

THIS Bill originated in the House of Representatives;  
and, having this day passed, is now ready for presentation to the Senate for its concurrence.

ARTHUR ROBINSON & HEDDERWICKS  
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L. M. BARLIN  
*Clerk of the House of Representatives*

House of Representatives,  
Canberra, 9 March 1995

## A BILL

FOR

### **An Act to amend the *Commonwealth Electoral Act 1918*, and for related purposes**

The Parliament of Australia enacts:

#### **Short title etc.**

**1.(1)** This Act may be cited as the *Commonwealth Electoral Amendment Act 1995*.

**5** **(2)** In this Act, “**Principal Act**” means the *Commonwealth Electoral Act 1918*<sup>1</sup>.

**Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

**Amendments**

3. The Principal Act is amended as set out in the Schedule.

**Application of amendments**

5

4. The amendments made by items 1, 6, 7, 10 to 23 (inclusive) and 26 of the Schedule apply to the financial year that ends on 30 June 1995, and to all later financial years.

**Transitional provision—gifts to political parties**

5.(1) For the financial year ending on 30 June 1995, section 305B of the Principal Act applies as if subsection (1) of that section were replaced by the following subsections: 10

“(1) If, in the first gift period, a person makes gifts totalling \$4,500 or more to:

(a) the same registered political party; or 15

(b) the same State branch of a registered political party;

the person must furnish a return to the Electoral Commission before 18 November 1995, covering all the gifts that the person made to that political party or branch during the first gift period. The ‘first gift period’ is the period starting on 12 April 1993 and ending at the end of the day on which the *Commonwealth Electoral Amendment Act 1995* commenced. 20

“(1A) If, in the second gift period, a person makes gifts totalling \$1,500 or more to:

(a) the same registered political party; or 25

(b) the same State branch of a registered political party;

the person must furnish a return to the Electoral Commission before 18 November 1995, covering all the gifts that the person made to that political party or branch during the second gift period. The ‘second gift period’ is the period starting on the day after the day on which the *Commonwealth Electoral Amendment Act 1995* commenced and ending at the end of 30 June 1995.”. 30

(2) Subsection 305B(2) of the Principal Act does not apply to gifts made before the day on which this Act commenced.

**Transitional provision—returns by associated entities**

6. For the financial year ending on 30 June 1995, section 314AEA of the Principal Act applies as if paragraphs (1)(a) and (b) of that section were replaced by the following paragraphs: 35

- 5 “(a) the total amount received by, or on behalf of, the entity in the part of  
the financial year that commenced on the date of commencement of  
the *Commonwealth Electoral Amendment Act 1995* and ended at the  
end of the financial year, together with the details required by  
section 314AC;
- 10 (b) the total amount paid by, or on behalf of, the entity during the part  
of the financial year that commenced on the date of commencement  
of the *Commonwealth Electoral Amendment Act 1995* and ended at  
the end of the financial year, together with the details required by  
section 314AD;”.
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## SCHEDULE

Section 3

## AMENDMENTS OF THE PRINCIPAL ACT

**1. Subsection 287(1):**

Insert:

“**‘associated entity’** means an entity that:

- (a) is controlled by one or more registered political parties; or
- (b) operates wholly or mainly for the benefit of one or more registered political parties;

**‘entitlement’** means an entitlement under section 294 in respect of an election;

**‘entity’** means:

- (a) an incorporated or unincorporated body;
- (b) the trustee of a trust;

**‘financial controller’**, in relation to an associated entity, means:

- (a) if the entity is a company—the secretary of the company;
- (b) if the entity is the trustee of a trust—the trustee;
- (c) in other cases—the person responsible for maintaining the financial records of the entity;”.

**2. Paragraph 290(3)(a):**

Omit “claim or”.

**3. Section 293:**

Repeal the section.

**4. Subsections 294(1), (2) and (3):**

Omit the subsections, substitute:

“(1) Subject to this Division, \$1.50 is payable for each first preference vote given for a candidate in a House of Representatives election.

“(2) Subject to this Division, \$1.50 is payable for each first preference vote given for a candidate or group in a Senate election.”.

**5. Section 295:**

Repeal the section.

**6. Section 296:**

Repeal the section.

**7. Section 298:**

Repeal the section.

**SCHEDULE—continued**

**8. Subsection 299(1):**

Omit “the Electoral Commission is satisfied, in relation to a claim under subsection 295(2), that”.

**9. Subsections 299(2):**

Omit “the Electoral Commission is satisfied, in relation to a claim under subsection 295(3), that”.

