

Electoral Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Electoral Act 1993 and repeals the Electoral Finance Act 2007. The Bill establishes an interim electoral finance regime pending completion of a comprehensive review of electoral finance law.

The Bill is the first stage of a 2-stage process to reform electoral finance law. In this first stage, the Bill—

- returns to the election expenses provisions that governed the 2005 general election;
- retains the provisions in the Electoral Finance Act 2007 that relate to donations to political parties and candidates;
- reinstates the general rules that governed the publication of campaign advertisements that were in force for the 2005 general election.

In stage 2, the Government will undertake a considered process involving all parliamentary parties and the public to further examine the reform of electoral finance law. The stage 2 reforms will be enacted in 2010 for the 2011 general election.

Summary of Bill

The Bill contains 2 parts. *Part 1* inserts a new *Part 6A* in the Electoral Act 1993 and regulates election expenses and donations to political parties and constituency candidates.

Subparts 1 and 2 (which insert new sections 205 to 205S and 206 to 206R) will regulate candidate and party election expenses, including—

- setting a 3-month period prior to polling day during which election expenditure of political parties and constituency candidates is regulated:
- defining election activity and election expenses of political parties and constituency candidates:
- setting overall expenditure limits for political parties and constituency candidates:
- specifying obligations for political parties and constituency candidates to submit expenditure returns.

Subparts 3 to 6 (which insert new sections 207 to 207P, 208 to 208G, 209 to 209E, and 210 to 210F) insert in the Electoral Act 1993 the provisions from the Electoral Finance Act 2007 governing donations to political parties and constituency candidates that—

- regulate donations funded through contributions, anonymous donations, and overseas donations:
- establish a procedure enabling donations to be made to political parties via the Electoral Commission so that the identity of the donor is protected from disclosure:
- specify obligations for political parties and constituency candidates to submit donation returns at specified times:
- require disclosure by political parties of donations from the same donor that exceed a specified amount.

While the election expenses sections of the Electoral Act 1993 that governed the 2005 general election are being reinstated, aspects of those sections have been modified to the extent that is necessary to ensure that provisions employ language and have a structure that is consistent with the donations provisions of the Electoral Finance Act 2007 that are being inserted into the Electoral Act 1993.

For each provision, the analogous section from the Electoral Act 1993 and, where appropriate, the provisions from the Electoral Fi-

nance Act 2007 that are being included in the Electoral Act 1993 have been referenced.

Clauses 7 to 9 of the Bill (which insert *new sections 219, 221, and 221B*) reinstate the general rules from Part 7 of the Electoral Act 1993 that governed the publication of campaign advertisements that were in force at the time of the 2005 general election and that were repealed by the Electoral Finance Act 2007.

Compliance and enforcement

The Electoral Finance Act 2007 significantly raised the penalty levels for corrupt and illegal practices, and also significantly raised the penalty levels across the board for all electoral finance offences. The Electoral Finance Act 2007 also made changes to the time limit by which prosecutions could be brought for offences relating to the filing of returns and for corrupt and illegal practices. In respect of the latter, the new approach enabled prosecutions for offences that were corrupt or illegal practices to commence 6 months after there is sufficient evidence to commence a prosecution (but no later than 3 years from commission of the offence). Prior to that, prosecutions had to be commenced within 6 months of commission of the offence. The Bill retains these amendments to the compliance and enforcement regime, which were discrete changes to the legislation that had broad cross-party support.

Repeal and consequential amendments

Part 2 of the Bill (*subpart 1*) repeals the Electoral Finance Act 2007 and makes consequential amendments to the Acts listed in *Schedule 2*.

Transitional and savings provisions

Part 2 of the Bill (*subpart 2*) contains transitional and savings provisions that—

- ensure that candidates, political parties, and third parties are required to file returns for the 2008 general election, among other matters:

- enable prosecutions for offences committed under the Electoral Finance Act 2007 to proceed until the time limit has expired:
- preserve the procedure under the Electoral Finance Act 2007 for claiming, paying, and disputing election expenses claims until the time limit for doing so expires.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on 1 March 2009.

Clause 3 provides that this Act amends the Electoral Act 1993.

Part 1

Amendments to Electoral Act 1993

Clause 4 amends the interpretation section to reflect the amendments made by the Bill.

Clause 5 repeals the heading immediately following section 204 as this heading relates to section 205, which has been repealed.

Clause 6 inserts a *new Part 6A*, which consists of the following 6 subparts:

- *new subpart 1 (new sections 205 to 205S)* is about candidates' election expenses:
- *new subpart 2 (new sections 206 to 206R)* is about parties' election expenses:
- *new subpart 3 (new sections 207 to 207P)* sets out general provisions relating to donations:
- *new subpart 4 (new sections 208 to 208G)* is about donations protected from disclosure:
- *new subpart 5 (new sections 209 to 209E)* is about disclosure of candidates' donations:
- *new subpart 6 (new sections 210 to 210F)* is about disclosure of parties' donations.

New section 205 defines the term election activity for the purposes of *subpart 1* of *new Part 6A*.

New section 205A defines the term election expenses for the purposes of *subpart 1* of *new Part 6A*.

New section 205B sets out the maximum allowable election expenses for a candidate at a general election (\$20,000, inclusive of goods and services tax) and a candidate at a by-election (\$40,000, inclusive of goods and services tax).

New section 205C sets out how expenses are to be apportioned if they are incurred before and within the 3 months immediately preceding polling day. Only the proportion attributable to the carrying on of the activity within those 3 months are election expenses.

New section 205D sets out how election expenses are to be apportioned if they arise from an election activity that relates exclusively to campaigns for the return of 2 or more candidates. The expenses are apportioned among the candidates in proportion to the coverage provided by the election activity in relation to each of the candidates.

New section 205E provides that a candidate's election expenses include the cost of certain advertisements for party lists.

New section 205F provides that it is an offence to pay election expenses in excess of the prescribed maximum for candidates.

New section 205G sets out the periods for claiming and paying a candidate's election expenses and provides that it is an offence to pay a claim for election expenses outside the period of 40 working days after the poll results are declared (unless the claim is paid in accordance with a judgment or order of the court under *new section 205H or 205I*).

New section 205H provides that a claimant can bring an action for a disputed claim and that the candidate can pay a disputed claim in accordance with a judgment or order of the court without being in breach of *new section 205G*.

New section 205I provides that a claimant or candidate can apply to a District Court for leave to pay a claim outside the periods specified in *new section 205G*.

New section 205J provides that every payment of election expenses of a candidate (other than a payment of less than \$50) must be vouched by an invoice stating the particulars, and by a receipt.

New section 205K provides that a candidate must file a return of election expenses with the Chief Electoral Officer within 70 working days of polling day.

