AUSTRALIA

Funding and Disclosure Handbook

POLITICAL PARTIES

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Australian Electoral Commission AEC

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CONTENTS

INTRODUCTION

The purpose of this handbook is to assist registered political parties to understand the requirements of the election funding and financial disclosure provisions of Part XX of the *Commonwealth Electoral Act 1918 (the Act)*.

It is one of a series of publications prepared by the Australian Electoral Commission (AEC) to help parties, candidates, donors and other affected persons better understand the funding and disclosure provisions of the Act. These other publications are:

- *Funding and Disclosure Handbook for Candidates*;
- *Funding and Disclosure Handbook for Associated Entities*;
- *Funding and Disclosure Handbook for Donors and Third Parties*;
- *Funding and Disclosure Handbook for Broadcasters and Publishers*.

The *Federal Registration of Political Parties Handbook* may also be relevant.

The *Funding and Disclosure Handbook for Political Parties* provides information derived from the Act, and from the experience of the AEC in the administration of the funding and disclosure provisions. It attempts to simplify and explain what are, in some cases, complex legislative provisions. While it is intended as a user-friendly guide to the funding and disclosure requirements, it does not address the whole of the Act nor does it substitute for specific legal advice on detailed compliance issues.

Users are urged to seek their own independent advice where necessary, and to read the relevant parts of the Act.

Additional information and advice may be available from the AEC. Written enquiries should be addressed to Funding and Disclosure, AEC, PO Box 6172, Kingston, ACT 2604. Phone enquiries may be made to 02 6271 4552, fax enquiries to 02 6271 4555 and e-mail enquiries to fad@aec.gov.au.

The *Commonwealth Electoral Act 1918* is freely available through a link at www.aec.gov.au, or at http://scaleplus.law.gov.au.

BACKGROUND

The funding and disclosure scheme (Part XX of the Act) deals with the public funding of election campaigns and the disclosure of information about political contributions and electoral expenditure.

The scheme was introduced because it was considered important to inform the public about the financial dealings of parties, candidates and others involved in the electoral process.

It requires candidates, registered political parties and their associated entities, broadcasters and publishers, donors, and certain other people, to lodge financial disclosure returns with the AEC.

These disclosure returns are available for public inspection.

OVERVIEW

Features of the scheme as it applies to registered political parties and their State or Territory branches or divisions are:

- Parties and their branches must appoint an agent to act on their behalf regarding election funding and disclosure matters;
- Election funding is paid to party agents based on the number of first preference votes received by their endorsed candidates and Senate groups;
- Parties, and their associated entities, are required to lodge annual returns of receipts, payments and debts;
- The names and addresses of persons or organisations who made payments (including loans) of $1 500 or more to the party must be disclosed;
- People or organisations donating $1 500 or more to the same party in a financial year must lodge a donor return;
- Anonymous donations of $1 000 or more are illegal, and loans of $1 500 or more must be documented;
- Disclosure returns are on the public record;
- Registered political parties and their associated entities are subject to compliance reviews by the AEC.

REGISTERED POLITICAL PARTIES

A registered political party is one that is registered with the AEC under Part XI of the Act. Registration with a State or Territory electoral authority does not confer Federal registration.

The Federal registration requirements and obligations are separately addressed in the AEC *Federal Registration of Political Parties Handbook*.

For the purposes of the funding and disclosure provisions, State or Territory branches of registered political parties are treated as entities separate to the registered party and must meet their own disclosure obligations.

The effect is that they must each appoint an agent and lodge disclosure returns:

- A party that is organised in more than one place (e.g. in several States or Territories, or as a Federal secretariat and a State branch or branches) must have an agent in each of those places;
- The campaign committee of an endorsed candidate is a part of the party, or of the State or Territory branch, for disclosure purposes;
- An endorsed Senate group is part of the party, or of the State or Territory branch, for disclosure purposes.

APPOINTMENT OF AGENTS

Registered political parties, and their State or Territory branches, must appoint a party agent to act on their behalf on funding and disclosure matters.

Candidates, Senate group members and Senate groups (other than groups endorsed by a single party) may also appoint an agent to act on their behalf for these purposes.

STATE BRANCHES

A political party that is organised in more than one State or Territory must have an agent for each of those States or Territories:

- Where the party has a State or Territory branch, that branch must appoint its own agent.

RESPONSIBILITIES

The agent of a party, or of a State or Territory branch:

- Receives public election funding for endorsed candidates and Senate groups;
- Assumes responsibility for lodging financial disclosure returns for the party or branch.

CANDIDATES AND SENATE GROUPS

The party or branch agent is not the agent of endorsed candidates or Senate groups unless separately appointed as such.

The appointment and responsibilities of candidate and Senate group agents are separately addressed in the *Funding and Disclosure Handbook for Candidates.*

APPOINTMENT OF AGENT

The AEC has a form for the appointment of party and branch agents, an example of which is at Appendix 3. The form is also available at www.aec.gov.au.

To be eligible for appointment as agent a person must:

- Be at least 18 years of age;
- Not have been convicted of an offence under the funding and disclosure provisions of the Act;
- Have signed a consent to the appointment;
- Have signed a declaration of eligibility for appointment.

The appointment form incorporates a statement of consent to the appointment and a declaration of eligibility for appointment.

Only natural persons, and not corporations, may be appointed as an agent. A person may accept multiple appointments but each appointment must be made separately.

The Australian Democrats may, by s288A of the Act, appoint a principal agent for election funding purposes. The party is also required to appoint party agents as discussed in this chapter.

REGISTER OF PARTY AGENTS

The AEC keeps a register of party agents showing the name and address of every person appointed as an agent of a political party, or of a State or Territory branch of a party.

An entry in the register is evidence that the person is an agent for funding and disclosure purposes.

