

Electoral Amendment Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Electoral Amendment Bill and recommends by majority that it be passed. We recommend all amendments unanimously.

About the bill as introduced

The Electoral Amendment Bill would amend the Electoral Act 1993 to support the holding of elections, and participation in them. It seeks to increase public confidence in the way political parties are funded and to maintain trust in New Zealand's electoral system by amending the political donations and loans framework. The bill's proposed changes to the donations and loans framework include:

- lowering the public disclosure threshold for donations and contributions to political parties from \$15,000 to \$5,000
- amending the reporting requirements for donations received from the same donor in excess of \$30,000 (either in one lump sum or in total over the preceding year) by reducing the threshold to \$20,000, but requiring disclosure within 10 working days only in a general election year
- requiring parties to report donations under \$1,500 that are not made anonymously
- requiring the annual return of party donations to separately state the total amount of monetary and in-kind donations received
- requiring parties to disclose their financial statements
- requiring candidates to publicly report on loans received to support their campaigns.

At present, New Zealand citizens who are living overseas must have been in New Zealand within the last three years to be registered as an elector. Permanent residents

must have been in New Zealand within the last 12 months. The bill would temporarily amend the overseas eligibility period to six years for citizens and four years for permanent residents. This amendment acknowledges the effects of the COVID-19 pandemic on international travel and therefore would apply only to the 2023 general election.

The regulated period—when expenditure limits and disclosure rules apply—is usually the 3-month period before an election. The bill would amend the timing and length of the regulated period if polling day changed.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the amendments we recommend to the bill as introduced.

Clarifying when the reporting requirements would take effect

Clause 2 of the bill specifies that most of the provisions would come into force on the day after the date on which it received the Royal assent. However, the provisions related to reporting requirements for party donations over \$20,000 (clauses 6 and 38, and the Schedule) would commence on 1 January 2023.¹

We recommend amending clause 2 so that all provisions, excluding those relating to overseas voters, would commence on 1 January 2023. This would avoid having two sets of reporting requirements applying for the 2022 reporting year for party donations and loans.

We also recommend inserting a transitional provision to make it clear that returns for party donations for the 2022 calendar year should be completed according to the requirements in the Act as at 31 December 2022.

Annual financial statements for registered parties

Clause 27 would insert new subpart 7 (new sections 210G to 210J) into Part 6A of the Act. The clause sets out the requirements relating to the preparation, provision, and publication of annual financial statements for registered political parties. The bill provides that these requirements would commence on the day after the date that the bill received Royal assent.

¹ The provisions extending the eligibility period for overseas voters would commence on 31 March 2023. They would revert to 3 years (for citizens) and 12 months (for permanent residents) 1 month after the day appointed as the latest day for the return of the writ for the 2023 general election.

As introduced, new section 210G could have the effect of requiring party secretaries to provide financial statements for financial years beginning before 1 January 2023. We recommend amending new section 210G to ensure that financial statements would not be required to be provided in respect of any period before 1 January 2023.

Supplementary Order Paper No 236

During our consideration of the bill, the Minister of Justice wrote to us and asked us to consider SOP No 236. The SOP would amend the bill by inserting new clauses 3A and 3B. New clause 3A would amend the definition of “party donation” in section 207 of the Act. The proposed new definition specifies that a donation received by a person would be a party donation if there were reasonable grounds to believe that the donation was intended for the benefit of the party.

Section 207B of the Act requires a person receiving a candidate donation or party donation to transmit the donation to the candidate or the party secretary within 10 working days of receiving it. New clause 3B would insert new section 207BA to create a new offence for contravening section 207B. A person who failed, without reasonable excuse, to comply with section 207B would commit an offence and be liable on conviction to a fine of up to \$40,000.

We do not recommend any changes to the SOP and recommend that it be incorporated into the bill.

New Zealand National Party differing view

National Party members do not support this bill passing.

