the polling day for that election, the elector has provided an officer with:

(i) an original certificate of Australian citizenship granted to the elector under section 13 of the *Australian Citizenship Act 1948*; or

(ii) a copy of the certificate of Australian citizenship granted to the elector under section 13 of the *Australian Citizenship Act 1948* that has been attested to by an elector in a prescribed class of electors; and

92 Subparagraph 6(cb) of Schedule 3

Omit all the words from and including “an officer”, substitute “an officer with evidence that the elector has become an Australian citizen under the *Australian Citizenship Act 2006*”.

93 Subparagraph 10(b) of Schedule 3

Omit “or 13A”.

94 Subparagraph 10(ba) of Schedule 3

Repeal the paragraph.

95 Subparagraph 11(b) of Schedule 3

Omit “or 13A”.

96 At the end of paragraph 12 of Schedule 3

Add:

; and (iii) that the omission was not attributable to subsection 118(4A).

97 Paragraphs 13A to 13D of Schedule 3

Repeal the paragraphs.

98 Paragraph 14 of Schedule 3

Omit “paragraphs 13, 13B and 13D”, substitute “paragraph 13”.

99 Paragraph 19 of Schedule 3

Omit “10(ba) or (c)”, substitute “10(c)”.

Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004

100 Subsection 2(1) (table items 3, 5, 8, 11, 14, 18, 24 and 30)

Repeal the items.

101 Items 5, 18A, 19, 42, 132A and 132B of Schedule 1

Repeal the items.

Referendum (Machinery Provisions) Act 1984

102 Subsection 3(1)

Insert:

provisionally enrolled has the meaning given by subsection (1A).

103 After subsection 3(1)

Insert:

(1A) A person is *provisionally enrolled* if:

- (a) the person is provisionally enrolled under section 99B of the *Commonwealth Electoral Act 1918*; or
- (b) the person is provisionally enrolled under section 38 of this Act.

104 Paragraph 4(2)(a)

Repeal the paragraph, substitute:

- (a) claims for enrolment under section 101 of the *Commonwealth Electoral Act 1918* (other than claims that are taken, by subsection 99B(6) of that Act, to be made under section 101 of that Act) that are received during the period:
 - (i) beginning at 8 pm on the day of the issue of the writ for a referendum; and
 - (ii) ending on the close of voting at the referendum; must not be considered until after the end of the period; and
- (aa) claims for transfer of enrolment under section 101 of the *Commonwealth Electoral Act 1918*, and claims that are taken, by subsection 99B(6) of that Act, to be made under section 101 of that Act, that are received during the period:
 - (i) beginning at 8 pm on the day for which the Rolls for a referendum close; and
 - (ii) ending on the close of voting at the referendum; must not be considered until after the end of the period; and

105 Paragraph 4(2)(b)

Omit “the close of the Rolls”, substitute “the day of the issue of the writ”.

106 At the end of section 4

Add:

- (3) A claim that is taken, by subsection 100(2) of the *Commonwealth Electoral Act 1918*, to be made under section 101 of that Act:
 - (a) is to be treated in accordance with paragraph (2)(aa) if the claim is made by a person who will turn 18 years old during the period:
 - (i) beginning at 8 pm on the day of the issue of the writ for a referendum; and
 - (ii) ending at the end of the voting day for the referendum; and
 - (b) otherwise—is to be treated in accordance with paragraph (2)(a).

107 Subsection 9(1)

Omit “7 days”, substitute “3 working days”.

108 At the end of section 9

Add:

- (3) In this section:

working day means any day except:

- (a) a Saturday or a Sunday; or
- (b) a day that is a public holiday in any State or Territory.

109 Subsection 34(2)

After “subsection 46(1)”, insert “or (1A)”.

110 Paragraphs 36(4)(a) and 36A(8)(a)

After “46(1)”, insert “or (1A)”.

111 At the end of subsection 37(1)

Add:

; or (e) the person is provisionally enrolled.

112 After subsection 37(1)

Insert:

(1A) In this Part (other than section 45) and in Schedule 4:

- (a) a reference to an elector includes a reference to a person who has cast a provisional vote under paragraph (1)(e); and
- (b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the elector is provisionally enrolled.

(1B) A person to whom this section applies (other than a person to whom subsection 104(4) of the *Commonwealth Electoral Act 1918* applies) may cast a provisional vote on the voting day for a referendum if the person provides the evidence of the person's identity that is required by the regulations either:

- (a) at the time the person casts the provisional vote; or
- (b) by the first Friday following the voting day.