Registration is effective from the time the details are entered in the register and ceases at the time the details are removed.

TERMINATION OF APPOINTMENT

Agents may resign their appointment at any time by written notice to the AEC.

The appointment of an agent may be revoked at any time by written notice to the AEC from the party or branch. The party or branch must notify the appointment of another person as agent at the same time.

If an agent dies, the party or branch has 28 days in which to notify the AEC, and advise a replacement agent.

An agent who is convicted of an offence against the funding and disclosure provisions of the Act is no longer eligible to hold office. The party or branch has 28 days from the conviction, or from an unsuccessful appeal, in which to make a new appointment.

If a party or branch does not have an agent:

- All members of the party or branch executive committee assume responsibility for lodging disclosure returns;
- No payment of election funding can be made.

ELECTION FUNDING

Candidates receiving 4% or more of the formal first preference votes in an electorate in a Federal election or by-election are entitled to public election funding.

For Senate groups, the group as a whole must win at least 4% of votes in their State or Territory in order to be eligible for public funding:

- In the case of endorsed candidates and Senate groups, funding is normally paid to the party agent of the endorsing party or parties;
- In the case of independent candidates or Senate groups, payment is normally made to the agent of the candidate or group.

ENTITLEMENT

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

- The funding rate is reviewed each six months in line with increases in the consumer price index;
- The current amount is available at www.aec.gov.au.

PAYMENT

At least 95% of the entitlement is paid automatically in the 4th week after polling day, on the basis of votes counted as at the 20th day after polling day.

The balance is paid when the full entitlement is known.

Payment is normally made:

- To the party agent in the State or Territory in which the candidate stood, or direct to the party if there is no such branch;
- To the agent of independent candidates or Senate groups where they have such agents;
  - Payment is made to an independent candidate who has no agent, or to the person whose name appears first on the ballot paper in the case of a Senate group who has no agent.

A number of other payment options are available. These are canvassed below.

DIVERSION OF PAYMENTS

Payments may be diverted to another party, or branch, at the request of the agents of the parties or branches involved.

The request to the AEC must be signed by the agents of both of the parties or branches, and remains current until it is revoked with the written consent of those parties.

ENDORSED CANDIDATES AND SENATE GROUPS

Payments may be split between a party and its branches under arrangements agreed by the party and advised to the AEC.

Liberal Party – the Liberal Party may lodge a funding agreement with the AEC before polling day specifying the percentages of payments payable to the Federal secretariat of the party and to some or all of its State branches:

- In the absence of this notification, all payments go to the Federal Secretariat of the party.

Other registered parties (other than the Australian Democrats) with two or more branches - may elect to become a designated Federal party and then to lodge funding agreements:

- The registered officer of the party may notify the AEC that the party wishes to be a designated Federal party for funding agreement purposes;
  - This notification must be made before polling day and remains current for all elections until revoked. It cannot be revoked between polling day and 14 days after the return of the writs;
- A designated Federal party may lodge a funding agreement with the AEC before polling day specifying the percentages of payments payable to the party and to some or all of its State branches;
- In the absence of such a notice, payment is made to the agent of the designated federal party.

It is open to parties to notify separate arrangements for particular States or Territories.

Australian Democrats – the Australian Democrats' entitlement must be paid to the person nominated as principal agent of that party for these purposes:

- In the absence of such a person, the Australian Democrats' payment is made to the agent in the State or Territory where the candidate or Senate group stood.

JOINT SENATE GROUPS

Payments for jointly endorsed Senate groups are normally made to the agents of the relevant State branches of the parties in accordance with their endorsement agreement.

The AEC must be given a copy of the agreement, signed by the agents of the parties or branches involved, within the 20 days following polling day. If this is not received, the AEC will determine the division of the funding payment.

Each party or branches' share will be paid to the relevant branch, or otherwise in accordance with any funding agreement or diversion notice lodged with the AEC.

BANK ACCOUNTS

A party or branch may nominate a bank account for the electronic transfer of election funding payments.

The account should:

- Be with a bank, building society or credit union in Australia;
- Include the registered party name, or the name of the State or Territory branch, in its name.

Where an account is not nominated, payment is made by cheque to the party or branch, and addressed to the relevant agent.

The AEC will provide a form for the nomination of a bank account on request.

PAYMENTS IN ERROR

Payments made paid to a person, party or branch that is not entitled to the money are recoverable by the Commonwealth.

ADVICE TO PARTIES

The AEC advises parties of these various options for payment of election funding prior to an election.

Enquiries about payments should be made to the AEC at the address in the introduction to this Handbook.

ANNUAL RETURN

DISCLOSURE OBLIGATIONS

Following the end of the financial year, the agent of each registered political party, and the agent of their State or Territory branches, must lodge an annual return with the AEC.

The annual return must be lodged by 20 October.

An example of the annual return is at Appendix 4. The return requires disclosure of the total amount:

- Received by or on behalf of the party or branch during the financial year (part 1);
- Paid by or on behalf of the party or branch during the financial year (part 3);
- Of outstanding debts incurred by or on behalf of the party or branch at the end of the financial year (part 4).

It also requires the name and address of people or organisations:

- From whom, or on whose behalf, payments of $1 500 or more were received during the financial year (part 2);
  - Payments, including multiple payments, of less than $1 500 are not required to be disclosed in this part of the return;
- From whom, or on whose behalf, debts totalling $1 500 or more were incurred during the financial year (part 5);
  - Individual transactions that total $1 500 or more must be disclosed in this part of the return.

The AEC will forward return forms direct to party agents following the end of a financial year.

A ‘nil’ return should be lodged, or a ‘nil’ entry reported, where a party has no transactions, or no transactions applicable to a particular part of the return.

PERIOD COVERED

The return covers the financial year 1 July to 30 June.