The Government has set in place a review of electoral laws, with an independent panel, which is due to report later next year. It has made no clear case why there is an urgent need to change elements of the law now. Far better to wait for the review and to do it all at once.

It seems the primary purpose of this bill is to make it harder for parties to raise funds—by reducing the threshold for disclosing donations to the party from \$15,000 to \$5,000, and by significantly increasing the bureaucracy and reporting for what are voluntary organisations.

A donation of \$14,000 would represent less than half of 1 per cent of the total amount a party standing in all electorates can spend in the election period. Is the Government seriously arguing that a party will be influenced by such a donation?

The reality is that many people and businesses wish to remain anonymous, either because they value their privacy, or because they fear retaliation from the other party in power. That is sad, but true.

Concerns raised about people or businesses seeking to get around the legislation by making multiple donations less than \$15,000 are real, but this is already expressly outlawed. If the Government was proposing more effective measures better to thwart such schemes, we would consider them willingly. But they are not.

It appears the unstated goal of this legislation is to shift the system further towards state funding of political parties.

No system of funding political parties is perfect. State funding of political parties brings its own problems—not least for taxpayers, but also inevitably favouring incumbents over new parties.

National members lament the Government’s unwillingness to seek bipartisan consensus on these electoral finance changes. It leaves the impression the Government is seeking to skew the system in its favour.

ACT New Zealand differing view

ACT opposes this bill.

We oppose this bill that seeks to change the electoral rules for the next election. It is wrong that one party, having won one election, will change the electoral laws without consensus of other parties and in a way that advantages itself. This bill thus diminishes trust and faith in democracy. It is better described as a “grudge” bill than the kind of serious attempt at policy that electoral law deserves.

This legislation aims to weigh up freedom of political expression against preventing political donations from having improper influence on electoral outcomes, and ensuring political parties can access financial support.

ACT’s view is that no-one can buy political influence for \$15,000. What donors anonymously back, is the political party that aligns with their values. The result of dropping the threshold to \$5,000 means people either will not give or will not give as much due to fear of retribution and cancellation for publicly supporting the party of their choice. The bill therefore fails to improve transparency, yet it restricts freedom of expression and party funding. It is a lose–lose.

We hear time and time again about the need to encourage more people to engage and participate in voting and elections, and yet this bill will discourage New Zealanders from doing so.

ACT believes this bill is designed by the ruling party to decrease its opponents’ funding. We note that the current Labour Government does not receive the same amount of donations that some opposition parties receive. However, that is the people’s choice, not something to be “corrected” with a partisan law.

In addition, this bill is being cynically rushed with a shorter than normal select committee process. We can only surmise the purpose is to ensure that for no period in the calendar year 2023 will it be legal to accept a donation exceeding \$5,000 without disclosure. This bill is being rushed to ensure it has its effect in an election year. That is, all on its own, despicable.

We believe people should be free to express their political beliefs and support for political parties, and without adequate policy justification nor consensus across Parliament, this bill that would seek to limit that ability, should not pass.

ACT does not support this bill.

Appendix

Committee process

The Electoral Amendment Bill was referred to the committee on 2 August 2022. We invited the Minister of Justice, Hon Kiritapu Allan, to provide an initial briefing on the bill. She did so on 22 September 2022.

We called for submissions on the bill with a closing date of 31 August 2022. We also considered Supplementary Order Paper No 236, which was released on 8 September 2022. We opened for submissions on the SOP with a closing date of 3 October 2022. We received and considered 41 submissions from interested groups and individuals on the bill and one submission on the SOP. We heard oral evidence from nine submitters at hearings in Wellington and by videoconference.

We received advice on the bill from the Ministry of Justice. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Ginny Andersen (Chairperson)

Hon Paul Goldsmith

Emily Henderson

Nicole McKee

Hon Mark Mitchell

Simon O'Connor

Willow-Jean Prime

Vanushi Walters

Arena Williams

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Kiritapu Allan

Electoral Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Electoral Amendment Act **2022**.