Note: The regulations are made under subsection (9).

113 At the end of section 37

Add:

Regulations

- (9) If regulations are made to implement a requirement of subsection (1B) in relation to identification for provisional voting, the regulations must require the person claiming to vote to provide documentary evidence of the person's name by showing either of the following to an officer:
 - (a) the person's driver's licence;
 - (b) a prescribed kind of document that identifies the person.
- (10) The regulations may impose additional requirements in relation to identification for provisional voting.

114 After section 37

Insert:

38 Provisional enrolment by applicant for citizenship

Application by those about to become Australian citizens

- (1) A person may apply to a Divisional Returning Officer for provisional enrolment for a Subdivision if, at the time of making the application:
 - (a) either:
 - (i) a public announcement has been made of the proposed voting day for a referendum; or
 - (ii) a writ for a referendum has been issued; and
 - (b) the voting day for the referendum is not the same as that fixed for the polling at an election; and
 - (c) the person has been notified by the Immigration Department that the person will be granted a certificate of Australian citizenship under section 13 of the *Australian Citizenship Act 1948* between:
 - (i) the day of the issue of writ; and
 - (ii) the voting day for the referendum; and
 - (d) the person is not enrolled; and
 - (e) the person is not qualified for enrolment, but would be so qualified if he or she were an Australian citizen.

Note 1: A person who is provisionally enrolled under this section is not immediately added to a Roll but can cast a postal, pre-poll, absent or provisional vote. However, the vote is excluded from further scrutiny if the person does not provide evidence of citizenship by the first Friday following the voting day (see paragraph 6 of Schedule 4).

Note 2: A person may make a similar application under section 99B of the *Commonwealth Electoral Act 1918* if the voting day for the referendum is the same as that fixed for the polling at an election.

Requirements for application

- (2) An application must:
 - (a) be in the approved form; and
 - (b) be signed by the person (but see subsection (3)); and
 - (c) be made between the following times:
 - (i) the earlier of the public announcement of the proposed voting day for the referendum and the day of the issue of the writ;

- (ii) 8 pm on the day of the close of the Rolls for the referendum; and
- (d) in accordance with subsection (4), be supported by evidence of the Immigration Department's notification.

(3) A person may fill out and sign an application under this section, on behalf of another person (the *applicant*), in accordance with the directions of the applicant if:

- (a) the applicant wishes to make the application; and
- (b) a registered medical practitioner has certified, in writing, that the applicant is so physically incapacitated that the applicant cannot sign the application.

(4) For the purposes of paragraph (2)(d), an application is supported by evidence of the Immigration Department's notification if:

- (a) all of the following apply:
 - (i) the original notification is shown to an officer;
 - (ii) the officer attests that he or she has sighted the notification;
 - (iii) the officer attests that he or she is satisfied that the notification relates to the person making the application; or
- (b) all of the following apply:
 - (i) the original or a copy of the notification is shown to an elector in a prescribed class of electors;
 - (ii) the elector attests that he or she has sighted the notification;
 - (iii) the elector attests that he or she is satisfied that the notification relates to the person making the application.

Divisional Returning Officer to keep records

(5) If a person makes an application in accordance with this section, then:

- (a) the person is provisionally enrolled under this section for the Subdivision for which the person would be provisionally enrolled if he or she had made an application under section 99B of the *Commonwealth Electoral Act 1918*; and
- (b) the Divisional Returning Officer for the relevant Division must keep a record of the details of the application.

Confirmation of citizenship

- (6) If, by the first Friday following the voting day for the referendum, the person provides an officer with the original certificate of Australian citizenship granted to the person, or a copy of the certificate that has been attested to by an elector in a prescribed class of electors, then:
 - (a) the provisional enrolment ceases; and
 - (b) the application is taken to be a claim under the *Commonwealth Electoral Act 1918* for enrolment for the Subdivision mentioned in paragraph (5)(a); and
 - (c) sections 102, 103 and 104 of the *Commonwealth Electoral Act 1918* apply to the application as if it were a claim made under section 101 of that Act.
- (7) Otherwise, the Divisional Returning Officer for the relevant Division must notify the person, in writing, that the person's provisional enrolment has ceased.