**10. Subsections 299(3):**

Omit “the Electoral Commission is satisfied, in relation to a claim under subsection 295(4), that”.

**11. Subsections 299(4):**

Omit “the Electoral Commission is satisfied, in relation to a claim under subsection 295(5) or (6), that”.

**12. Subsection 299(5):**

Omit “at the time when the relevant claim under section 295 is lodged”, substitute “before the 20th day after the polling day in the election.”.

**13. After subsection 299(5), insert:**

“(5A) A notice may be lodged with the Electoral Commission for the purposes of this section requesting that payments that would otherwise be made to the agent of a registered political party specified in the notice are to be paid instead to the agent of another registered political party specified in the notice.

“(5B) A notice under subsection (5A):

- (a) must be signed by the registered officer of each of the registered political parties specified in the notice; and
- (b) can only be withdrawn by a notice lodged with the Electoral Commission and signed by the registered officer of each of those political parties.

“(5C) If a notice is lodged under subsection (5A), payments under this section must be made in accordance with the notice for any election for which the polling day is:

- (a) after the day on which the notice was lodged; and
- (b) before the day (if any) on which the notice is withdrawn.

“(5D) Where the Electoral Commission is required to make a payment under this section in respect of an entitlement:

- (a) at least 95% of the entitlement (calculated on the basis of the votes counted as at the 20th day after the polling day in the election) must be paid as soon as possible after that 20th day; and

**SCHEDULE—continued**

(b) any balance must be paid as soon as possible after the amount of the full entitlement is known.”.

**14. Subsection 299(6):**

Omit “whether because of a false statement in a claim or otherwise,”.

**15. Section 299A:**

Repeal the section.

**16. Section 300:**

Omit “a claim for the payment may be made by, and the payment made be made to,”, substitute “the payment may be made to”.

**17. Section 301:**

Omit “a claim for the payment may be made by, and the payment may be made to,”, substitute “the payment may be made to”.

**18. Subsection 305(1):**

After “division of a registered political party,” insert “an associated entity,”.

**19. Subsection 305A(1):**

After “a State branch of a registered political party,” insert “an associated entity,”.

**20 Paragraph 305A(1)(a):**

Omit the paragraph.

**21. Paragraph 305A(2)(a):**

Omit the paragraph.

**22. After section 305A:**

Insert:

**Donations to political parties**

“305B.(1) If, in a financial year, a person makes gifts totalling \$1,500 or more to:

(a) the same registered political party; or

(b) the same State branch of a registered political party;

the person must furnish a return to the Electoral Commission within 20 weeks after the end of the financial year, covering all the gifts that the person made to that political party or branch during the financial year.

**SCHEDULE—continued**

“(2) If a person makes a gift to any person or body with the intention of benefiting a particular registered political party or State branch of a registered political party, the person is taken for the purposes of subsection (1) to have made that gift directly to that registered political party or branch.

“(3) For each gift, the return must set out the following:

- (a) the amount of the gift;
- (b) the date on which it was made;
- (c) the name and address of the registered political party or branch.

“(4) The return must be in the approved form.

“(5) This section does not apply to gifts made by any of the following:

- (a) a registered political party;
- (b) a State branch of a registered political party;
- (c) an associated entity;
- (d) a candidate in an election;
- (e) a member of a group.”.

**23. Paragraph 308(1)(f):**

Omit the paragraph, substitute:

“(f) the production and distribution of electoral matter that is address to particular persons or organisations and is distributed during the election period; or”.

**24. Before subsection 309(1A):**

Insert:

“(1) Where electoral expenditure in relation to an election is incurred by or with the authority of a registered political party or a State branch of a registered political party, the agent of the party or branch must, before the end of 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out details of the expenditure.”.

**25. Subsection 309(4):**

After “a State branch of a registered political party,” insert “an associated entity,”.

**26. Section 313:**

Add the following subsection:

“(2) If no electoral expenditure in relation to an election was incurred by or with the authority of a particular registered political party or state branch of a registered political party that endorsed a candidate in the

**SCHEDULE—continued**

election, a return under this Division in respect of the party or branch must nevertheless be lodged and must include a statement to the effect that no electoral expenditure was incurred in relation to the election by or with the authority of the party or branch.”.

**27. Division 5A of Part XX (heading):**

After “*parties*” insert “*and associated entities*”.

**28. Subsections 314AA(2) and (3):**

Omit the subsections.

**29. Section 314AB:**

Omit “20 weeks”, substitute “16 weeks”.