2 Commencement

- (1) ~~This Act comes into force on the day after the date on which it receives the Royal assent.~~ 5
- (2) However,—
- (a) ~~sections 6 and 38 and the Schedule~~ come into force on **1 January 2023**; and
- (b) ~~section 19~~ comes into force on **31 March 2023**; and 10
- (c) ~~section 20~~ comes into force 1 month after the day appointed as the last day for the return of the writ for the 2023 general election.
- (1) This Act, except **sections 19 and 20**, comes into force on **1 January 2023**.

- (2) **Section 19** comes into force on **31 March 2023**.
- (3) **Section 20** comes into force 1 month after the day appointed as the latest day for the return of the writ for the 2023 general election.

3 Principal Act

This Act amends the Electoral Act 1993.

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Part 1

Amendments relating to donations and loans

Subpart 1—Amendments relating to donations

3A Section 207 amended (Interpretation)

- (1) In section 207(2), definition of **party donation**, delete “ means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things) that is made to a party, or to any person or body of persons on behalf of the party who are involved in the administration of the affairs of the party, and”.
- (2) In section 207(2), definition of **party donation**, before paragraph (a), insert:
- (aaa) means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things) that is made to—
- (i) a party; or
 - (ii) any person or body of persons if there are reasonable grounds to believe that the donation is intended for the benefit of the party; and

3B New section 207BA inserted (Offence relating to contravention of section 207B)

After section 207B, insert:

207BA Offence relating to contravention of section 207B

A person who fails, without reasonable excuse, to comply with section 207B commits an offence and is liable on conviction to a fine not exceeding \$40,000.

4 Section 210 amended (Annual return of party donations)

- (1) In section 210(1)(a) and (b), replace “\$15,000” with “\$5,000”.
- (2) Replace section 210(6A) with:
- (6A) The details referred to in subsection (1)(f) are,—
- (a) in respect of anonymous party donations received of an amount not exceeding \$1,500,—
 - (i) the number of donations; and

- | | |
|--|----|
| <ul style="list-style-type: none"> (ii) the total amount of the donations; and (b) in respect of all other party donations received of an amount not exceeding \$1,500,— <ul style="list-style-type: none"> (i) the number of donations; and (ii) the total amount of the donations; and (c) in respect of party donations received of an amount exceeding \$1,500 but not exceeding \$5,000,— <ul style="list-style-type: none"> (i) the number of donations; and (ii) the total amount of the donations. | 5 |
| (3) After section 210(6A), insert: | 10 |
| (6B) A return must also set out— | |
| <ul style="list-style-type: none"> (a) the total amount of all of the party donations disclosed under subsection (1)(a); and (b) the total amount of all of the party donations disclosed under subsection (1)(c); and (c) the total amount of all of the party donations disclosed under subsection (1)(d); and (d) the total amount of all of the party donations disclosed under subsection (1)(e); and (e) the total amount of all of the party donations disclosed under subsection (1)(f); and (f) the aggregate of the total amounts referred to in paragraphs (a) to (e); and (g) a breakdown of the aggregate referred to in paragraph (f) showing the total amount of— <ul style="list-style-type: none"> (i) party donations received in money; and (ii) other party donations received (whether of the equivalent of money or of goods or services). | 25 |
| (4) Replace section 210(7)(c) with: | |
| <ul style="list-style-type: none"> (c) be accompanied by an auditor's report, if an auditor's report is required to be obtained under section 210A. | 30 |
| 5 Section 210A amended (Auditor's report on annual return of party donations) | |
| Replace section 210A(1) with: | |
| (1) This section applies if— | 35 |

