

# Exposure Draft

2016

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

## **Commonwealth Electoral Amendment (Foreign Political Donations) Bill 2016**

**No.     , 2016**

*(Mr Wilkie)*

**A Bill for an Act to amend the *Commonwealth  
Electoral Act 1918* in relation to gifts from foreign  
sources, and for related purposes**

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Political Donations) Bill 2016 (3).docx 7/9/2016 4:23 PM*

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No. , 2016 Commonwealth Electoral Amendment (Foreign Political Donations) *i*  
Bill 2016  
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OPC drafter to complete	
1. Does this Bill need a message? (See H of R Practice, sixth ed, pp. 423-427, and OGC advice.) If yes: <ul style="list-style-type: none"><li>• List relevant clauses/items—</li><li>• Prepare message advice (see Drafting Direction 4.9)</li><li>• Give a copy of the message advice to the Legislation area.</li></ul>	No
2. Does this Bill need a notice? (See H of R Standing Order 178 and Drafting Direction 3.2.) If no list relevant clauses/items—	Yes
3. Is there any constitutional reason why this Bill should not be introduced in the Senate? (See Constitution sections 53 and 55 and Drafting Direction 3.2.)	No

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## **A Bill for an Act to amend the *Commonwealth Electoral Act 1918* in relation to gifts from foreign sources, and for related purposes**

5

The Parliament of Australia enacts:

6

### **1 Short title**

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This Act may be cited as the *Commonwealth Electoral Amendment (Foreign Political Donations) Act 2016*.

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### **2 Commencement**

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- (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.

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**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>

1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
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2. Schedule 1	1 July 2017.	1 July 2017
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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Schedules

Legislation 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.

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2 *Commonwealth Electoral Amendment (Foreign Political Donations) Bill 2016* No. , 2016  
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## Schedule 1—Amendments

### 1 Subsection 4(1)

Insert:

*foreign person* means:

- (a) a foreign person within the meaning of the *Foreign Acquisitions and Takeovers Act 1975*; or
- (b) any person or other entity, or any person or other entity that meets the conditions, prescribed by the regulations.

### 2 After section 306

Insert:

#### 306AA Gifts from foreign sources not to be received

(1) It is unlawful for:

- (a) a political party; or
- (b) a State branch of a political party;

to receive a gift made to or for the benefit of the party or branch if:

- (c) the gift is made by a foreign person; and
- (d) the amount or value of the gift exceeds \$1,000.

(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, if:

- (c) the gift is made by a foreign person; and
- (d) the amount or value of the gift exceeds \$1,000.

(3) For the purposes of subsection (2), a person who is a candidate in an election shall be taken to remain a candidate for 30 days after the polling day in the election.

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## Schedule 1 Amendments

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- 1 (4) For the purposes of subsection (2), persons who constituted a  
2 group in an election shall be taken to continue to constitute the  
3 same group for 30 days after the polling day for the election.
- 4 (5) Where a person receives a gift that, by virtue of this section, it is  
5 unlawful for the person to receive, an amount equal to the amount  
6 or value of the gift is payable by that person to the Commonwealth  
7 and may be recovered by the Commonwealth as a debt due to the  
8 Commonwealth by action, in a court of competent jurisdiction  
9 against:
- 10 (a) in the case of a gift to or for the benefit of a political party or  
11 a State branch of a political party:
- 12 (i) if the party or branch, as the case may be is a body  
13 corporate—the party or branch, as the case may be; or  
14 (ii) in any other case—the agent of the party or branch, as  
15 the case may be; or
- 16 (b) in any other case—the candidate or a member of the group or  
17 the agent of the candidate or of the group, as the case may be.
- 18 (6) This section does not apply to a gift that is returned within 30 days  
19 after its receipt.
- 20 (7) This section does not apply to the extent (if any) that it would  
21 infringe any constitutional doctrine of implied freedom of political  
22 communication.

### 3 Subsection 315A(1)

23 Omit “or 306(5)”, substitute “, 306(5) or 306AA(5)”.

### 4 After paragraph 321A(1)(f)

24 Insert:

25 (fa) subsections 306AA(1) and (2);  
26  
27