New section 205L requires a candidate to file a nil return if he or she considers that there is no relevant information to disclose under *new section 205K*.

New section 205M allows a candidate who is outside New Zealand on the day on which the poll results are declared to file his or her return of election expenses outside the period specified by *new section 205K*, but within 15 working days of the date he or she returns to New Zealand.

New section 205N creates offences in relation to failing to file a return of election expenses as required by *new section 205K* and filing a return that is false in any material particular.

New section 205O requires a candidate to retain all records that are necessary to verify his or her return of election expenses.

New section 205P provides that if the Chief Electoral Officer believes any person has committed an offence against *subpart 1* of *new Part 6A*, he or she must report the facts on which that belief is based to the New Zealand Police.

New section 205Q requires the Chief Electoral Officer, when he or she receives a return of a candidate's election expenses, to send a copy of the return to the Electoral Commission.

New section 205R provides that the Chief Electoral Officer and the Electoral Commission may publish every return of candidate election expenses in any manner considered appropriate. The Chief Electoral Officer must make available for public inspection a copy of every return of candidate election expenses.

New section 205S provides that *subpart 1* of *new Part 6A* does not validate any use of public money that would otherwise be unlawful.

New section 206 defines the term election activity for the purposes of *subpart 2* of *new Part 6A*.

New section 206A defines the term election expenses for the purposes of *subpart 2* of *new Part 6A*.

New section 206B sets out the maximum allowable election expenses for a party listed in the part of the ballot paper that relates to the party vote (\$1 million plus \$20,000 for each constituency contested by a candidate for that party, inclusive of goods and services tax) and for a party not listed in that part of the ballot paper (\$20,000 for each constituency contested by a candidate for that party, inclusive of goods and services tax).

New section 206C sets out how expenses are to be apportioned if they are incurred before and within the 3 months immediately preceding polling day. Only the proportion attributable to the carrying on of the activity within those 3 months are election expenses.

New section 206D provides that it is an offence to pay election expenses in excess of the prescribed maximum for parties.

New section 206E sets out the periods for claiming and paying a party's election expenses and provides that it is an offence to pay a claim for election expenses outside the period of 40 working days after the poll results are declared (unless the claim is paid in accordance with a judgment or order of the court under *new section 206F* or *206G*).

New section 206F provides that a claimant can bring an action for a disputed claim and that the party can pay a disputed claim in accordance with a judgment or order of the court without being in breach of *new section 206E*.

New section 206G provides that a claimant or party can apply to a District Court for leave to pay a claim outside the periods specified in *new section 206E*.

New section 206H provides that every payment of election expenses of a party (other than a payment of less than \$100) must be vouched by an invoice stating the particulars, and by a receipt.

New section 206I provides that a party secretary must file a return of election expenses with the Electoral Commission within 50 working days after the Chief Electoral Officer declares, under section 193(5) of the Electoral Act 1993, the list candidates entitled to be elected. The return must be accompanied by an auditor's report obtained under *new section 206L*.

New section 206J requires a party to appoint an auditor.

New section 206K describes the persons eligible to be appointed as an auditor.

New section 206L requires a party secretary to obtain a report on the return of party election expenses from the auditor appointed by the party before filing the return with the Electoral Commission.

New section 206M requires a party secretary to file a nil return if he or she considers that there is no relevant information to disclose under *new section 206I*.

New section 206N creates offences in relation to failing to file a return of election expenses as required by *new section 206I* and filing a return that is false in any material particular.

New section 206O requires a party secretary to retain all records that are necessary to verify the return of election expenses.

New section 206P provides that if the Electoral Commission believes any person has committed an offence against *subpart 2* of *new Part 6A*, it must report the facts on which that belief is based to the New Zealand Police.

New section 206Q requires the Electoral Commission to make returns received under *new section 206I*, and any accompanying auditor's report obtained under *new section 206L*, available for public inspection.

New section 206R provides that *subpart 2* of *new Part 6A* does not validate any use of public money that would otherwise be unlawful.

New section 207 is the interpretation section for *subparts 3 to 6* of *new Part 6A*. The terms defined include anonymous, candidate donation, contribution, and party donation.

New section 207A provides that all references to an amount or value of a donation or contribution are inclusive of goods and services tax.

New section 207B provides that all candidate donations given or sent to any person must, within 10 working days of receipt, be transmitted to the candidate. Similarly, all party donations given or sent to any person must, within 10 working days of receipt, be transmitted to the party secretary.

New section 207C requires a donor, at the time of making a donation funded from contributions, to disclose that fact and certain information about the contributions, including, in the case of any contribution over \$1,000, the name and address of the contributor. If a donor fails to disclose the information, the candidate or party secretary, as the case may be, must give the entire amount of the donation back to the donor.

New section 207D creates an offence relating to the contravention of *new section 207C*.

New section 207E requires a person who, on behalf of a donor, transmits a donation to a candidate or party secretary to disclose that fact and certain information about the donation, including the name and address of the donor. If that person does not, or is unable to, disclose

this information, the donation must be treated as an anonymous donation.

New section 207F creates an offence relating to the contravention of *new section 207E*.

New section 207G provides that where a person who is involved in the administration of the affairs of a candidate or a party knows the name and address of the donor of an anonymous donation exceeding \$1,000, that person must disclose the donor's name and address to the candidate or party secretary, as the case may be.

New section 207H creates an offence relating to the contravention of *new section 207G*.

New section 207I requires a candidate who receives an anonymous donation exceeding \$1,000 to pay that donation to the Chief Electoral Officer within 20 working days of receipt. In the case of an anonymous party donation exceeding \$1,000, the party secretary is required to pay the donation to the Electoral Commission within 20 working days of receipt.

New section 207J creates an offence relating to the contravention of *new section 207I*.

New section 207K provides that where a donation exceeding \$1,000 is received from an overseas person by a candidate or party secretary, the candidate or party secretary must within 20 working days of receipt return the donation less \$1,000 to the overseas person. If this is not possible, the donation less \$1,000 must be paid to the Chief Electoral Officer (in the case of a candidate donation) or the Electoral Commission (in the case of a party donation). Also, where a donation received by a candidate or party secretary is funded from any contribution made by an overseas person that exceeds \$1,000, the candidate or party secretary must return the whole of the donation to the donor or, if this is not possible, pay the donation to the Chief Electoral Officer (in the case of a candidate donation) or the Electoral Commission (in the case of a party donation).

New section 207L creates an offence relating to the contravention of *new section 207K*.

New section 207M requires a candidate to keep proper records of all donations received by him or her. It is an offence to contravene this requirement without reasonable excuse.

New section 207N requires a party secretary to keep proper records of all donations received by him or her. It is an offence to contravene this requirement without reasonable excuse.