- (a) an annual return of party donations required to be filed under section 210 shows that the total amount of donations received by the party secretary for the year exceeds \$50,000; or
- (b) an annual return of party donations required to be filed under section 210 shows that the total amount of donations received by the party secretary for the year does not exceed \$50,000, but the annual return of party loans filed by the party secretary under section 214C for the same year discloses that the party—
- (i) has entered into at least 1 loan during that year; or
- (ii) has an unpaid balance exceeding \$15,000 on a loan entered into during any previous year.
- (1A) A party secretary must obtain from the auditor appointed under section 206J a report on the return of party donations.
- 6 Section 210C amended (Return of party donation received from same donor exceeding \$30,000)**
- (1) In the heading to section 210C, replace “\$30,000” with “\$20,000”.
- (2) Replace section 210C(1) and (2) with:
- (1) A party secretary must file with the Electoral Commission a return in respect of every party donation received from a donor during the period specified in **subsection (2)** (the **specified period**) that—
- (a) exceeds \$20,000; or
- (b) when aggregated with all previous donations received from the donor in the specified period, exceeds \$20,000.
- (2) The specified period is,—
- (a) if a general election is held in the calendar year in which the term of Parliament is due to expire, the period,—
- (i) commencing on the earlier of the following dates:
- (A) the day after the date on which the Prime Minister gives public notice of the day that is to be polling day; and
- (B) 1 January of that year; and
- (ii) ending on the close of the day before polling day; or
- (b) if a general election is held in a year other than in the calendar year in which the term of Parliament is due to expire, the period—
- (i) commencing on the day after the date on which the Prime Minister gives public notice of the day that is to be polling day; and
- (ii) ending on the close of the day before polling day.
- (3) In section 210C(3), replace “subsection (2)” with “**subsection (1)(b)**”.
- (4) In section 210C(4), replace “subsection (1)” with “**subsection (1)(a)**”.

- (5) In section 210C(4)(e), replace “\$30,000” with “\$20,000”.
- (6) In section 210C(5), replace “subsection (2)” with “**subsection (1)(b)**”.
- (7) In section 210C(6), replace “subsection (1) or (2)” with “**subsection (1)(a) or (b)**”.
- (8) After section 210C(6), insert: 5
- (7) In this section, **give public notice** means issue a media statement.

Subpart 2—Amendments relating to loans

7 Section 211 replaced (Application of this Part)

Replace section 211 with:

211 Application of this Part 10

This Part applies to loans entered into by—

- (a) a party secretary on behalf of the party:
- (b) a candidate.

8 Section 212 amended (Interpretation)

- (1) In section 212, replace the definition of **loan** with: 15
 - loan,—**
 - (a) to a candidate,—
 - (i) means a written or an oral agreement or arrangement under which a lender lends money or agrees to lend money at specified dates or on request or on the occurrence of a particular event for use in the candidate’s campaign for election; but 20
 - (ii) does not include any money lent by a registered lender at a commercial interest rate:
 - (b) to a party,—
 - (i) means a written or an oral agreement or arrangement under which a lender lends money or agrees to lend money at specified dates or on request or on the occurrence of a particular event; but 25
 - (ii) does not include any money lent by a registered bank at a commercial interest rate
- (2) In section 212, insert in their appropriate alphabetical order: 30
 - late period**, in relation to the filing of a return, means the period commencing on the day after the date on which the return is required to be filed and ending on the day that is 15 working days later
 - registered lender** means a lender who is registered as a financial service provider under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 35

9 Section 214B amended (Records of loans)

Replace the heading to section 214B with “**Records of loans: parties**”.

10 New section 214BA inserted (Records of loans: candidates)

After section 214B, insert:

214BA Records of loans: candidates

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- (1) A candidate must keep proper records of all loans they enter into.
- (2) A candidate who fails, without reasonable excuse, to comply with **subsection (1)** commits an offence and is liable on conviction to a fine not exceeding \$40,000.

11 Section 214C amended (Annual return of loans)

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- (1) Replace the heading to section 214C with “**Annual return of party loans**”.
- (2) In section 214C(1) and (5), after “return”, insert “of party loans” in each place.

12 Section 214D amended (Auditor’s report on annual return of loans)

- (1) Replace the heading to section 214D with “**Auditor’s report on annual return of party loans**”.