For a party that is newly registered, the period commences on the date of registration and ends on 30 June.

Transactions before the party was registered with the AEC do not have to be disclosed.

DUE DATE FOR LODGING RETURNS

The return must reach the AEC at its Central Office in Canberra within 16 weeks after the end of the financial year.

This means the last day for lodgement is 20 October, or the first working day thereafter if 20 October falls on a weekend or public holiday.

The AEC has no discretion to extend this time.

RESPONSIBILITY FOR LODGING RETURNS

Responsibility for lodging the return lies with the party agent registered with the AEC.

Where there is no party agent, all members of the party's executive committee are responsible for lodging the return.

GENERAL PRINCIPLES

The following principles apply to completion of the return:

- The return separately addresses amounts received and paid during the financial year, and debts outstanding at the end of the financial year;
- Only completed transactions are disclosed e.g. a cheque payment is reported when the cheque is presented (and the underlying money has changed hands) rather than when the cheque is written;

- Accounting ‘book entries’ such as depreciation, provisions and valuation adjustments are not reported;
  - It will assist any subsequent AEC compliance review if a reconciliation of the return to the party or branch accounts is included in the working papers retained by the party or branch;
- Transactions of all sections of the party or State branch, including local branches and committees, must be included;
  - Transactions between party units within a State or Territory are not included to avoid double counting within the State or Territory return;
- Transactions between the Federal party and/or State or Territory branches are included as these are separate entities for disclosure purposes e.g. money received by a local campaign committee from the Federal secretariat is disclosed as a payment of the Federal party and a receipt by the State branch;
- Transactions by a Senate group whose members are endorsed by the party, and transactions of the campaign committee of a candidate endorsed by the party, must be included in the party or branch return;
- Transactions by persons acting on behalf of the party or branch, including candidates at Federal and State elections, must be included in the return.

Gross reporting – The return is completed on a gross basis, without netting-off of expenses e.g. a fundraiser taking $4 000 with costs of $2 750 and a net profit of $1 250 must be reported as $4 000 receipts and $2 750 payments, rather than net receipts of $1 250.

Disclosure threshold – The total of all receipts, payments and debts must be disclosed, together with:

- Details of receipts of $1 500 or more (ignoring individual amounts less than $1 500);
- Details of debts totalling $1 500 or more (aggregating individual amounts less than $1 500).

Related bodies corporate – Simplistically, related bodies corporate are entities at least 50% owned or controlled by another entity, or entities over which that other entity is able to exert control:

- Transactions of related entities should be consolidated when determining whether the disclosure threshold has been reached;
- Multiple donations received under different company names are to be considered to determine whether these companies are related bodies corporate requiring consolidated disclosure.

AMOUNTS RECEIVED

Receipts to be reported include donations or gifts received, revenue such as membership subscriptions, public election funding, and return on investments, and borrowed money.

Gifts are broadly defined to include any transfer or gift of property or services for which no payment, or an inadequate payment, is received. Donations may be cash (e.g. money or cheque), or 'gifts-in-kind'.

They may be received directly by the party or branch, or by a third party on their behalf, or with their authority. They may be received by an endorsed candidate, Senate group, campaign committee, or by a broader political supporter.

Gifts-in-Kind – Receipts include gifts-in-kind, which must be appropriately valued. Gifts-in-kind are things such as goods, assets or services for which no payment (in cash or in kind), or a payment less than true value is made.

These donations are to be disclosed at their proper value – normally the commercial or sale value of the item or service as evidenced by arms-length quotations, comparative advertisements or expert assessment.

Examples of in-kind donations include:

- Free services or services provided at a discount to the commercial rates normally charged by the service provider (e.g. for legal advice, accounting services or web and IT services);
- Excessive payments received for goods or services provided (including excessive membership fees);

- Free or discounted use of commercial premises and/or the associated utilities;
- Wages or salaries (including on-costs) incurred by an employer whose employee works for the party during normal working hours while continuing to receive salary or wages from the employer (but not if the employee takes paid leave to work for the party);
- Free use of a motor vehicle, or free fuel or servicing of a motor vehicle;
- Free or discounted time or production services by a broadcaster (except time provided by the ABC or SBS specifically for political broadcasting);
- Free or discounted advertising by a publisher or advertising production service;
- Free or discounted printing, typesetting or associated services;
- Free or discounted goods or services (e.g. travel, artwork, sports memorabilia or electrical goods) for use in raffles or other fund raising activities.

Volunteer labour does not need to be disclosed as a receipt. This is because the definition of gift in the Act specifically excludes volunteer labour.

The donation of unpaid time by a person is volunteer labour where it is provided by:

- An office-holder of the party or a party member;
- Any other person where that service is not one for which that person normally receives payment.

The distinction between gifts-in-kind and volunteer labour is seen in the following examples:

- The donation of legal advice by a solicitor who is a party member is volunteer labour because the solicitor is a party member;
- The donation of legal advice by a solicitor who is not a party member is a gift-in-kind that must be disclosed because this is a service for which that person normally charges;
- A solicitor who is not a party member handing out how-to-vote cards is volunteer labour because this is not a professional service for which that person normally charges;
- The donation of legal advice on behalf of a firm of solicitors is a gift-in-kind that must be disclosed because volunteer labour may only be provided by natural persons, not organisations.

EXCLUDED ITEMS

Transactions that do **not** need to be reported as receipts include:

- Personal gifts to a candidate which are not used to incur campaign expenditure;
- Commercial discounts received in the normal course of business;
- Volunteer labour, such as persons handing out how-to-vote cards;
- Interviews and news items published in a newspaper or broadcast in the electronic media.