New section 207O provides that if the Chief Electoral Officer believes any person has committed an offence against *subpart 3 or 5 of new Part 6A*, he or she must report the facts on which that belief is based to the New Zealand Police.

New section 207P provides that if the Electoral Commission believes any person has committed an offence against *subpart 3, 4, or 6 of new Part 6A*, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

New section 208 is the interpretation section for *subpart 4 of new Part 6A* and defines authorised person and donation protected from disclosure.

New section 208A provides that any person who intends to make a party donation exceeding \$1,000 while preventing the disclosure of his or her or its identity may send the donation to the Electoral Commission with an accompanying statement stating the name of the party that is to receive the donation. The statement must also include details of the donor's name and address and, if the donation comprises contributions, the name and address of every person who has contributed in excess of \$1,000.

New section 208B provides that the maximum amount that a party may be paid in donations made to the Electoral Commission in the period between general elections is 10% (excluding any interest paid under *new section 208E(2)*) of the maximum amount of election expenses allowed under *new section 206B(1)*. The maximum amount that a party may be paid in donations made to the Electoral Commission from the same donor in the period between general elections is 15% (excluding any interest paid under *new section 208E(2)*) of the maximum amount that a party may be paid in donations made to the Electoral Commission in that period.

New section 208C requires the Electoral Commission to publish guidance on the maximum amounts referred to in *new section 208B*.

New section 208D requires the Electoral Commission to pay a donation received under *new section 208A(2)* to the secretary of the party for whom it is intended unless the donor has provided insufficient in-

formation or payment would contravene the maximum amounts referred to in *new section 208B*.

New section 208E sets out when the Electoral Commission must pay all outstanding amounts due to a party under *new section 208D(1)*.

New section 208F provides that it is an offence for any person to disclose to any other person who is not an authorised person the identity of a donor of, or contributor to, a donation made, or proposed to be made, under *new section 208A(2)*.

New section 208G requires the Electoral Commission to report on certain matters in respect of donations protected from disclosure, including the total amounts received in donations under *new section 208A(2)* and the amounts paid to a party secretary under *new section 208D(1)*.

New section 209 requires a candidate to file with the Chief Electoral Officer, at the same time as filing a return of election expenses, a return of donations. The return must set out—

- details of all candidate donations received from the same donor that, taken either singly or when aggregated, exceed \$1,000 in sum or value:
- whether a donation is funded from contributions and, if so, details of each contribution that, either on its own or when aggregated with other contributions from the same contributor, exceeds \$1,000 in sum or value:
- details of every anonymous candidate donation received exceeding \$1,000, including any amount paid to the Chief Electoral Officer under *new section 207I(1)*:
- details of every candidate donation, or contribution to a candidate donation, received from an overseas person exceeding \$1,000, including any amount paid to an overseas person or to the Chief Electoral Officer under *new section 207K(2) or (3)*.

A return must be in the form required by the Chief Electoral Officer.

New section 209A requires a candidate to file a nil return if he or she considers there is no relevant information to disclose under *new section 209*.

New section 209B creates offences for the contravention of *new section 209* relating to the return of candidate donations.

New section 209C requires a candidate to retain all records, documents, and accounts that are necessary to enable a return of candidate

donations to be verified. It is an offence to contravene this requirement without reasonable excuse.

New section 209D requires the Chief Electoral Officer to send a copy of every return of candidate donations to the Electoral Commission.

New section 209E provides that the Chief Electoral Officer and the Electoral Commission may publish every return of candidate donations in any manner considered appropriate. The Chief Electoral Officer must make available for public inspection a copy of every return of candidate donations.

New section 210 requires a party secretary to file with the Electoral Commission, by 30 April in each year, a return of party donations for the year ending with the immediately preceding 31 December. The return must set out—

- details of all party donations received from the same donor that, taken either singly or when aggregated, exceed \$10,000 in sum or value:
- whether a donation is funded from contributions and, if so, details of each contribution that, either on its own or when aggregated with other contributions from the same contributor, exceeds \$10,000 in sum or value:
- details of every anonymous party donation received exceeding \$1,000, including any amount paid to the Electoral Commission under *new section 207I(2)*:
- details of every party donation, or contribution to a party donation, received from an overseas person exceeding \$1,000, including any amount paid to an overseas person or to the Electoral Commission under *new section 207K(2) or (3)*:
- details of each payment of donations received from the Electoral Commission under *new section 208D*.

A return must be in the form required by the Electoral Commission and be accompanied by an auditor's report obtained under *new section 210A*.

New section 210A requires a party secretary, before filing a return of party donations, to obtain from the party's auditor a report on the return.

New section 210B requires a party secretary to file a nil return if he or she considers there is no relevant information to disclose under *new section 210*.

New section 210C requires a party secretary to file with the Electoral Commission a return in respect of every party donation received from the same donor that exceeds \$20,000 or, when aggregated with all other donations received from the donor in the previous 12 months, exceeds \$20,000. A return must be filed within 10 working days of the donation being received by the party secretary.

New section 210D creates offences for the contravention of *new sections 210 or 210C* relating to returns of party donations.

New section 210E requires a party secretary to retain all records, documents, and accounts that are necessary to enable returns of party donations to be verified. It is an offence to contravene this requirement without reasonable excuse.

New section 210F provides that the Electoral Commission may publish every return of party donations and auditor's report obtained under *new section 210A* in any manner considered appropriate. The Electoral Commission must also make available for public inspection a copy of every return of party donations and auditor's report.

Clause 7 re-enacts, in a slightly more modern form, section 219 of the Electoral Act 1993 (repealed by section 21(2)(c) of the Electoral Amendment Act 2007 consequential on the passing of the Electoral Finance Act 2007).

Clause 8 re-enacts section 221 of the Electoral Act 1993 (repealed by section 21(2)(c) of the Electoral Amendment Act 2007 consequential on the passing of the Electoral Finance Act 2007).

Clause 9 re-enacts section 221B of the Electoral Act 1993 (repealed by section 21(2)(c) of the Electoral Amendment Act 2007 consequential on the passing of the Electoral Finance Act 2007).

Clause 10 substitutes a *new section 224* incorporating higher penalties that may be imposed on a constituency candidate or a party secretary who is convicted of a corrupt or illegal practice under *new Part 6A*. Those higher penalties (fines of up to \$100,000 in the case of a corrupt practice and \$40,000 in the case of an illegal practice) are carried over from the Electoral Finance Act 2007.

Clause 11 re-enacts (as *new section 226*) section 140 of the Electoral Finance Act 2007 and sets out the time frames within which prosecutions under the various offence provisions must be commenced.

Clause 12 repeals section 226A (inserted by section 25 of the Electoral Amendment Act 2007), which provides for the issue of search warrants in respect of an illegal practice.