15

- (2) Replace section 214D(1) with:

- (1) This section applies to a return of party loans required to be filed under section 214C, except for a nil return filed under section 214E.

- (1A) A party secretary must obtain a report on the return of party loans from the auditor appointed under section 206J.

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- (3) In section 214D(2) and (4)(a), after “return”, insert “of party loans”.

13 Section 214E amended (Nil return)

- (1) Replace the heading to section 214E with “**Nil return: parties**”.
- (2) In section 214E, replace “return” with “return of party loans”.

14 Section 214F amended (Return of loan provided by same lender exceeding \$30,000)

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- (1) Replace the heading to section 214F, with “**Return of party loan provided by same lender exceeding \$30,000**”.

- (2) In section 214F(1), after “entered into”, insert “on behalf of the party”.

- (3) In section 214F(2), after “every loan entered into”, insert “on behalf of the party”.

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- (4) In section 214F(3), replace “by the party” with “on behalf of the party”.

15 Section 214G amended (Offences relating to return of party loans)

Repeal section 214G(5).

16 New sections 214GA to 214GC inserted

After section 214G, insert:

214GA Return of candidate loans

- (1) A candidate must, at the same time as filing a return of election expenses (under section 205K) and a return of donations (under section 209), file with the Electoral Commission a return setting out the details specified in **subsection (2)** in respect of every loan entered into. 5
- (2) The details referred to in **subsection (1)** are—
 - (a) the name of the lender; and
 - (b) the address of the lender; and 10
 - (c) the loan amount; and
 - (d) the date on which the loan was entered into; and
 - (e) the repayment date for the loan, or a statement that there is no repayment date; and
 - (f) the interest rate or rates; and 15
 - (g) the unpaid balance of the loan amount, if any; and
 - (h) the name and address of any guarantor of the loan; and
 - (i) the details of any security given for the loan; and
 - (j) whether there is any term of the loan agreement or arrangement that enables the lender to reduce or extinguish the loan amount or interest, or both, or grant any concession in respect of repayment of that amount or interest, or both. 20
- (3) A return must be in the form required by the Electoral Commission.

214GB Nil return: candidates

If a candidate considers that there is no relevant information to disclose under **section 214GA**, the candidate must file a nil return of candidate loans under that section. 25

214GC Offences relating to return of candidate loans

- (1) A candidate commits an offence and is liable on conviction to a fine not exceeding \$40,000 who, without reasonable excuse, files a return of candidate loans under **section 214GA** during the late period. 30
- (2) A candidate is guilty of a corrupt practice if the candidate, without reasonable excuse,—
 - (a) files a return of candidate loans under **section 214GA** after the late period; or
 - (b) fails to file a return of candidate loans under **section 214GA**. 35

- (3) A candidate who files a return of candidate loans under **section 214GA** that is false in any material particular is guilty of—
- (a) a corrupt practice if the candidate filed the return knowing it to be false in any material particular; or
 - (b) an illegal practice in any other case unless the candidate proves that—
 - (i) the candidate had no intention to misstate or conceal the facts; and
 - (ii) the candidate took all reasonable steps in the circumstances to ensure that the information in the return was accurate.
- (4) A candidate charged with an offence against **subsection (3)(a)** may be convicted of an offence against **subsection (3)(b)**.
- 17 Section 214I amended (Obligation to retain records necessary to verify return of party loans)**
- (1) In the heading to section 214I, delete “**party**”.
 - (2) After section 214I(2), insert:
 - (3) A candidate must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable returns filed under **section 214GA** to be verified are retained until the expiry of the period within which a prosecution may be commenced under this Act in relation to the returns or in relation to any matter to which the returns relate.
 - (4) A candidate who fails, without reasonable excuse, to comply with **subsection (3)** commits an offence and is liable on conviction to a fine not exceeding \$40,000.
- 18 Section 214J amended (Return of party loans to be publicly available)**
- (1) Replace the heading to section 214J with “**Returns of loans to be publicly available**”.
 - (2) After section 214J(1)(c), insert:
 - (d) a return filed under **section 214GA**.