There may be tension between the requirement to disclose donated advertising and the exclusion of interviews granted in the normal course of political activity:

- Material presented on an 'advertorial' basis (i.e. a combination of paid advertising and interviews) should be disclosed consistent with the promotional intention of the activity;
- The active support or promotion of a party or candidate in news, editorial or public interest programs may constitute electoral advertising as discussed in the *Funding and Disclosure Handbook for Broadcasters and Publishers*.

TOTAL RECEIPTS, PAYMENTS AND DEBTS

Parts 1, 3, and 4 of the return are for the total of all transactions for the party or branch, including its party units:

- All transactions of the party or branch must be aggregated and included in these parts of the return regardless of the amount (i.e. receipts, payments and debts of less than $1 500 are to be included);
- No category or class of transaction is excluded e.g.;
  - Membership and affiliation fees, and State and Federal election funding are included in total receipts;
  - State and local government campaign expenses, salaries and wages are included in total payments;
  - Trading liabilities e.g. accounts outstanding are included in total debts;
- Receipts to be reported are not limited to gifts or donations but include all revenue regardless of why it was received e.g. membership subscriptions, public election funding, return on investments, fundraising etc.

DETAILS OF RECEIPTS AND DEBTS OVER $1 500

Parts 2 and 5 of the return require disclosure of details of those persons or organisations from whom the party or branch has received, or to whom it owes, $1 500 or more:

- The full name and address, and the total value of transactions, for each person who has reached the disclosure threshold must be disclosed;
- In the case of a trust or foundation, the names and addresses of the trustees, along with the name and description of the trust or foundation, must be disclosed;
- In the case of an unincorporated organisation (other than a registered industrial organisation), the name and address of each member of the executive committee must be disclosed, along with the name and address of the organisation;
  - It is sufficient to provide the name and address of a registered industrial organisation.

DISCLOSURE THRESHOLD

For parts 2 and 5 of the return:

- Only individual receipts of $1 500 or more are taken into account when calculating whether a person or organisation has reached the $1 500 threshold for amounts received;
  - All receipts must be considered, not merely those from gifts or donations;
- All debts and unpaid accounts, regardless of the amount, must be included when calculating whether the threshold for debts has been reached i.e. including those under $1 500.

EXAMPLES

The following examples may assist:

- Where a person makes separate donations of $2 000 and $1 500, their details must be disclosed at part 2 for a total of $3 500;
  - The $3 500 total should also be included at part 1 (total receipts);
  - The donor must lodge a disclosure return showing the two separate payments, and the dates on which they were made;
- Where a person makes separate donations of, say, $2 000, $1 500 and $500 ($4 000), their details must be disclosed at part 2 for a total of $3 500 as the final donation of $500 falls below the disclosure threshold and does not need to be counted;
  - It is open to the party to include the $500 should it so choose;
  - The $4 000 total should be included at part 1 (total receipts);
  - The donor must lodge a disclosure return showing the three separate payments, and the dates on which they were made.
- Where a person makes separate donations of $600, $600 and $600 their details do not need to be disclosed at part 2 because, although those donations total more than $1 500 individually, none is $1 500 or more;
  - The $1 800 total should be included at part 1 (total receipts);
  - The donor must lodge a disclosure return showing the three separate payments, and the dates on which they were made.
- An outstanding debt of $1 000 must be included in part 4 (total debts) but does not need to be disclosed at part 5 (details of debts of $1 500 or more) because it is less than the threshold;
  - An outstanding debt of $2 000 to the same person or organisation, comprising two accounts of $1 000 each must be disclosed at part 4, and at part 5.

LOANS RECEIVED

The disclosure return requires details of the persons and organisations from whom loans of $1 500 or more were outstanding as at 30 June.

Records must be kept of any loan to the value of $1 500 or more received from a source other than a financial institution. Details of such loans are to be included in part 2 of the return:

- A financial institution is a bank, credit union, building society or a special service provider registered with the Australian Prudential Regulation Authority;
- A loan is broadly defined to include advances, credit, financial accommodations, amounts with an obligation to repay, and transactions having the effect of a loan of money;
  - Each credit card transaction is an individual loan for these purposes.

The records to be kept are the terms and conditions of the loan and details of the lender. These include things such as loan documentation and schedules, including the amount, interest rate and repayment terms.

The provider details to be kept are defined:

- In the case of a loan from a registered industrial organisation, the name of the organisation and the names and addresses of its executive committee;
- In the case of a loan from a trust or foundation, the names and addresses of the trustees, along with the title or description of the trust or foundation;
- In the case of a loan from an unincorporated organisation, the names and addresses of the members of the executive committee, along with the name of the organisation;
- In other cases, the name and address of the person or organisation.

It is unlawful for a loan of $1 500 or more to be received from other than a financial institution if these records are not kept. If the records are not kept, the amount of the loan may be recovered as a debt to the Commonwealth.

It is open to a party or branch to provide additional clarifying information in those situations where disclosure does not provide a clear picture of the underlying transactions. For example, parties or branches may wish to separately identify receipts such as donations, membership fees or other fundraisers.

A column is provided on the return form for this clarifying information.

The Act makes clear that membership lists are not required to be provided.

INCOMPLETE RETURNS

In cases where the party agent is unable to obtain all necessary information for inclusion in the return, the form should be accompanied by a statement setting out:

- What information may be missing;
- What attempts were made to gain that information;
- Why it could not be obtained;
- The name, address and phone number of each person who the agent believes holds that information.

The AEC will then follow-up the information directly.

Where a satisfactory response is not received from an inactive party unit, and it is believed that no material transactions have been omitted from the return as a result, there is no need to report this.

AMENDMENT OF RETURNS

A separate return form is used to amend a return which has been lodged and subsequently found to be incomplete or incorrect.

This requires, for total receipts (part 1), total payments (part 3) and total debts (part 4) that the previously submitted amount be provided together with new amount.