Clause 13 re-enacts sections 267A and 267B of the Electoral Act 1993 (repealed by section 21(2)(c) of the Electoral Amendment Act 2007 consequential on the passing of the Electoral Finance Act 2007).

Clause 14 provides that the principal Act is also amended in the manner indicated in *Schedule 1* of the Bill. These amendments are consequential technical amendments.

Part 2

Repeal, consequential amendments, and transitional and savings provisions

Subpart 1—Repeal and consequential amendments

Clause 15 repeals the Electoral Finance Act 2007.

Clause 16 provides for consequential amendments to the Citizens Initiated Referenda Act 1993 and Summary Proceedings Act 1957.

Subpart 2—Transitional and savings provisions

Clauses 17 to 21 set out transitional provisions to continue the requirements of the Electoral Finance Act 2007 for election expenses incurred in respect of the 2008 general election, and for donations received for the year ending 31 December 2008. These requirements relate especially to—

- the filing of returns of election expenses incurred in respect of the 2008 general election; and
- the procedure for claiming, paying, and disputing claims for election expenses; and
- the filing of returns of donations received for the period commencing on 1 January 2008 and ending on 31 December 2008; and
- the publication and inspection of returns.

Clause 22 provides that *new sections 17 and 18* do not limit section 19 of the Interpretation Act 1999, which enables the investigation and prosecution of offences committed under the Electoral Finance Act 2007 before the repeal of that Act.

Clauses 23 and 24 provide that until 1 March 2011 further transitional and savings provisions may be prescribed by regulations made by the Governor-General by Order in Council.

Regulatory impact statement

Executive summary

Amendments to the Electoral Act 1993 are needed to address concerns with the electoral finance regime that governed the 2008 general election.

This Bill is the first stage of a 2-stage process to reform electoral finance law. The Bill—

- repeals the Electoral Finance Act 2007;
- reinstates the election expenses regime in force at the 2005 general election, alongside the other general rules that governed the publication of campaign advertisements;
- retains the provisions in the Electoral Finance Act 2007 that relate to donations to political parties and candidates.

Stage 2 of the reform of electoral finance law will be a considered process, involving consultation with all parliamentary parties and the public. The stage 2 reforms will be enacted in 2010 for the 2011 general election.

Adequacy statement

The Ministry of Justice has prepared this regulatory impact statement, and it meets the criteria for such statements.

Status quo and problem

The Electoral Finance Act 2007 was enacted without broad cross-party support. The 2008 general election campaign identified a lack of consensus concerning the—

- length of the regulated period;
- rules governing campaign advertising; and
- regulation of third parties.

Objectives

The objective of the proposals in the Bill is to establish an interim electoral finance regime to regulate elections pending completion of a comprehensive review of electoral finance law.

Alternative options

The Electoral Amendment Bill will amend a regulatory structure, namely, the regulation of campaign expenditure and advertising, and the rules around disclosure of political donations. The Bill proposes repeal of the Electoral Finance Act 2007. There are no feasible non-regulatory options.

The options considered were as follows:

- option 1—do nothing (ie, retain the Electoral Finance Act 2007):
- option 2—permanently reinstate the election expenses and campaign advertising provisions in force at the 2005 general election, while retaining the rules from the Electoral Finance Act 2007 that regulate political donations:
- option 3—undertake a 2-stage reform of electoral finance law that will—
 - establish an interim regime governing the financing of political parties and election campaigns:
 - engage all parliamentary parties and the public in a process that will enable a durable electoral finance regime to be enacted prior to the 2011 general election.

Option 3 is preferred because it will facilitate a return to electoral finance law that is grounded in broad-based political and public consensus.

This option, because it proposes a considered reform predicated on widespread consultation, will lead to more stable constitutional arrangements and will potentially have long-lasting regulatory benefits. Electoral finance law is central to the functioning of New Zealand's democratic structure, and option 3 is intended to ensure that there will be less change in this area in the long term.

The resulting regime, because it will be based on an open, consultative process, has the potential to be accepted and understood by the public, constituency candidates, and political parties. There will also

be significant benefits for the agencies responsible for administering elections, who will have reduced compliance costs over the medium to long term.

Compliance costs associated with the interim regime are expected to be minimal because—

- the interim regime reinstates rules governing election expenses and campaign advertising that are well-established and familiar to political parties and constituency candidates:
- the electoral agencies (Chief Electoral Office and Electoral Commission) can utilise established procedures for providing guidance on and enforcing the rules:
- it is intended that the interim regime will only regulate by-elections that occur prior to the 2011 general election (by which time the second stage of electoral finance reform will be enacted).

Preferred option

The key features of the proposals in the Bill will—

- repeal the Electoral Finance Act 2007:
- amend the Electoral Act 1993 to—
 - reinstate the election expenses provisions that governed the 2005 general election:
 - reinstate the campaign advertising provisions in force at the 2005 general election:
 - insert the provisions from the Electoral Finance Act 2007 that relate to donations to political parties and candidates:
 - incorporate increased penalties for corrupt and illegal practices and extended time limits for prosecution of electoral offences:
- establish transitional provisions relating to rights and obligations of political parties, constituency candidates, electoral agencies, and others arising from the rules in force at the 2008 general election.

Implementation and review

The proposals will require legislative amendment to the Electoral Act 1993, and consequential amendments to the Citizens Initiated Referenda Act 1993, and the Summary Proceedings Act 1957.

The proposals in the Bill will implement stage 1 of a planned 2-stage review of electoral finance law.

In stage 2 the Government will undertake a considered process involving all parliamentary parties and the public to further examine the reform of electoral finance law. The stage 2 reforms will be enacted in 2010 for the 2011 general election.

Consultation

The Chief Electoral Office, the Electoral Commission, and the Treasury have been consulted and their views considered in the development of this statement.

The Department of the Prime Minister and Cabinet has been informed of the contents of this statement.