Part 2

Other amendments

Subpart 1—Amendments relating to disqualification from registration of persons outside New Zealand

19 Section 80 amended (Disqualifications for registration)

- (1) In section 80(1)(a), replace “3 years” with “6 years”.
- (2) In section 80(1)(b), replace “12 months” with “4 years”.

20 Section 80 amended (Disqualifications for registration)

- (1) In section 80(1)(a), replace “6 years” with “3 years”.
- (2) In section 80(1)(b), replace “4 years” with “12 months”.

Subpart 2—Amendments required to provide for possibility of change in
polling day

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21 Section 3 amended (Interpretation)

In section 3(1), replace the definition of **regulated period** with:

regulated period has the meaning given to it by—

- (a) section 3B, in relation to a general election:
- (b) **section 3BA**, in relation to a by-election

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22 Section 3B amended (Meaning of regulated period)

- (1) Replace the heading to section 3B with “**Meaning of regulated period: general election**”.

- (2) Replace section 3B(1) with:

- (1) In this Act, **regulated period**, in relation to a general election, has the meaning given to it by—

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- (a) subsections (2) and (3), if the Prime Minister gives public notice of the day that is to be polling day for the general election and that day is not subsequently changed to a later day; and

- (b) **subsection (4)**, if the Prime Minister gives public notice of the day that is to be polling day for the general election and that day is subsequently changed to a later day.

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- (3) Replace section 3B(4) with:

- (4) If at any time after giving public notice of the day that is to be polling day (**day A**) the Prime Minister gives public notice that day A is changed to a later day (**day B**), the regulated period is the shorter of the following periods:

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- (a) the period—

- (i) commencing on the day after the date on which the Prime Minister gives public notice of day B; and

- (ii) ending on the close of the day before day B; and

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- (b) the period—

- (i) commencing 3 months before day B; and

- (ii) ending on the close of the day before day B.

23 New section 3BA inserted (Meaning of regulated period: by-election)

After ~~regulation~~ section 3B, insert:

35

3BA Meaning of regulated period: by-election

In this Act, **regulated period**, in relation to a by-election, means the period that—

- (a) commences on the day after the day on which the notice of the vacancy to be filled by the by-election is published under section 129(1); and
- (b) ends with the close of the day before polling day.

5

24 Section 221B amended (Display of advertisement of a specified kind)

After section 221B(1), insert:

(1A) Despite subsection (1), if at any time after the 9-week period referred to in that subsection commences the date that is to be polling day (**date A**) is changed to a later date (**date B**),—

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- (a) the period that began 9 weeks before date A ends at the close of 7 days after the date on which public notice is given of date B by the issue of a media statement; and
- (b) an additional period applies for the purposes of subsection (1) in respect of the later polling day that is the shorter of the following periods; and
 - (i) the period beginning 9 weeks before polling day and ending with the close of the day before polling day; and
 - (ii) the period beginning on the day after the day on which the period in **paragraph (a)** closes and ending with the close of the day before polling day.

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Subpart 3—Amendments relating to annual financial statements**25 Section 67 amended (Registration)**

(1) After section 67(3)(d), insert:

- (da) to notify the Electoral Commission—
 - (i) whether the party is an incorporated society and, if so, the party's balance date;
 - (ii) if the party is not an incorporated society, whether the party's constitution requires the preparation of annual financial statements and, if so, the party's balance date;
 - (iii) whether the party's annual financial statements prepared in accordance with any other enactment or the party's constitution are required to be audited by a qualified auditor;
 - (iv) of any subsequent change to the matters notified under **subparagraphs (i) to (iii)**; and

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(2) In section 67(3)(e), delete “subject to subsection (4),”.