Changes to details of receipts of $1 500 or more (part 2) or debts of $1 500 or more (part 5) should be separated into:

- Addition of information previously omitted;
- Amendment of information previously submitted.

An item being changed should be clearly identified e.g. by restating the original item and noting the changes, or by resubmitting the original part of the return with the item highlighted and cross-referenced to the change detailed on the amending return.

The amendment form is available at www.aec.gov.au. A copy is at appendix 5.

DATE FOR PUBLIC INSPECTION OF ANNUAL RETURNS

Annual returns become available for public inspection on the first working day in February following the due date for lodgement of the return.

The returns may be viewed at www.aec.gov.au or at AEC offices by arrangement. Copies of returns are available for a fee, and they are also available on CD at a fee.

OTHER RETURNS

Donors and third parties – People and organisations making donations (directly or indirectly) to political parties are required to disclose those totalling $1 500 or more.

They must:

- Disclose donations to other people or organisations which are intended to benefit a political party, where the total is $1 500 or more;
- Count all donations, including those less than $1 500, when determining whether the $1 500 disclosure threshold has been met;
- Disclose donations they have received totalling $1 000 or more which they used to make donations of $1 500 or more to political parties.

These requirements are explained more completely in the *Funding and Disclosure Handbook for Donors and Third Parties* available at www.aec.gov.au.

Associated entities – Associated entities are organisations controlled by, or operating to a significant extent for the benefit of, political parties. They are required to lodge annual returns with the same detail as parties, and also to disclose the sources of capital used to generate funds to finance payments to a party or branch.

The definition of an associated entity and the disclosure requirements are explained more completely in the *Funding and Disclosure Handbook for Associated Entities* available at www.aec.gov.au.

Parties and branches should provide the AEC with contact details for their associated entities of the party.

Candidates – Candidates and Senate groups (other than groups endorsed by a single party) must report total donations received, and details of persons or organisations that donated $200 or more to a candidate or $1 000 or more to a group.

They must also report certain categories of their expenditure.

These requirements are explained more completely in the *Funding and Disclosure Handbook for Candidates* available at www.aec.gov.au.

Broadcasters and Publishers – must disclose details of election advertisements they run over an election or by-election period.

Election advertisements run at less than commercial rates are donations that must also be disclosed in a donor return.

These requirements are explained more completely in the *Funding and Disclosure Handbook for Broadcasters* and Publishers available at www.aec.gov.au.

UNLAWFUL DONATIONS AND LOANS

ANONYMOUS DONATIONS

It is illegal for a political party, branch, or person acting on their behalf to receive donations totalling $1 000 or more unless the person receiving the gift knows the name and the address of the donor:

- In the case of donations received from a trust or foundation, the names and addresses of the trustees must be known, along with the title or description of the trust or foundation;
- In the case of an unincorporated organisation (except for registered industrial organisations) the names and addresses of the members of the executive committee must be known, along with the name of the organisation;
  - It is sufficient to know the name and address of a registered industrial organisation (i.e. members of the executive committee may not be known).

If illegal donations are received, they are payable to, and recoverable by, the Commonwealth.

UNDOCUMENTED LOANS

It is illegal for a loan of $1 500 or more to be received from other than a financial institution unless the terms and conditions of the loan, and the details of the lender are recorded.

If such loans are received, the amount of the loan is payable to, and recoverable by, the Commonwealth.

Loans totalling $1 500 or more must be disclosed in the annual return.

The information and reporting requirements are discussed in more detail in the ‘annual returns’ section of this handbook.

WINDING-UP OF A DONOR COMPANY

A company liquidator may take action to recover from a party or branch any donations of $1 000 or more made by a company that is wound up within one year of the donation being made.

RECORD KEEPING

Parties and their branches must give consideration to the financial recording systems and procedures that are appropriate to their needs and circumstances.

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

Issues that are relevant to the determination of an appropriate record keeping system include:

- The likely number, value and nature of receipts, liabilities and expenditure transactions;
- The number, experience and training of people likely to be receiving donations, incurring debts, making payments and maintaining the records;
- The need to consolidate records for reporting purposes.

All transactions should be adequately documented and recorded and, where possible, reconciled to external banking records.

An AEC compliance review team may request access to the books and records of the party for the period under review, including but not limited to:

- Books of account (e.g. detailed general ledger, trial balance, computer records, petty cash records);
- Banking records (e.g. deposit books, cheque stubs, statements, reconciliations);
- Receipts and expenditure records (e.g. receipt books, invoices, accounts, and income and expenditure register);
- Audited financial statements;
- A list of party units, (including inactive party units) and a list of functions held during the year;
- Other documents (e.g. minutes of meetings, loan agreements, asset register).

Care should be taken to ensure that records are accurate. For example:

- A donation from a chief executive officer may be made personally, or may be made on behalf of the organisation;
- The identity of the true donor should be recorded where a transaction is on behalf of someone else e.g. through a solicitor's trust account;
  - Anonymous donations of $1 000 or more are unlawful.

RETENTION OF RECORDS

All relevant records, whether formal or informal, must be retained for a minimum of three years:

- Receipt books, bank records, receipt registers, source documents and working papers must be kept for this period.

COMPLIANCE REVIEWS

The AEC conducts regular compliance reviews of registered political parties, their branches, and other people or organisations subject to the disclosure regime to verify the accuracy and completeness of disclosure returns.

The reviews:

- Ensure compliance with the disclosure requirements of the Act;
- Provide an opportunity for advice and guidance to be provided by AEC officers.

The reviews apply Australian Auditing Standards principles in order to give some assurance as to whether a party, associated entity or donor has met its disclosure obligations.