Hon Simon Power

Electoral Amendment Bill

Government Bill

Contents

		Page
1	Title	5
2	Commencement	5
3	Principal Act amended	5
Part 1		
Amendments to Electoral Act 1993		
4	Interpretation	6
5	Heading repealed	7
6	New Part 6A inserted	7
Part 6A		
Election expenses and donations		
Subpart 1—Candidates' election expenses		
205	Meaning of election activity	7
205A	Meaning of election expenses	8
205B	Maximum amounts of candidate's election expenses	9
205C	Apportionment of election expenses for activity that takes place before and within 3 months immediately preceding polling day	9
205D	Apportionment of election expenses between candidates	10
205E	Advertisements for party lists	10
205F	Offence to pay election expenses in excess of prescribed maximum	11

Electoral Amendment Bill

205G	Periods for claiming and paying candidate's election expenses	11
205H	Procedure if claim disputed	11
205I	Leave to pay claim after time limitation	12
205J	Invoice and receipt required for election expenses of \$50 or more	12
205K	Return of candidate's election expenses	12
205L	Nil return	13
205M	Return may be filed after time limitation if candidate outside New Zealand	13
205N	Offences relating to return of candidate's election expenses	13
205O	Obligation to retain records necessary to verify return of candidate's election expenses	14
205P	Duty of Chief Electoral Officer	14
205Q	Return of candidate's election expenses to be sent by Chief Electoral Officer to Electoral Commission	14
205R	Return of candidate's election expenses to be publicly available	15
205S	Unlawful use of public money not validated	15
	Subpart 2—Parties' election expenses	
206	Meaning of election activity	15
206A	Meaning of election expenses	16
206B	Maximum amount of party's election expenses	17
206C	Apportionment of election expenses for activity that takes place before and within 3 months immediately preceding polling day	17
206D	Offence to pay election expenses in excess of prescribed maximum	18
206E	Periods for claiming and paying party's election expenses	18
206F	Procedure if claim disputed	18
206G	Leave to pay claim after time limitation	19
206H	Invoice and receipt required for election expenses of \$100 or more	19
206I	Return of party's election expenses	19
206J	Appointment of auditor for party	20
206K	Persons eligible to be appointed as auditor	20
206L	Auditor's report on return of party's election expenses	21
206M	Nil return	22

Electoral Amendment Bill

206N	Offences relating to return of party's election expenses	22
206O	Obligation to retain records necessary to verify return of party's election expenses	22
206P	Duty of Electoral Commission	23
206Q	Return of party's election expenses to be publicly available	23
206R	Unlawful use of public money not validated	23
	Subpart 3—General provisions relating to donations	
207	Interpretation	23
207A	Donations and contributions include GST	26
207B	Donations to be transmitted to candidate or party secretary	27
207C	Contributors to be identified	27
207D	Offence relating to contravention of section 207C	28
207E	Identity of donor to be disclosed by transmitter, if known	28
207F	Offence relating to contravention of section 207E	28
207G	Disclosure of identity of donor	29
207H	Offence relating to contravention of section 207G	29
207I	Anonymous donation may not exceed \$1,000	29
207J	Offence relating to contravention of section 207I	30
207K	Overseas donation may not exceed \$1,000	30
207L	Offence relating to contravention of section 207K	31
207M	Records of candidate donations	31
207N	Records of party donations	31
207O	Duty of Chief Electoral Officer in relation to donations	32
207P	Duty of Electoral Commission in relation to donations	32
	Subpart 4—Donations protected from disclosure	
208	Interpretation	32
208A	Method of making donation protected from disclosure	32
208B	Limit on maximum amount of donations protected from disclosure	33
208C	Duty of Electoral Commission to provide advice on actual figures under section 208B	34
208D	Duties of Electoral Commission on receipt of donation	34
208E	Timing of payment to parties	35

Electoral Amendment Bill

	208F Offence of prohibited disclosure	35
	208G Duty of Electoral Commission to report	36
	Subpart 5—Disclosure of candidates’ donations	
	209 Return of candidate donations	37
	209A Nil return	38
	209B Offences relating to return of candidate donations	38
	209C Obligation to retain records necessary to verify return of candidate donations	39
	209D Return of candidate donations to be sent by Chief Electoral Officer to Electoral Commission	39
	209E Return of candidate donations to be publicly available	39
	Subpart 6—Disclosure of parties’ donations	
	210 Annual return of party donations	40
	210A Auditor’s report on annual return of party donations	42
	210B Nil return	42
	210C Return of party donation received from same donor exceeding \$20,000	42
	210D Offences relating to return of party donations	43
	210E Obligation to retain records necessary to verify return of party donations	44
	210F Return of party donations to be publicly available	44
7	New section 219 inserted	45
	219 Payments for exhibition of election notices	45
8	New section 221 inserted	45
	221 Advertisements for candidates and political parties	45
9	New section 221B inserted	46
	221B Display of advertisement of specified kind	46
10	New section 224 substituted	47
	224 Punishment for corrupt or illegal practice	47
11	New section 226 substituted	48
	226 Time limit for prosecutions	48
12	Section 226A repealed	48
13	New sections 267A and 267B inserted	48
	267A Regulations relating to advertisement of a specified kind	48
	267B Requirements before Minister can recommend that regulations be made	49
14	Other amendments to principal Act	50

Part 2		
Repeal, consequential amendments, and transitional and savings provisions		
Subpart 1—Repeal and consequential amendments		
15	Repeal of Electoral Finance Act 2007	50
16	Consequential amendments to other enactments	50
Subpart 2—Transitional and savings provisions		
17	Continuation of obligations and rights arising from election expenses in respect of 2008 general election	51
18	Continuation of obligations and rights arising under the Electoral Finance Act 2007 in respect of donations	51
19	Annual return of party donations for year ending 31 December 2008	52
20	Annual return of party donations for year ending 31 December 2009	53
21	Transitional provision relating to section 210C of principal Act	53
22	Saving of section 19 of Interpretation Act 1999	53
23	Transitional regulations	53
24	Expiry of section 23	54
	Schedule 1	55
	Other amendments to principal Act	
	Schedule 2	57
	Consequential amendments	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Electoral Amendment Act **2009**.
- 2 Commencement**
This Act comes into force on 1 March 2009. 5
- 3 Principal Act amended**
This Act amends the Electoral Act 1993.

Part 1 Amendments to Electoral Act 1993

4 Interpretation

- (1) Section 3(1) is amended by repealing the definition of **candidate** and substituting the following definition: 5
- “**candidate**,—
- “(a) in Parts 1 to 6 and 9, means—
- “(i) a constituency candidate; and
- “(ii) a list candidate:
- “(b) in **Part 6A**, means a constituency candidate: 10
- “(c) in Parts 7 and 8, means—
- “(i) a constituency candidate; and
- “(ii) a list candidate; and
- “(iii) any person who has declared his or her intention of becoming a constituency candidate or list candidate”. 15
- (2) Section 3(1) is amended by inserting the following definitions in their appropriate alphabetical order:
- “**election expenses**,—
- “(a) in relation to a constituency candidate, has the meaning 20 given to it by **section 205A**:
- “(b) in relation to a party that is registered under Part 4, has the meaning given to it by **section 206A**
- “**list candidate** means any person whose name is specified in a party list submitted to the Chief Electoral Officer under section 25 127
- “**party**, in **Part 6A**,—
- “(a) means a political party registered under Part 4; and
- “(b) includes a political party that at any time during the 30 3 months immediately preceding polling day has been registered under Part 4
- “**party secretary** or, in relation to a party, **secretary** means the person (whatever his or her designation or office) whose duties include responsibility for—
- “(a) carrying out the administration of the party; and 35
- “(b) conducting the correspondence of the party

“**public inspection period** means, in relation to a return filed under **sections 205K, 206I, 209, 210, and 210C**, the period—

“(a) beginning 3 working days after the date of receipt by the Chief Electoral Officer or the Electoral Commission, as the case may be, of the duly completed return; and 5

“(b) ending with the close of polling day for the second general election that takes place after the date of receipt by the Chief Electoral Officer or the Electoral Commission, as the case may be, of the duly completed return”. 10

(3) The definition of **corrupt practice** in section 3(1) is amended by omitting “or the Electoral Finance Act 2007”.