26 Part 6A heading replaced

Replace the Part 6A heading with:

Part 6A
Election expenses, donations, and annual financial statements

27 New subpart 7 of Part 6A inserted

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After section 210F, insert:

Subpart 7—Annual financial statements of parties

210G Annual financial statements to be provided to Electoral Commission

- (1) The secretary of a party that is an incorporated society must provide a copy of the party's annual financial statements to the Electoral Commission— 10
- (a) on the same date as the date on which the party's annual financial statements are given to the Registrar of Incorporated Societies; but
 - (b) in any event, not later than 6 months after the party's balance date.
- (2) The secretary of a party that is not an incorporated society, but ~~which~~ that has a constitution requiring the preparation of annual financial statements for the party, must provide ~~to the Electoral Commission each year, within 6 months after the party's balance date,~~ a copy of the party's annual financial statements to the Electoral Commission within 6 months after the party's balance date. 15
- (3) The secretary of a party that is not an incorporated society and does not have a constitution requiring the preparation of annual financial statements for the party must provide to the Electoral Commission each year, within 6 months after the most recent default balance date, annual financial statements for the previous 12-month period ending on that default balance date (the **previous 12-month period**) prepared in accordance with generally accepted accounting practice and containing the following information: 20
- (a) details of the income and expenditure, or receipts and payments, of the party during the ~~previous financial year~~ 12-month period; and 25
 - (b) details of the assets and liabilities of the party at the close of the ~~previous financial year~~ 12-month period; and
 - (c) details of all mortgages, charges, and other security interests of any description affecting any of the property of the party at the close of the ~~previous financial year~~ 12-month period. 30
- (3A) No annual financial statements that are in respect of any period before 1 January 2023 are required to be provided to the Electoral Commission under this section. 35
- (4) In this section,—
- default balance date** means 31 March in any year

~~financial year~~ means a period of 12 months commencing on 1 April and ending with 31 March

generally accepted accounting practice has the same meaning as in section 8 of the Financial Reporting Act 2013

incorporated society means an incorporated society registered under the Incorporated Societies Act 1908 or the Incorporated Societies Act 2022. 5

210H Auditor’s report on annual financial statements

- (1) This section applies if an auditor’s report is required to be obtained on a party’s annual financial statements by— 10
- (a) any enactment; or
 - (b) the party’s constitution.
- (2) When providing a copy of the party’s annual financial statements to the Electoral Commission in accordance with **section 210G** the party secretary must also provide to the Electoral Commission a copy of the auditor’s report obtained on the statements. 15

210I Publication of annual financial statements

The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, annual financial statements received under **section 210G**.

210J Offences relating to annual financial statements 20

- (1) A party secretary commits an offence and is liable on conviction to a fine not exceeding \$40,000 if the party secretary, without reasonable excuse, provides the Electoral Commission with annual financial statements for the party during the late period.
- (2) A party secretary is guilty of a corrupt practice if the party secretary, without reasonable excuse,— 25
- (a) provides the Electoral Commission with annual financial statements for the party after the late period; or
 - (b) fails to provide the Electoral Commission with annual financial statements for the party. 30
- (3) In this section, **late period**, in relation to providing annual financial statements, means the period commencing on the day after the date on which the statements are required to be provided to the Electoral Commission and ending on the day that is 15 working days later.

Subpart 4—Miscellaneous amendments 35

28 Section 63A amended (Application fee)

Replace section 63A(2) with:

- (2) The fee must be paid by direct credit to a bank account nominated by the Electoral Commission.

29 Section 127A amended (Deposit by party secretary)

Replace section 127A(2) with:

- (2) The deposit must be paid by direct credit to a bank account nominated by the Electoral Commission. 5

30 Section 128 amended (Acceptance or rejection of lists by Electoral Commission)

Replace section 128(1)(d) with:

- (d) if the list does not contain the declaration required by section 127(2)(c); or 10

31 Section 144 amended (Deposit by candidate)

Replace section 144(2) with:

- (2) The deposit must be paid— 15
- (a) in cash; or
 - (b) by direct credit to a bank account nominated by the Electoral Commission.