The process involves:

- An advisory letter to notify an intended compliance review visit. This advises the sorts of records and information that will need to be accessed in order to the review;
  - Section 316 of the Act gives the AEC power to access information relating to matters that should be included in an annual financial disclosure return;
  - Access to all records may be required to give confidence in the overall accuracy of the return.
  - Records and information should not be altered or obliterated.
- An entrance interview will be followed by a review of the records relevant to the annual return, and an exit interview during which the preliminary results of the review are discussed;
- A written report of the visit is subsequently provided;
  - This will note any issues raised by the review, and may involve a request for an amended return where errors or omissions are detected;
  - There are penalty provisions for failing to lodge a return, failing to properly complete a return or failure to lodge an amendment return.

AEC staff will treat the information accessed during a compliance review in the strictest confidence. The details of a compliance reviews are not discussed with anyone other than the organisation concerned without prior agreement or unless otherwise required by law.

The records of local party units, including the campaign committees of candidates and Senate groups, may be inspected. The party or branch agent or their nominee can be present.

The Act requires that individual gifts of $25 000 or more to a candidate or party must be reviewed.

OFFENCES

Section 315 of the Act contains penalty provisions for offences against the funding and disclosure provisions.

The AEC's aim is to assist agents to fulfil their obligations under the Act. It may, however, initiate prosecutions for offences against the disclosure provisions after other reasonable avenues to resolve matters have been exhausted.

The offences include:

Failure to lodge a return by the due date

A person who fails to lodge a disclosure return by the due date is punishable by a fine of up to $5 000 for a party agent, or up to $1 000 for any other person.

A person who has been convicted of having failed to lodge a return who continues not to lodge the return is punishable by a fine of up to $100 per day for each day that the return is outstanding after the initial conviction.

Lodging an incomplete return

A person who lodges an incomplete return is punishable by a fine of up to $1 000:

- Page 21 of this Handbook provides advice for the situation where information cannot be obtained.

Including false or misleading information in a return

A person who knowingly lodges a return containing false or misleading information is punishable by a fine of up to $10 000 for a party agent, or up to $5 000 for any other person.

Knowingly providing false or misleading information for inclusion in a return

A person who knowingly provides a party agent with false or misleading information for inclusion in a return is punishable by a fine of up to $1 000.

Failure to retain records for 3 years

Failure to retain records containing information that could be required to be included in a return for 3 years is punishable by a fine of up to $1 000.

Failure to comply with a notice authorising a compliance review or investigation

A person who refuses or fails to comply with a notice authorising a compliance review or investigation by the AEC is punishable by a fine of up to $1 000.

Providing false or misleading information during a compliance review or investigation

A person who knowingly provides false or misleading information during a compliance review or investigation by the AEC is punishable by a fine of $1 000, or imprisonment for six months, or both.

APPENDIX 1

GLOSSARY

AEC	Australian Electoral Commission.
Anonymous donations	Gifts where the donor's name or address was not known to the person receiving the gift when the gift or more may be forfeited to the Commonwealth.
Associated entity	An organisation, which is either controlled by or operates to a significant extent for the benefit of one or more registered political parties. It includes companies holding assets for a political party, investment or trust funds, and fundraising organisations, groups and clubs.
Campaign committees	Annual returns of the party must include the transactions of campaign committees of endorsed candidates.
Detailed disclosure	The full name, address and the total value of transactions for each person who has reached the disclosure threshold for receipts or debts.
Disclosure threshold	Detailed disclosure must be made where receipts or debts from an individual or entity total $1 500 or more in a financial year.
Donor	A person or organisation other than a registered political party, an associated entity, a candidate or Senate group who is under an obligation to furnish a disclosure return because they made a donation.
Election funding entitlement	The amount of public election funding payable to a political party based on the number (at least 4%) of formal first preference votes obtained by a candidate or Senate group at a Federal election.

Gifts-in-kind	Non-cash donations e.g. receipt of an asset or service, discounts other than in the normal course of business and non-commercial or excessive payment for goods or services (including membership). Gifts-in-kind must be disclosed at the appropriate value - normally the commercial or sale value of the item or service.
Internal party transactions	Transactions between party units within a State branch of a political party. Internal party transactions are not disclosed. Transactions with a party unit from another State branch of the same party are not internal party transactions and must be disclosed.
Joint Senate group	A Senate group endorsed by more than one political party.
Party agent	A person appointed by notice in writing to the AEC by the relevant branch of the party. A party agent is not automatically the agent for candidates of the party.
Party unit	A generic term used to describe all sections of a political party including local branches and campaign committees.
Period of disclosure	Annual returns cover a financial year i.e. the period from 1 July to 30 June.
Public inspection	Annual disclosure returns are available for inspection by the public at www.aec.gov.au, at the AEC Central Office in Canberra, and by appointment in State Head Offices, from the 1st working day in February each year.
Registered officer	The person registered with the AEC who has the authority to nominate candidates. The nominated registered officer does not change until the AEC is formally notified of a replacement.
Registered political party	A political party registered with the AEC. (Registration with a State electoral office does not confer federal registration.) State or Territory branches of a registered political party are treated as separate parties for the purposes of the funding and disclosure provisions of the Act.

Related bodies corporate	Related bodies corporate are deemed to be the one entity for disclosure purposes. Related status is determined under the *Corporations Act 2001*.
Senate group	Two or more candidates for election to the Senate who made a written request to the AEC with their nominations that their names be grouped in the ballot-paper, or grouped in a specified order.
The Act	*Commonwealth Electoral Act 1918*.
State branch	A branch or division of a registered political party organised on the basis of a State or Territory. State branches are treated as separate parties for funding and disclosure purposes.
Third party	A term used to describe those who have a disclosure obligation, other than political parties, candidates, Senate groups, broadcasters and publishers, and donors.
Volunteer labour	Volunteer labour provided to a registered political party does not need to be disclosed as a donation by that person or the party. Volunteer labour is a service provided free of charge to a party by an office-holder of the party or a party member, or any other person where that service is not one for which that person normally receives payment.