(4) The definition of **illegal practice** in section 3(1) is amended by omitting “or the Electoral Finance Act 2007”.

(5) Section 3(1) is amended by repealing the definition of **secretary**. 15

5 **Heading repealed**

The heading immediately following section 204 is repealed.

6 **New Part 6A inserted**

The following Part is inserted after section 204: 20

“Part 6A

“Election expenses and donations

“Subpart 1—Candidates’ election expenses

“205 Meaning of election activity

In this subpart, unless the context otherwise requires, **election activity**, in relation to a candidate, means an activity— 25

“(a) that is carried out by the candidate or with the candidate’s authority; and

“(b) that comprises—

“(i) advertising of any kind; or 30

“(ii) radio or television broadcasting; or

“(iii) publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards; and

“(c) that— 35

- “(i) relates to the campaign for the return of the candidate in the candidate’s capacity as a constituency candidate and not to the candidate—
- “(A) in his or her capacity as a member of Parliament or as the holder of any other office; 5
or
“(B) in any other capacity; or
- “(ii) encourages or persuades or appears to encourage or persuade voters not to vote for a candidate or for a party; or 10
- “(iii) both; and
- “(d) that takes place, or is deemed by **section 205C** to have taken place, within the 3 months immediately preceding polling day.
- “Compare: 1993 No 87 s 213(1) (pre-20 December 2007); 2007 No 111 s 71 15

“**205A Meaning of election expenses**

In this subpart, unless the context otherwise requires, **election expenses**, in relation to a candidate,—

- “(a) means expenses that are incurred by or on behalf of a candidate in respect of any election activity; and 20
- “(b) includes—
- “(i) expenses that are incurred by or on behalf of the candidate, before or after the 3 months immediately preceding polling day, in respect of any election activity; and 25
- “(ii) the reasonable market value of any materials applied in respect of any election activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and 30
- “(iii) the cost of any printing or postage in respect of any election activity, whether or not the expenses in respect of the printing or postage are incurred by or on behalf of the candidate; but
- “(c) does not include the cost of any of the following: 35
- “(i) travel:
- “(ii) the conduct of any survey or public opinion poll:

- “(iii) the labour of any person that is provided to the candidate free of charge by that person:
- “(iv) the replacement of any materials that, during their application in respect of an election activity, have been destroyed or rendered unusable by 1 or more persons (other than the candidate or any person acting on his or her behalf) or by the occurrence of an event beyond the control of the candidate and any person acting on his or her behalf.
- “Compare: 1993 No 87 s 213(1) (pre-20 December 2007); 2007 No 111 s 72
- “205B Maximum amounts of candidate’s election expenses**
- “(1) The total election expenses of a candidate at a general election must not exceed \$20,000 (inclusive of goods and services tax).
- “(2) The total election expenses of a candidate at a by-election must not exceed \$40,000 (inclusive of goods and services tax).
- “Compare: 1993 No 87 s 213(2) (pre-20 December 2007); 2007 No 111 s 76
- “205C Apportionment of election expenses for activity that takes place before and within 3 months immediately preceding polling day**
- “(1) This section applies if an election activity as described in **paragraphs (a) to (c)** of the definition of that term in **section 205** takes place before, and within the 3 months immediately preceding, polling day.
- “(2) If this section applies,—
- “(a) the election activity is deemed to have taken place within the 3 months immediately preceding polling day; but
- “(b) the election expenses must be apportioned so that a fair proportion of those expenses is attributed to the carrying on of the activity in the 3 months immediately preceding polling day.
- “(3) Only the fair proportion of the expenses determined in accordance with **subsection (2)** are election expenses.
- “Compare: 1993 No 87 s 213(4) (pre-20 December 2007); 2007 No 111 s 77

“205D Apportionment of election expenses between candidates

“(1) This section applies to any election expenses incurred in respect of an election activity that relates exclusively to campaigns for the return of 2 or more candidates.

“(2) The election expenses must be apportioned among the candidates according to the coverage provided by the election activity in relation to each of the candidates. 5

“(3) If a candidate receives less than 10% of the coverage provided by an election activity, the expenses relating to that election activity must not be included in the election expenses of that candidate. 10

“(4) Coverage provided by an election activity must be calculated in a way that is appropriate to the form of the election activity.

“Compare: 1993 No 87 s 214 (pre-20 December 2007); 2007 No 111 s 78

“205E Advertisements for party lists

15

“(1) This section applies to an advertisement that—

“(a) is published or caused or permitted to be published in a newspaper, periodical, poster, or handbill, or is broadcast or caused or permitted to be broadcast by a radio or television station; and 20

“(b) encourages or persuades or appears to encourage or persuade voters to vote for a party listed on the part of the ballot paper that relates to the party vote; and

“(c) gives more than 10% of the coverage provided in the advertisement to a person who is a constituency candidate in a manner that either— 25

“(i) features that candidate in his or her capacity as a list candidate; or

“(ii) features that candidate as endorsing or supporting the party or its party list; and 30

“(d) is or is to be published or broadcast in the district in which the person described in **paragraph (c)** is a candidate.

“(2) The cost of publishing or broadcasting the advertisement is part of the candidate’s election expenses. 35

“(3) However, **subsection (2)** does not apply if the advertisement is published or broadcast to more or less the same extent in

at least 10 other electoral districts in addition to the electoral district referred to in **subsection (1)(d)**.

“Compare: 1993 No 87 s 214A (pre-20 December 2007); 2007 No 111 s 80

“**205F Offence to pay election expenses in excess of prescribed maximum** 5

“(1) This section applies to any candidate or other person who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any election expenses any sum in excess of either of the maximum amounts prescribed by **section 205B**. 10

“(2) The candidate or other person is guilty of—

“(a) a corrupt practice if he or she knew the payment was in excess of the prescribed maximum amount; or

“(b) an illegal practice in any other case, unless he or she proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the prescribed maximum amount. 15

“Compare: 1993 No 87 s 213(3) (pre-20 December 2007); 2007 No 111 s 81

“**205G Periods for claiming and paying candidate’s election expenses** 20

“(1) A claim for any election expenses against a candidate, or an agent of a candidate, is recoverable only if it is sent to the candidate within 20 working days after the day on which the declaration required by section 179(2) is made.