115 Paragraph 38(1)(c)

Omit "be granted a certificate of Australian citizenship under section 13 of the *Australian Citizenship Act 1948*", substitute "become an Australian citizen under the *Australian Citizenship Act 2005*".

116 Subsection 38(6)

Omit "with the original certificate of Australian citizenship granted to the person, or a copy of the certificate that has been attested to by an elector in a prescribed class of electors", substitute "with evidence that the person has become an Australian citizen".

117 After subsection 46(1)

Insert:

- (1A) On voting day for a referendum, a person who is provisionally enrolled is entitled to vote as an absent voter, after making a declaration in an approved form, at any polling place within the State or Territory for which he or she is provisionally enrolled at which a polling booth is open (other than a polling place for the Division for which he or she is provisionally enrolled).
- (1B) In this Part (other than section 45) and in Schedule 4:

- (a) a reference to an elector includes a reference to a person who has cast an absent vote under subsection (1A); and
- (b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

118 Subsection 46(2)

Omit “subsection (1)”, substitute “subsections (1) and (1A)”.

119 Subsection 46(3)

After “subsection (1)”, insert “or (1A)”.

120 Paragraph 46(9)(a)

After “222(1)”, insert “or (1A)”.

121 Paragraph 46(9)(a)

After “subsection (1)”, insert “or (1A) (as the case requires)”.

122 Section 53

Before “In this”, insert “(1)”.

123 At the end of section 53

Add:

(2) In this Part and in Schedule 4:

- (a) a reference to an elector includes a reference to a person who has applied for a postal vote under subsection 54(2); and
- (b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

124 Section 54

Before “An elector”, insert “(1)”.

125 At the end of section 54

Add:

(2) A person who is provisionally enrolled may apply for a postal vote.

126 Section 72

Before “An elector”, insert “(1)”.

127 At the end of section 72

Add:

- (2) A person who is provisionally enrolled may apply for a pre-poll vote.
- (3) In this Part and in Schedule 4:
 - (a) a reference to an elector includes a reference to a person who has applied for a pre-poll vote under subsection (2); and
 - (b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

128 Part IX

Repeal the Part.

129 After section 121

Insert:

121A Publication of advertisements on the Internet

- (1) A person commits an offence if:
 - (a) either:
 - (i) the person publishes an advertisement relating to a referendum on the Internet; or
 - (ii) the person causes, permits or authorises an advertisement relating to a referendum to be published on the Internet; and
 - (b) the advertisement is intended to affect voting in the referendum; and
 - (c) the advertisement is paid for by the person or another person; and
 - (d) the name and address of the person who authorised the advertisement does not appear at the end of the advertisement.

Penalty: 10 penalty units.

(2) Subsection (1) does not apply if the matter published on the Internet forms part of a general commentary on a website.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

(3) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against subsection (1).

(4) In this section:

address of a person means an address, including a full street address and suburb or locality, that is located in Australia at which the person can usually be contacted during the day. It does not include a post office box.

130 Section 136

Repeal the section.

131 At the end of subparagraphs 6(a), (b) and (c) of Schedule 4

Add “and”.

132 After subparagraph 6(c) of Schedule 4

Insert:

- (ca) in the case of an envelope purporting to contain a provisional vote ballot-paper—if the elector (other than an elector to whom subsection 104(4) of the *Commonwealth Electoral Act 1918* applies) did not provide evidence of his or her identity in accordance with section 37 at the time of casting the vote, the elector has provided that evidence by the first Friday following the voting day for that referendum; and
- (cb) in the case of an envelope purporting to contain a postal ballot-paper, a pre-poll vote ballot-paper, an absent vote ballot-paper or a provisional vote ballot-paper, cast by an elector who is provisionally enrolled—that, by the first Friday following the polling day for that election, the elector has provided an officer with:
 - (i) an original certificate of Australian citizenship granted to the elector under section 13 of the *Australian Citizenship Act 1948*; or

(ii) a copy of the certificate of Australian citizenship granted to the elector under section 13 of the *Australian Citizenship Act 1948* that has been attested to by an elector in a prescribed class of electors; and

133 Subparagraph 6(cb) of Schedule 4

Omit all the words from and including “an officer”, substitute “an officer with evidence that the elector has become an Australian citizen under the *Australian Citizenship Act 2006*”.

134 Subparagraph 10(b) of Schedule 4

Omit “or 12A”.

135 Subparagraph 10(ba) of Schedule 4

Repeal the paragraph.