APPENDIX 2

Funding and Disclosure Legislative Reference Guide

Part XX of the Act deals with election funding and financial disclosure. It contains 7 Divisions:

- Division 1 provides definitions relevant to the part. Note that section 4 of the Act contains definitions relevant to the Act as a whole;
- Division 2 deals with the appointment and administration of party agents and candidate agents, and Division 3 deals with election funding;
- Divisions 4 and 5 deal with the disclosure of donations and electoral expenditure by candidates and Senate groups, donors and third parties, and broadcasters and publishers;
- Division 5A deals with the annual returns of registered political parties and associated entities;
- Division 6 deals with offences, compliance reviews, amended returns, etc.

The following sections underpin the financial returns disclosure scheme:

Candidate (including Senate group member) election period returns

- election donations – s304(2)
- electoral expenditure – s308 and 309(2)
- loans over $1 500 – s306A(2) and 7(3)
- nil returns required – s 307(1) and 313(1)

Senate group election period returns

- election donations – s304(3)
- electoral expenditure – s308 and 309(3)
- returns not required if group endorsed by a single party – s304(3A) and s309(1A)
- nil returns required s307(2) and 313(2)

Broadcasters and Publishers election period returns

- electoral advertisements broadcast – s310
- electoral advertisements published – s311

Donor and third party election period returns

- electoral expenditure – s309(4)
- donations to candidates – s305A(1)
- donations received – s305(1)

Donor and third party annual returns

- donations to political parties – s305B
- donations received – s305B(3A)

Associated entity annual returns

- receipts – s314AEA(1)(a)
- payments – s314AEA(1)(b)
- debts – s314AEA(1)(c)
- capital contributions – s314AEA(3)

Political party annual returns

- receipts – s314AB and s314AC
- payments – s314AB
- loans – s314AB and s314AE

The following sections are also directly relevant to the financial disclosure scheme:

- Unlawful gifts – s306
- Unlawful loans – s306A
- Offences – s315
- Compliance reviews and investigations – s316
- Records to be kept – s317
- Incomplete information – s318
- Amendment of returns – s319A
- Public inspection of returns – s320

This reference guide is provided for the convenience of users of this handbook, who should note that other legislation and other sections of the Act, together with legal precedents, may be relevant to the interpretation and application of Part XX.

Users should therefore seek professional legal advice on compliance and other issues that may arise.

The AEC is able to provide guidance on its approach to the administration of the funding and disclosure provisions but is not able to provide legal advice generally. Information about how to obtain a copy of the Act, or to contact the AEC, is provided in the introduction to this handbook.

Appointment of Party Agent

Please refer to the *Funding and Disclosure Handbook for Political Parties* when completing this form.
Giving false or misleading information is a serious offence.

Party Name (Please include State/Territory branch if applicable)

Current Agent's Name

Application

I hereby advise the termination of the appointment of the currently registered Agent named above (if applicable) and apply to appoint the person whose details appear below as Agent for the party.

Name of person making the appointment

Capacity/Position with the Party

Signature

Date
/ /

New Agent Details

Name

Address (This address must not be a Post Office box number.)

Postcode

Postal Address

Postcode

Telephone number (BH) ( )

Facsimile number ( )

Email

I declare that I am eligible for, and consent to, the appointment.

Signature of Agent

Date
/ /

Please provide an estimate of the time taken to complete this form hrs mins

This appointment form must be received by the Australian Electoral Commission at the address below.

FUNDING AND DISCLOSURE
AUSTRALIAN ELECTORAL COMMISSION
PO BOX 6172
KINGSTON ACT 2604

Telephone: (02) 6271 4552 Facsimile: (02) 6271 4555
email: fad@aec.gov.au

Office Use Only
Date Received:
Date Registered:

Australian Electoral Commission AEC

Political party's responsibilities

Each State and Territory branch of a registered political party must have an appointed Agent to act on its behalf under the election funding and financial disclosure provisions of the *Commonwealth Electoral Act 1918*. Where no appointment is in force, all members of the party's executive committee jointly assume disclosure responsibilities and no payment of election funding can be made.

Agent's responsibilities

An agent assumes responsibility for lodging disclosure returns on behalf of the party. Each year the Agent is required to lodge a return of all receipts, payments and debts transacted throughout all levels of the party.

The Agent is also the person to whom any election funding entitlement of the party is paid.

A handbook explaining these responsibilities in detail is available from the Australian Electoral Commission (AEC) at the address shown on this form and on its website: www.aec.gov.au.
A copy of the handbook is sent to each Agent upon appointment and each party upon registration.

Note: the Commonwealth Electoral Act contains penalties for persons who contravene the funding and disclosure provisions.

Eligibility for appointment

To be eligible for appointment as an Agent a person must:

- be at least 18 years of age; and
- not have been convicted of an offence under the funding and disclosure provisions.

Appointment of an Agent

An application for appointment must be made by an appropriate party official of the relevant State/Territory branch of the party. This would normally be the State Director/Secretary of the party.

Note: a Party Agent is not automatically the Agent for candidates endorsed by the party. Appointment as an Agent for a candidate must be made separately at each election.

Termination of appointment

An appointment as a Party Agent remains in force until the Australian Electoral Commission is formally advised that it is to be terminated. An appointment can be revoked by the party or resigned by the Agent at any time by giving written notice to the Australian Electoral Commission. The death of an Agent is to be advised to AEC within 28 days and can be done by using this form.

FAD-AA1 (9/01)

Registered Political Party Annual Return

Financial Year

/

This information on this return is collected under the *Commonwealth Electoral Act 1918*.