“(2) A claim that is sent to a candidate in accordance with **subsection (1)** must be paid within 40 working days after the day on which that declaration is made, and not otherwise. 25

“(3) A person who makes a payment in breach of this section is guilty of an illegal practice.

“(4) This section is subject to **sections 205H and 205I**. 30

“Compare: 1993 No 87 s 206 (pre-20 December 2007); 2007 No 111 s 82

“**205H Procedure if claim disputed**

“(1) If a candidate, in the case of a claim for election expenses sent to a candidate within the period specified in **section 205G(1)**,

disputes the claim, or fails to pay the claim within the period of 40 working days specified in **section 205G(2)**, then—

“(a) the claim is to be treated as a disputed claim; and

“(b) the claimant may, if he or she thinks fit, within 20 working days after the expiry of that period of 40 working days, bring an action for the disputed claim in any court of competent jurisdiction. 5

“(2) Any sum paid by the candidate in accordance with a judgment or order of the court in any such action is to be treated as paid within the period specified in **section 205G(2)**. 10

“Compare: 1993 No 87 s 207 (pre-20 December 2007); 2007 No 111 s 83

“**205I Leave to pay claim after time limitation**

“(1) On the application of a claimant or a candidate, a District Court may make an order granting leave to the candidate to pay—

“(a) a claim for election expenses sent after the period specified in **section 205G(1)**; or 15

“(b) a claim not paid in the period specified in **section 205G(2)**; or

“(c) a disputed claim in respect of which an action was not brought within the period specified in **section 205H(1)(b)**. 20

“(2) Any sum paid by the candidate in accordance with an order made under **subsection (1)** is to be treated as having been paid within the period specified in **section 205G(2)**. 25

“Compare: 1993 No 87 s 208 (pre-20 December 2007); 2007 No 111 s 84

“**205J Invoice and receipt required for election expenses of \$50 or more**

Every payment made in respect of any election expenses of a candidate, other than a payment that is less than \$50, must be vouched by an invoice stating the particulars, and by a receipt. 30

“Compare: 1993 No 87 s 209 (pre-20 December 2007); 2007 No 111 s 85

“**205K Return of candidate’s election expenses**

“(1) Within 70 working days after polling day, a candidate must file a return of election expenses with the Chief Electoral Officer.

- “(2) A return under **subsection (1)** must be in the form required by the Chief Electoral Officer.
 “Compare: 1993 No 87 s 210(1)(a), (2) (pre-20 December 2007); 2007 No 111 s 86
- “**205L Nil return** 5
 If a candidate considers that there is no relevant information to disclose under **section 205K**, the candidate must file a nil return under that section.
 “Compare: 2007 No 111 s 87
- “**205M Return may be filed after time limitation if candidate outside New Zealand** 10
- “(1) This section applies to a candidate who is outside New Zealand on the day on which the declaration required by section 179(2) is made.
- “(2) The candidate must file a return of election expenses with the Chief Electoral Officer within 15 working days after the date he or she returns to New Zealand. 15
- “(3) A return filed by the candidate in accordance with **subsection (2)** is deemed to be filed within the time period specified in **section 205K(1)**. 20
 “Compare: 1993 No 87 s 210(3) (pre-20 December 2007)
- “**205N Offences relating to return of candidate’s election expenses**
- “(1) A candidate who fails to comply with **section 205K** is liable on summary conviction to— 25
 “(a) a fine not exceeding \$40,000; and
 “(b) if he or she has been elected, a further fine not exceeding \$400 for every day that he or she sits or votes in the House of Representatives until the return is filed.
- “(2) A candidate who files a return under **section 205K** that is false in any material particular is guilty of— 30
 “(a) a corrupt practice if he or she 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— 35

- “(i) he or she had no intention to misstate or conceal the facts; and
- “(ii) he or she took all reasonable steps in the circumstances to ensure that the information was accurate. 5
- “(3) A person charged with an offence against **subsection (2)(a)** may be convicted of an offence against **subsection (2)(b)**.
 “Compare: 1993 No 87 s 210(4)–(6) (pre-20 December 2007); 2007 No 111 s 88
- “**205O Obligation to retain records necessary to verify return of candidate’s election expenses** 10
- “(1) A candidate must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable a return under **section 205K** 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 return or in relation to any matter to which the return relates. 15
- “(2) A candidate who fails, without reasonable excuse, to comply with **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$40,000. 20
 “Compare: 1993 No 87 s 214L (pre-20 December 2007); 2007 No 111 s 89
- “**205P Duty of Chief Electoral Officer**
- If the Chief Electoral Officer believes that any person has committed an offence specified in this subpart, the Chief Electoral Officer must report the facts on which that belief is based to the New Zealand Police. 25
 “Compare: 1993 No 87 s 210(8) (pre-20 December 2007); 2007 No 111 s 90
- “**205Q Return of candidate’s election expenses to be sent by Chief Electoral Officer to Electoral Commission**
- As soon as practicable after receiving a return filed under **section 205K**, the Chief Electoral Officer must send a copy of the return to the Electoral Commission. 30
 “Compare: 1993 No 87 s 211(3)(a)(ii) (pre-20 December 2007); 2007 No 111 s 91

“205R Return of candidate’s election expenses to be publicly available

“(1) The Chief Electoral Officer may publish, in any manner that the Chief Electoral Officer considers appropriate, every return filed under **section 205K**.

5

“(2) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return received from the Chief Electoral Officer under **section 205Q**.

“(3) During the public inspection period, the Chief Electoral Officer must make available for public inspection a copy of every return filed under **section 205K**.

10

“(4) The Chief Electoral Officer may make inspection under **subsection (3)** subject to the payment of any charges that may be made under the Official Information Act 1982.

“Compare: 1993 No 87 s 211(2), (3)(b) (pre-20 December 2007); 2007 No 111 s 92

15

“205S Unlawful use of public money not validated

Nothing in this subpart validates any use of public money that would otherwise be unlawful.