**30. Subsection 314AC(2):**

Omit the subsection, substitute:

“(2) In calculating the sum, an amount of less than \$500 need not be counted.”.

**31. Subsection 314AC(3):**

Omit “, together with each amount making up the sum and the date of its receipt,”.

**32. Paragraph 314AD(2)(a):**

Omit “\$100”, substitute “\$500”.

**33. Subsection 314AD(3):**

Omit “, together with each amount making up the sum and the date on which it was paid,”.

**34. After section 314AE:**

Insert:

**Annual returns by associated entities**

“314AEA.(1) If an entity is an associated entity at any time during a financial year, the entity’s financial controller must furnish a return to the Electoral Commission, in the approved form, within 16 weeks after the end of the financial year, setting out:

- (a) the total amount received by, or on behalf of, the entity during the financial year, together with the details required by section 314AC; and



**SCHEDULE—continued**

- (b) the total amount paid by, or on behalf of, the entity during the financial year, together with the details required by section 314AD; and
- (c) if the entity is an associated entity at the end of the financial year—the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of the entity, together with the details required by section 314AE.

“(2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of paragraphs (1)(a) and (b).

“(3) If any amount required to be set out under paragraph (1)(b):

- (a) was paid to or for the benefit of one or more registered political parties; and
- (b) was paid out of funds generated from capital of the associated entity; the return must also set out the following details about each person who contributed to that capital (either before or after the commencement of this section):
  - (c) the name and address of the person;
  - (d) the total amount of the person’s contributions to that capital, up to the end of the financial year.

“(4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.

“(5) Sections 314AC, 314AD and 314AE apply for the purposes of paragraphs (1)(a), (b) and (c) of this section to a return for an associated entity in the same way as they apply for the purposes of paragraphs 314AB(1)(a), (b) and (c) to a return for a registered political party.”.

**35. Section 314AG:**

Add at the end:

“(3) The regulations may reduce the amount of information to be provided in returns under section 314AEA.”.

**36. Subsection 316(2A):**

After “a prescribed person” insert “, the financial controller of an associated entity”.

**37. After paragraph 316(2A)(a):**

Insert:

“(aa) the financial controller of the associated entity or any officer of the associated entity; or”.

**SCHEDULE—continued****38. Subsection 316(2A):**

After “require the agent,” insert “financial controller,”.

**39. After subsection 316(2A):**

Insert:

“(2B) If a notice under paragraph (2A)(a) requires an officer of a political party (other than the agent) to appear before an authorised officer under paragraph (2A)(d), then the agent of the political party is entitled:

- (a) to attend at the proceeding under paragraph (2A)(d); or
- (b) to nominate another person in writing to attend on behalf of the agent.

“(2C) Failure of the agent or nominee to attend under subsection (2B) does not affect the powers of the authorised officer to conduct the proceeding under paragraph (2A)(d).”.

**40. After subsection 319A(2):**

Insert:

“(2A) If the claim was lodged, or the return was furnished, by a person as the agent of a registered political party, the request under subsection (2) may be made either by:

- (a) the person who lodged the claim or return; or
- (b) the person who is currently registered as the agent of the political party.”.

**41. Subsections 320(4) and (5):**

Omit the subsections, substitute:

“(4) A person is not entitled under this section to peruse, or obtain a copy of, a return under Division 4 or 5 (other than section 305B) until after the end of 24 weeks after the polling day in the election to which the return relates.

“(5) A person is not entitled under this section to peruse, or obtain a copy of:

- (a) a return under section 305B; or
- (b) a return under Division 5A;

until February in the calendar year after the return is furnished.”.

**42. Subsection 321(1) (definition of “relevant amount”):**

Omit “, (2) or (3)”, substitute “or (2)”.

**SCHEDULE—continued**

**43. Subsection 321(1) (definition of “relevant period”):**

Omit “1 July 1984”, substitute “1 July 1995”.

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**NOTE**

1. No. 27, 1918, as amended. For previous amendments, see No. 31, 1919; No. 14, 1921; No. 14, 1922; No. 10, 1924; No. 20, 1925; No. 17, 1928; No. 9, 1934; No. 19, 1940; No. 42, 1946; No. 17, 1948; Nos. 10 and 47, 1949; No. 106, 1952; No. 79, 1953; No. 26, 1961; No. 31, 1962; Nos. 48 and 70, 1965; Nos. 32 and 93, 1966; No. 7, 1973; No. 38, 1974; No. 56, 1975; Nos. 14 and 116, 1977; No. 19, 1979; Nos. 102 and 166, 1980; No. 176, 1981; Nos. 26 and 80, 1982; Nos. 39, 84 and 144, 1983; Nos. 45, 46, 120 and 133, 1984; Nos. 67, 166 and 193, 1985; Nos. 35, 141 and 184, 1987; Nos. 87, 99 and 109, 1988; No. 159, 1989; No. 24, 1990; Nos. 122, 167, 180 and 203, 1991; Nos. 10, 45, 105, 121, 167 and 219, 1992; and Nos. 13, 21 and 60, 1994.