Please refer to the *Funding and Disclosure Handbook for Political Parties* when completing this return (available at **www.aec.gov.au**).

Annual returns are available for public inspection from the first working day in February following the due date of the return. Returns may be inspected at the AEC's Central Office in Canberra. Imaged copies are available at **www.aec.gov.au**.

Party Details

Name of Party

Postal Address

Postcode

Telephone number (BH) ( )

Facsimile number ( )

Email address

Agent Details

Name

Postal Address

Postcode

Telephone number (BH) ( )

Facsimile number ( )

Email address

I certify that the information in this return and its attachments is true and complete.

Agent's Signature

Date / /

Giving false or misleading information is a serious offence

The due date for lodging this return is 20 October.

Enquiries and returns should be addressed to:

FUNDING AND DISCLOSURE SECTION
AUSTRALIAN ELECTORAL COMMISSION
PO BOX 6172
KINGSTON ACT 2604

Telephone: (02) 6271 4552
Facsimile: (02) 6271 4555
Email: fad@aec.gov.au

Office Use Only

Date Received:

Registration No:

Date Acknowledgement Sent:

Australian Electoral Commission AEC

RECEIPTS

1. Total Receipts this Financial Year

This total must include all receipts of the party.

Note:

- The gross amount of all cash, and non-cash 'gifts-in-kind', received by or on behalf of the party and it's party units during the year.
- Receipts include (but are not limited to) donations, membership, loans and returns on investments.

2. Receipts of $1,500 or more

- Details of people and organisations from whom receipts (including loans) of $1,500 or more were received during the year.
- In the case of loans, other than those from a financial institution, details of terms and conditions of the loan are to be provided as an attachment.
- Additional details of officeholders (as set out in the *Handbook*) are required for receipts from trusts, foundations and incorporated associations.
- Clarifying information (e.g. classification of receipts into 'donations' and 'other receipt') may be added under 'Details'.

Name	Address	Amount Received	Details

RECEIPTS

Name	Address	Amount Received	Details

If space is insufficient please attach additional sheets

PAYMENTS

3. Total Payments this Financial Year

- The gross amount of all payments made by, or on behalf of, the party and its party units during the year.
- Payments include (but are not limited to) wages and salaries, administrative and electoral expenses, and investments.

DEBTS

4. Total Debts as at 30 June

The gross amount of all debts, loans, overdrafts and unpaid accounts (and so on) of, or on behalf of, the party and its party units as at 30 June.

5. Debts of $1,500 or more

Details of those people and organisations to whom $1,500 or more was owed at 30 June.

Name	Address	Amount Owed

If space is insufficient please attach additional sheets

Please provide an estimate of the time taken to complete this form hrs mins

FAD-AR1 (07/2004)

Political Party Annual Return – Amendment Form

Financial Year

/

Please refer to the *Political Party Handbook* when completing this form. A copy of this Handbook can be viewed at the Australian Electoral Commission's website at **www.aec.gov.au.**

Giving false or misleading information is a serious offence.

Party details

Name

Postal Address

Postcode

Telephone number (BH) ( )

Facsimile number ( )

E-mail address

Agent details

Name

Postal Address

Postcode

Telephone number ( )

Facsimile number ( )

E-mail address

I certify that the information contained in this amendment and its attachments is true and complete.

Agent's signature

Date / /

Enquiries and returns should be addressed to:

THE RETURNS OFFICER
FUNDING AND DISCLOSURE SECTION
AUSTRALIAN ELECTORAL COMMISSION
PO BOX 6172
KINGSTON ACT 2604

Telephone: (02) 6271 4552
Facsimile: (02) 6271 4555

Office Use Only	
Amendment No.	
Date Received:	
Registration No:	

Have you made any previous amendment to this years Annual Return? Yes ☐ No ☐

If you answered yes to the above question, write the previous amendment number in the space provided below.

Previous amendment number

Australian Electoral Commission AEC

RECEIPTS

1. Total Receipts this Financial Year

Does this amendment include a change to the Total Receipts Figure? Yes ☐ No ☐

If **Yes,** record the **previous** Total Receipts Figure and then the **amended** Total Receipts Figure in the boxes below:

Previous Total Receipts Figure	Amended Total Receipts Figure
$	$

2. Persons and Organisations from whom $1,500 or more was received

Does this amendment include changes to the persons and organisations from whom $1,500 or more was received?

If YES, **record only the individual specific changes to the list provided in your original return** in the following spaces. Alternatively, you can attach the original list and highlight the specific changes with an **asterisk (*).**

Name	Address	Amount Received

RECEIPTS

Name	Address	Amount Received

PAYMENTS

3. Total Payments this Financial Year

Does this amendment include a change to the Total Payments Figure? Yes ☐ No ☐

If Yes, record the **previous** Total Payments Figure and the **amended** Total Payment Figures in the boxes below:

Previous Total Payments Figure	Amended Total Payments Figure
$	$

DEBTS

4. Total Debts this Financial Year

Does this amendment include a change to the Total Debts Figure? Yes ☐ No ☐

If Yes, record the **previous** Total Debts Figure and the **amended** Total Debts Figure in the boxes below:

Previous Total Debts Figure	Amended Total Debts Figure
$	$

5. Persons and Organisations to whom $1,500 or more is owed.

Does this amendment include an amendment to the persons and organisations to whom $1,500 or more is owed? Yes ☐ No ☐

If yes, **record only the addition/deletions or variations** from the list provided in your original return in the spaces provided. Alternatively, you can attach the previous list and highlight the changes to be made with an **asterisk (*)**.

Name	Address	Amount Received

FAD-AR1_amend.form (06/2002)

Funding and Disclosure Handbook POLITICAL PARTIES

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