32 Section 146F amended (Deposit payable in respect of bulk nomination schedule)

Replace section 146F(2) with: 20

- (2) The deposit must be paid in 1 lump sum by direct credit to a bank account nominated by the Electoral Commission.

33 Section 146K amended (Replacement nomination if earlier nomination withdrawn or lapses)

In section 146K(1)(c), replace “(in the form of money, a bank draft, or a bank cheque)” with “(in cash or in the form of direct credit to a bank account nominated by the Electoral Commission)”. 25

34 Section 165 amended (Voters not to be communicated with in polling place)

Replace section 165(1) with: 30

- (1) No person other than an electoral official may communicate with a voter in a polling place, either before or after the voter has voted.
- (1A) An electoral official (with an interpreter if necessary) may ask only the questions the electoral official is authorised to put and give any general directions that may assist any voter, and in particular may, on request, inform a voter orally of the names of— 35

	(a) all the constituency candidates in alphabetical order with their party designations; and	
	(b) all the parties in alphabetical order who have submitted a party list, and the names of the candidates on each list in the order of preference submitted by the party in accordance with section 127.	5
35	Section 183 amended (Scrutineers for recounts and allocation of list seats) Repeal section 183(7).	
36	Section 208A amended (Method of making donation protected from disclosure) Replace section 208A(2) with:	10
(2)	A person to whom this section applies may send a donation in excess of \$1,500 to the Electoral Commission by paying the amount of the donation by direct credit to a bank account nominated by the Electoral Commission.	
37	Section 208F amended (Offence of prohibited disclosure) Replace section 208F(3)(c) with:	15
(c)	any other person to whom the identifying details must be supplied to enable the donation to be made:	
	Subpart 5—Related and consequential amendments	
38	Schedule 1AA amended In Schedule 1AA,—	20
(a)	insert the Part set out in the Schedule of this Act as the last Part; and	
(b)	make all necessary consequential amendments.	
	<i><u>Amendments to Electoral (Advertisements of a Specified Kind) Regulations 2005</u></i>	
39	Principal regulations Sections 40 to 42 amend the Electoral (Advertisements of a Specified Kind) Regulations 2005.	25
40	Regulation 3 amended (Interpretation) In regulation 3, insert in its appropriate alphabetical order: Act means the Electoral Act 1993	30
41	Regulation 4 amended (Application) (1) Replace regulation 4(b) with: (b) regulations 5 to 8 apply only during the specified period:	

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- (2) In regulation 4(d), replace “Electoral Act 1993” with “Act”.
 - (3) In regulation 4, insert as subclause (2):
 - (2) In this regulation, **specified period** means whichever of the following applies:
 - (a) the period specified in section 221B(1) of the Act; or
 - (b) both of the periods specified in **section 221B(1A)** of the Act.

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42 Regulation 8 amended (Size of lettering and line spacing)

In regulation 8(3)(a) and (b), replace “Electoral Act 1993” with “Act”.

Schedule

New Part 3 inserted into Schedule 1AA

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Part 3	
Provision relating to Electoral Amendment Act 2022	5
4A <u>Transitional provision relating to annual return of party donations for year ending 31 December 2022</u>	
Despite sections 4 and 5 of the Electoral Amendment Act 2022 , sections 210 and 210A as in force immediately before 1 January 2023 continue to apply in respect of an annual return of party donations required to be filed by a party secretary with the Electoral Commission for the year ending on 31 December 2022.	10
5 Transitional provision relating to party donations received from same donor over \$30,000	
Despite section 6 of the Electoral Amendment Act 2022 , section 210C as in force immediately before 1 January 2023 continues to apply on and after that date in respect of all party donations received before the close of 31 December 2022.	15

Legislative history

20 July 2022
2 August 2022

Introduction (Bill 152–1)
First reading and referral to Justice Committee