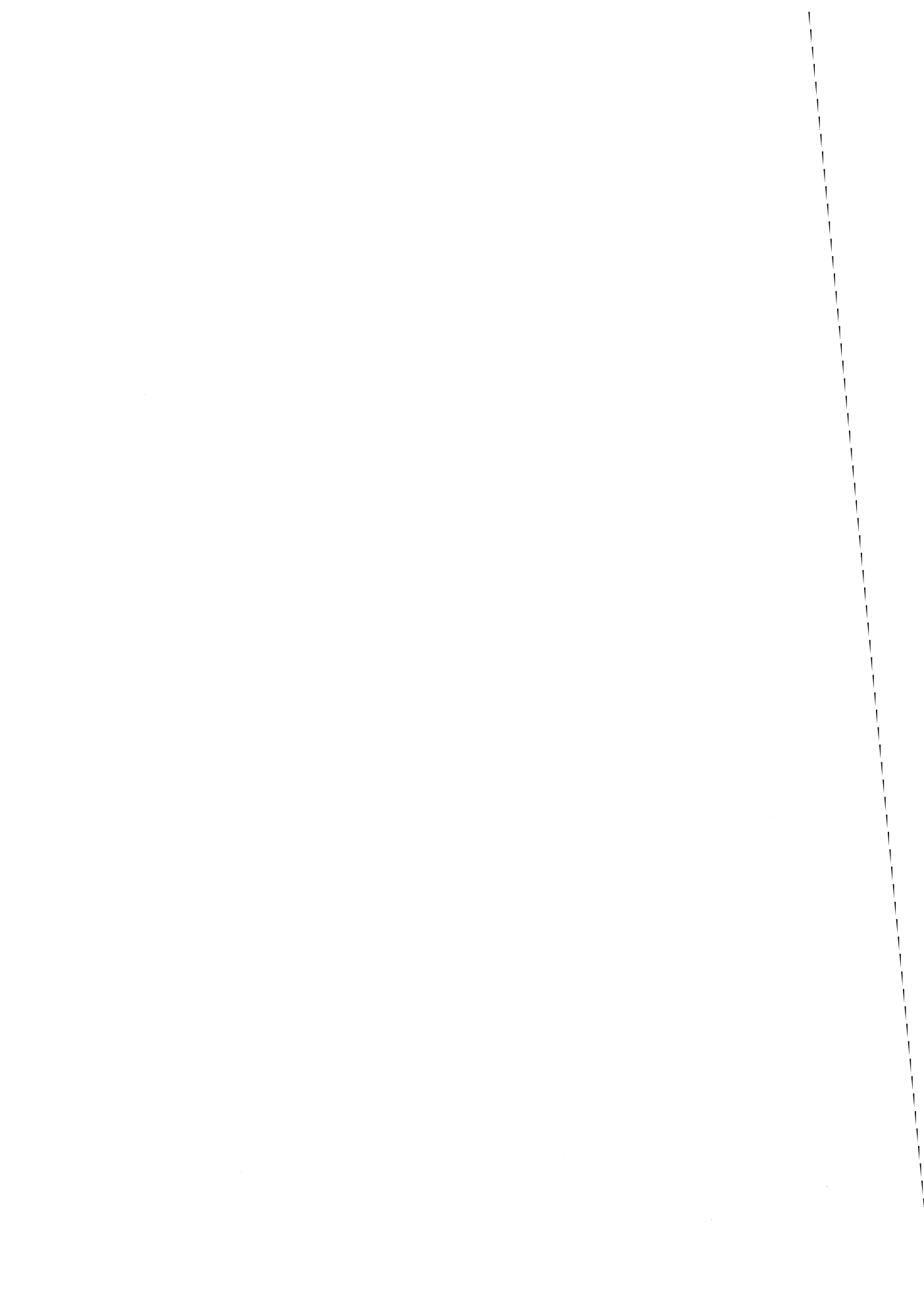
**NOTE ABOUT SECTION HEADING**

On the commencement of this Act, the heading to section 305A of the Principal Act is altered by omitting “**and political parties**” and substituting “**etc.**”.











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