136 At the end of paragraph 11 of Schedule 4

Add:

; and (iii) that the omission was not attributable to subsection 118(4A) of the *Commonwealth Electoral Act 1918*.

137 Paragraphs 12A to 12D of Schedule 4

Repeal the paragraphs.

138 Paragraph 13 of Schedule 4

Omit “paragraphs 12, 12B and 12D”, substitute “paragraph 12”.

139 Paragraph 17 of Schedule 4

Omit “10(a), (b) or (ba)”, substitute “10(a) or (b)”.

Schedule 2—Amendments to thresholds

Commonwealth Electoral Act 1918

1 Subparagraph 304(5)(b)(ii)

Omit “less than \$200”, substitute “\$10,000 or less”.

2 Paragraph 304(5)(c)

Omit “less than \$1,000”, substitute “\$10,000 or less”.

3 At the end of subsection 304(5)

Add:

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

4 Paragraph 304(6)(b)

Omit “is equal to or exceeds \$200”, substitute “exceeds \$10,000”.

5 Paragraph 304(6)(c)

Omit “is equal to or exceeds \$1,000”, substitute “exceeds \$10,000”.

6 At the end of subsection 304(6)

Add:

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

7 Subsection 305B(1)

Omit “\$1,500 or more”, substitute “more than \$10,000”.

8 At the end of subsection 305B(1)

Add:

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

9 Subsection 305B(3A)

Omit “\$1,500 or more”, substitute “more than \$10,000”.

10 Subsection 305B(3A)

Omit “is equal to or exceeds \$1,000”, substitute “exceeds \$10,000”.

11 At the end of subsection 305B(3A)

Add:

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

12 Subsections 306(1) and (2)

Repeal the subsections, substitute:

(1) It is unlawful for:

- (a) a political party; or
- (b) a State branch of a political party; or
- (c) a person acting on behalf of a political party or a State branch of a political party;

to receive a gift made to or for the benefit of the party or branch by another person, being a gift the amount or value of which exceeds \$10,000, unless:

- (d) the name and address of the person making the gift are known to the person receiving the gift; or
- (e) at the time when the gift is made:
 - (i) the person making the gift gives to the person receiving the gift his or her name and address; and
 - (ii) the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

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

(2) It is unlawful for:

- (a) a candidate; or
- (b) a member of a group; or
- (c) a person acting on behalf of a candidate or group;

to receive a gift made to or for the benefit of the candidate or the group, as the case may be, being a gift the amount or value of which exceeds \$10,000, unless:

- (d) the name and address of the person making the gift are known to the person receiving the gift; or

- (e) at the time when the gift is made:
 - (i) the person making the gift gives to the person receiving the gift his or her name and address; and
 - (ii) the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

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

13 Subsection 306A(1)

Omit “\$1,500 or more”, substitute “more than \$10,000”.

14 At the end of subsection 306A(1)

Add:

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

15 Subsection 306A(2)

Omit “\$1,500 or more”, substitute “more than \$10,000”.

16 At the end of subsection 306A(2)

Add:

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

17 Paragraph 306B(a)

Omit “is equal to or exceeds \$1,000”, substitute “exceeds \$10,000”.

18 At the end of section 306B

Add:

Note 3: The dollar amount mentioned in this section is indexed under section 321A.

19 Subsection 311A(2)

Omit “less than \$1,500”, substitute “\$10,000 or less”.

20 At the end of subsection 311A(2)

Add:

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

21 Subsection 314AC(1)

Omit “\$1,500 or more”, substitute “more than \$10,000”.

22 At the end of subsection 314AC(1)

Add:

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

23 Subsection 314AC(2)

Omit “less than \$1,500”, substitute “\$10,000 or less”.

24 At the end of subsection 314AC(2)

Add:

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

25 Subsection 314AE(1)

Omit “\$1,500 or more”, substitute “more than \$10,000”.

26 At the end of subsection 314AE(1)

Add:

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

27 At the end of Part XX

Add:

321A Indexation of amounts

- (1) This section applies to the dollar amounts mentioned in the following provisions:
 - (a) subparagraph 304(5)(b)(ii);
 - (b) paragraph 304(5)(c);
 - (c) paragraphs 304(6)(b) and (c);
 - (d) section 305A;
 - (e) subsections 305B(1) and (3A);

- (f) subsections 306(1) and (2);
- (g) subsections 306A(1) and (2);
- (h) paragraph 306B(a);
- (i) subsection 311A(2);
- (j) subsections 314AC(1) and (2);
- (k) subsection 314AE(1).

(2) The dollar amount mentioned in the provision, for an indexation year whose indexation factor is greater than 1, is replaced by the amount worked out using the following formula (rounded to the nearest \$100):

$$\text{Dollar amount for the provision for the previous financial year} \times \frac{\text{Indexation factor for the indexation year}}{\text{Indexation factor for the previous financial year}}$$

(3) The dollar amount mentioned in the provision for an indexation year is not replaced in respect of a disclosure period in relation to an election if the indexation year begins between the issue of the writ for the election and the polling day for the election.

(4) The ***indexation factor*** for an indexation year is the number worked out using the following formula:

$$\frac{\text{March index number for the previous financial year}}{\text{March index number for the year before the previous financial year}}$$

(5) The indexation factor is to be calculated to 3 decimal places, but increased by .001 if the fourth decimal place is more than 4.

(6) Calculations under subsection (4):

- (a) are to be made using only the March index numbers published in terms of the most recently published reference base for the Consumer Price Index; and
- (b) are to be made disregarding March index numbers that are published in substitution for previously published March index numbers (except where the substituted numbers are published to take account of changes in the reference base).

(7) In this section:

indexation year means the financial year commencing on 1 July 2006, and each subsequent financial year.

March index number means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of the 3 months ending on 31 March.

28 At the end of subsection 321A(1)

Add:

- ; (m) paragraph 314AEB(1)(b);
- (n) paragraph 314AEC(1)(c);
- (o) subsection 314AEC(2).

29 Application of this Schedule

- (1) The amendments made by this Schedule (other than item 28) apply to:
 - (a) that part of the 2005-06 financial year that commences on the day on which the Bill for this Act is introduced into the Parliament; and
 - (b) later financial years.
- (2) The amendment made by item 28 applies to the 2006-07 financial year and later financial years.

Schedule 3—Deregistration of certain political parties

1 Definitions

In this Schedule:

Electoral Commission has the meaning given by subsection 4(1) of the *Commonwealth Electoral Act 1918*.

Parliamentary party has the meaning given by subsection 123(1) of the *Commonwealth Electoral Act 1918*.

political party has the meaning given by subsection 4(1) of the *Commonwealth Electoral Act 1918*.

related party has the meaning given by subsection 123(2) of the *Commonwealth Electoral Act 1918*.

registered officer has the meaning given by section 4C of the *Commonwealth Electoral Act 1918*.

Register of Political Parties means the Register established under section 125 of the *Commonwealth Electoral Act 1918*.

2 Deregistration of certain political parties

- (1) A political party that is registered under Part XI of the *Commonwealth Electoral Act 1918* at the time this item commences is deregistered by force of this item, 6 months after that time, unless the party is covered by subitem 3(1), (2) or (3).
- (2) The Electoral Commission must notify a political party in writing if the party is deregistered by force of this item.

3 Political parties that are not deregistered

- (1) A political party is not deregistered by force of item 2 if, during the 41st Commonwealth Parliament, but before this item commences:
 - (a) the party is a Parliamentary party; and
 - (b) the Electoral Commission has determined that the party is an eligible political party for the purposes of section 138A of the *Commonwealth Electoral Act 1918*.
- (2) A political party is not deregistered by force of item 2 if, during the 41st Commonwealth Parliament:

- (a) the party is a Parliamentary party; and
- (b) the Electoral Commission notifies the party of the requirement to provide information for the purposes of section 138A of the *Commonwealth Electoral Act 1918*, which the party provides within 3 months of the date of the notification; and
- (c) within 6 months of this item commencing, the Electoral Commission has determined that the party is an eligible political party for the purposes of that section.

(3) A political party is not deregistered by force of item 2 if:

- (a) within 3 months of this item commencing, the party claims, in accordance with subitem (4), that the party should not be deregistered; and
- (b) within 6 months of this item commencing, the Electoral Commission is satisfied that either:
 - (i) a member of the party was a candidate for the party at an election and was elected at that time as a member of the Commonwealth Parliament; or
 - (ii) a member of a related party was a candidate for the related party at an election and was elected at that time as a member of the Commonwealth Parliament.

(4) A claim under this item must:

- (a) be made by the person who is the registered officer of the political party; and
- (b) name the member of the party, or the member of a related party, on whom the party relies for the claim; and
- (c) state the period during which the member was a member of the Commonwealth Parliament; and
- (d) be accompanied by documentary evidence that is necessary and sufficient to establish, or a declaration signed by the member:
 - (i) that the member was a candidate for the party, or a related party, at an election; and
 - (ii) that the member was elected at that time as a member of the Commonwealth Parliament; and
 - (iii) if the party relies for the claim on a member of a related party—that the related party was, at that time, related to the party by whom the claim is made; and

- (e) if subparagraph (d)(iii) applies—be signed by the party secretaries of the party and the related party.
- (5) A person who was elected as a member of the Commonwealth Parliament must not be relied on by more than one political party for its claim, unless:
 - (a) at a time when the person was a member of a political party, the person was a candidate for the party at an election, and was elected at that time as a member of the Commonwealth Parliament; and
 - (b) at another time when the person was a member of another political party, the person was a candidate for the other party at another election, and was elected at that time as a member of the Commonwealth Parliament.
- (6) If more than one political party relies on the same person for its claim in contravention of subitem (5), then:
 - (a) if at a time when the person was a member of one of the political parties, the person was a candidate for the party at an election, and was elected at that time as a member of the Commonwealth Parliament—that party may rely on the person; and
 - (b) otherwise—the party:
 - (i) that the Electoral Commission is satisfied is covered by subitem (2) or (3); and
 - (ii) that makes the earliest claim; may rely on the person.
- (7) Before determining a claim made under this item, the Electoral Commission may make any inquiries that it considers appropriate to ascertain facts in relation to the claim.
- (8) A determination or decision by the Electoral Commission in respect of a claim made under this item is taken to be a reviewable decision for the purposes of section 141 of the *Commonwealth Electoral Act 1918*.

4 Waiver of fee for re-registration

If, within 12 months of the day on which item 2 commences, a political party that is deregistered by force of that item makes an application to be registered under section 126 of the *Commonwealth Electoral Act 1918*, the application need not be accompanied by a fee of \$500 as required by paragraph 126(2)(g) of that Act.

5 Freezing the Register of Political Parties

During the period of 6 months commencing on the day on which this item commences:

- (a) a political party must not be added to, or deleted from, the Register of Political Parties; and
- (b) an entry on the Register must not be changed, other than to substitute a different name or address for the registered officer of a political party for the purposes of paragraph 134(1)(g) or subsection 134(1A) of the *Commonwealth Electoral Act 1918*.

6 Election called during the year

Despite this Schedule, if the writ for an election is issued during the period of 12 months commencing on the day on which this item commences, then for the purposes of the election, the Register of Political Parties as in force at the time this item commences is taken to be the Register of Political Parties. However, that Register may be changed to substitute a different name or address for the registered officer of a political party for the purposes of paragraph 134(1)(g) or subsection 134(1A) of the *Commonwealth Electoral Act 1918*.

Schedule 4—Donations to political parties and independent candidates and members

Part 1—Insertion of new Subdivision 30-DA in the Income Tax Assessment Act 1997

1 After Subdivision 30-D

Insert:

Subdivision 30-DA—Donations to political parties and independent candidates and members

Guide to Subdivision 30-DA

30-241 What this Subdivision is about

Generally, you can deduct certain contributions and gifts to political parties, independent candidates and members.

Contributions and gifts must be at least \$2 and there is a limit on the total amount that you can deduct.

Table of sections

Operative provisions

- 30-242 Deduction for political contributions and gifts
- 30-243 Amount of the deduction
- 30-244 When an individual is an independent candidate
- 30-245 When an individual is an independent member

Operative provisions

30-242 Deduction for political contributions and gifts

- (1) You can deduct any of the following for the income year in which they are made:

- (a) a contribution or gift to a political party that is registered under Part XI of the *Commonwealth Electoral Act 1918* or under corresponding State or Territory legislation;
- (b) a contribution or gift to an individual when the individual is an *independent candidate for a Commonwealth, State, Northern Territory or Australian Capital Territory election;
- (c) a contribution or gift to an individual who is, or was, an *independent member of the Commonwealth Parliament, a State Parliament, the Legislative Assembly of the Northern Territory or the Legislative Assembly for the Australian Capital Territory.

(2) The contribution or gift must be of:

- (a) money; or
- (b) property that you purchased during the 12 months before making the contribution or gift.

(3) The value of the contribution or gift must be at least \$2.

(4) You cannot deduct a testamentary contribution or gift under this Subdivision.

(5) A contribution or gift to an individual who is, or was, an *independent member must be made:

- (a) when the individual is an independent member; or
- (b) if the individual ceases to be an independent member because:
 - (i) a Parliament, a House of a Parliament or a Legislative Assembly is dissolved or has reached its maximum duration; or
 - (ii) the individual comes up for election; after the individual ceases to be a member but before candidates for the resulting election are declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation.

30-243 Amount of the deduction

(1) If the contribution or gift is money, the amount of the deduction is the amount of money.

- (2) If the contribution or gift is property, the amount of the deduction is the lesser of:
 - (a) the market value of the property on the day that you made the contribution or gift; and
 - (b) the amount that you paid for the property.

\$1,500 limit on deductions

- (3) You cannot deduct more than \$1,500 under this Subdivision for an income year for contributions and gifts to political parties.
- (4) You cannot deduct more than \$1,500 under this Subdivision for an income year for contributions and gifts to *independent candidates or *independent members.

30-244 When an individual is an independent candidate

- (1) An individual is an *independent candidate* if:
 - (a) the individual is a candidate in an election (including an election that is later declared void) for members of the Commonwealth Parliament, a State Parliament, the Legislative Assembly of the Northern Territory or the Legislative Assembly for the Australian Capital Territory; and
 - (b) the individual's candidature is not endorsed by a political party that is registered under Part XI of the *Commonwealth Electoral Act 1918* or under corresponding State or Territory legislation.
- (2) However, an individual does not start being an *independent candidate until the candidates for the election are declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation.
- (3) An individual stops being an *independent candidate when the result of the election is declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation.
- (4) If:
 - (a) the election is taken to have wholly failed under the relevant electoral legislation; and

(b) the result of the election has not been declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation;

the individual stops being an *independent candidate in that election when candidates for the replacement election are declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation.

30-245 When an individual is an independent member

- (1) An individual is an *independent member* of the Commonwealth Parliament, a State Parliament, the Legislative Assembly of the Northern Territory or the Legislative Assembly for the Australian Capital Territory if the individual:
 - (a) is a member of that Parliament or Legislative Assembly; and
 - (b) the individual is not a member of a political party that is registered under Part XI of the *Commonwealth Electoral Act 1918* or under corresponding State or Territory legislation.
- (2) An individual who becomes a member as a result of an election (including an election that is later declared void) is taken to start being a member of the Parliament or Legislative Assembly when the individual's election as a member is declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation.

Part 2—Further amendment of the Income Tax Assessment Act 1997

2 Subsection 30-5(1)

After “making”, insert “a contribution or gift to a political party, independent candidate or member, or”.

3 Subsection 30-5(1) (note)

Repeal the note, substitute:

Note 1: Subdivision 30-D deals with the deductibility of testamentary gifts under the Cultural Bequests Program.

Note 2: Subdivision 30-DA deals with the deductibility of contributions and gifts to political parties, independent candidates and members.

4 Subsection 30-15(2) (note)

Omit “Note”, substitute “Note 1”.

5 Subsection 30-15(2) (after note 1)

Insert:

Note 2: Subdivision 30-DA deals with the deductibility of contributions and gifts to political parties, independent candidates and members.

6 Subsection 30-15(2) (table item 3)

Repeal the item.

7 Subsection 30-315(2) (table item 87)

Omit “contributions”, substitute “parties and independent candidates and members”.

8 Subsection 30-315(2) (table item 87)

Omit “item 3 of the table in section 30-15”, substitute “Subdivision 30-DA”.

9 Subsection 995-1(1)

Insert:

independent candidate has the meaning given by section 30-244.

10 Subsection 995-1(1)

Insert:

independent member has the meaning given by section 30-245.

Part 3—Amendment of the Income Tax Assessment Act 1936

11 Subsections 78A(2), (3) and (4)

Omit “fund, authority or institution” (wherever occurring), substitute “fund, authority, institution or person”.

Part 4—Application of amendments

12 Application

The amendments made by this Schedule apply to contributions or gifts made on or after the day on which this Act receives the Royal Assent.

*[Minister's second reading speech made in—
House of Representatives on 8 December 2005
Senate on 13 June 2006]*

(185/05)