“Compare: 1993 No 87 s 213(5) (pre-20 December 2007)

20

“Subpart 2—Parties’ election expenses

“206 Meaning of election activity

In this subpart, unless the context otherwise requires, **election activity**, in relation to a party, means an activity—

“(a) that is carried out by the party or with the party’s authority; and

25

“(b) that comprises—

“(i) advertising of any kind; or

“(ii) radio or television broadcasting; or

“(iii) publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards; and

30

“(c) that—

“(i) encourages or persuades or appears to encourage or persuade voters to vote for the party; or

35

- “(ii) encourages or persuades or appears to encourage or persuade voters not to vote for a party or for a candidate; or
- “(iii) both; and
- “(d) that takes place, or is deemed by **section 206C** to have taken place, within the 3 months immediately preceding polling day. 5

“Compare: 1993 No 87 s 214B(1) (pre-20 December 2007); 2007 No 111 s 93

“206A Meaning of election expenses

In this subpart, unless the context otherwise requires, **election expenses**, in relation to a party,— 10

- “(a) means expenses that are incurred by or on behalf of a party in respect of any election activity; and
- “(b) includes—
 - “(i) expenses that are incurred by or on behalf of the party, before or after the 3 months immediately preceding polling day, in respect of any election activity; and 15
 - “(ii) the reasonable market value of any materials applied in respect of any election activity that are given to the party or that are provided to the party free of charge or below reasonable market value; and 20
 - “(iii) the cost of any printing or postage in respect of any election activity, whether or not the expenses in respect of the printing or postage are incurred by or on behalf of the party; but 25
- “(c) does not include the cost of any of the following:
 - “(i) travel:
 - “(ii) the conduct of any survey or public opinion poll: 30
 - “(iii) the labour of any person that is provided to the party free of charge by that person:
 - “(iv) the replacement of any materials that, during their application in respect of an election activity, have been destroyed or rendered unusable by 1 or more persons (other than a person acting on behalf of the party) or by the occurrence of an 35

event beyond the control of any person acting on behalf of the party:

“(v) the election expenses of any of the party’s candidates:

“(vi) allocations of time and money made to the party by the body responsible for such allocations under the Broadcasting Act 1989. 5

“Compare: 2003 No 87 s 214B(1) (pre-20 December 2007); 2007 No 111 s 94

“206B Maximum amount of party’s election expenses

“(1) If a party is listed in the part of the ballot paper that relates to the party vote, the total election expenses of the party must not exceed \$1 million plus \$20,000 for each constituency contested by a candidate for that party (inclusive of goods and services tax). 10

“(2) If a party is not listed in the part of the ballot paper that relates to the party vote, the total election expenses of the party must not exceed \$20,000 for each constituency contested by a candidate for that party (inclusive of goods and services tax). 15

“Compare: 1993 No 87 s 214B(2) (pre-20 December 2007); 2007 No 111 s 98

“206C Apportionment of election expenses for activity that takes place before and within 3 months immediately preceding polling day 20

“(1) This section applies if an election activity as described in **paragraphs (a) to (c)** of the definition of that term in **section 206** takes place before and within the 3 months immediately preceding polling day. 25

“(2) If this section applies,—

“(a) the election activity is deemed to have taken place within the 3 months immediately preceding polling day; but 30

“(b) the election expenses must be apportioned so that a fair proportion of those expenses are attributed to the carrying on of the activity in the 3 months immediately preceding polling day.

“(3) Only the fair proportion of the expenses determined in accordance with **subsection (2)** are election expenses. 35

“Compare: 1993 No 87 s 214B(4) (pre-20 December 2007); 2007 No 111 s 99

“206D Offence to pay election expenses in excess of prescribed maximum

“(1) This section applies to any person who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any election expenses any sum in excess of either 5 of the maximum amounts prescribed by **section 206B**.

“(2) The person is guilty of—

“(a) a corrupt practice if he or she knew the payment was in excess of the prescribed maximum amount; or

“(b) an illegal practice in any other case, unless he or she 10 proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the prescribed maximum amount.

“Compare: 1993 No 87 s 214B(3) (pre-20 December 2007); 2007 No 111 s 101

“206E Periods for claiming and paying party’s election expenses

15

“(1) A claim for any election expenses against a party is recoverable only if it is sent to the party secretary within 20 working days after the day on which the declaration required by section 193(5) is made. 20

“(2) A claim that is sent to the party secretary in accordance with **subsection (1)** must be paid within 40 working days after the day on which the declaration required by section 193(5) is made.

“(3) A person who makes a payment in breach of this section is guilty of an illegal practice. 25

“(4) This section is subject to **sections 206F and 206G**.

“Compare: 1993 No 87 s 214BA (pre-20 December 2007); 2007 No 111 s 102

“206F Procedure if claim disputed

“(1) If a party, in the case of a claim for any election expenses sent to the party secretary within the period specified in **section 206E(1)**, disputes the claim, or fails to pay the claim within the period of 40 working days specified in **section 206E(2)**, then— 30

“(a) the claim is to be treated as a disputed claim; and 35

- “(b) the claimant may, if he or she thinks fit, within 20 working days after the expiry of that period of 40 working days, bring an action for the disputed claim in any court of competent jurisdiction.
- “(2) Any sum paid by the party in accordance with a judgment or order of the court in any such action is to be treated as paid within the period specified in **section 206E(2)**. 5
 “Compare: 1993 No 87 s 214BB (pre-20 December 2007); 2007 No 111 s 103
- “**206G Leave to pay claim after time limitation**
- “(1) On the application of a claimant or a party, a District Court may make an order granting leave to a party to pay— 10
- “(a) a claim for election expenses sent after the period specified in **section 206E(1)**; or
- “(b) a claim not paid in the period specified in **section 206E(2)**; or 15
- “(c) a disputed claim in respect of which an action was not brought within the period specified in **section 206F(1)(b)**.
- “(2) Any sum paid by the party in accordance with an order made under **subsection (1)** is to be treated as having been paid within the period specified in **section 206E(2)**. 20
 “Compare: 1993 No 87 s 214BC (pre-20 December 2007); 2007 No 111 s 104
- “**206H Invoice and receipt required for election expenses of \$100 or more**
- Every payment made in respect of any election expenses of a party, other than a payment that is less than \$100, must be vouched by an invoice stating the particulars, and by a receipt. 25
 “Compare: 1993 No 87 s 214BD (pre-20 December 2007); 2007 No 111 s 105
- “**206I Return of party’s election expenses**
- “(1) Within 50 working days after the day on which the declaration required by section 193(5) is made, a party secretary must file a return of the party’s election expenses with the Electoral Commission. 30
- “(2) The return must be—
- “(a) in the form required by the Electoral Commission; and 35

“(b) accompanied by an auditor’s report obtained under **section 206L**.

“Compare: 1993 No 87 s 214C(1) (pre-20 December 2007); 2007 No 111 s 106

“206J Appointment of auditor for party

“(1) A party must appoint an auditor. 5

“(2) On the registration of a party under section 67, the person named in the party’s application under section 63(2)(c)(v) as the person who is to be appointed as the party’s auditor is to be taken to have been appointed under **subsection (1)**.

“(3) A party must without delay appoint another auditor if the auditor appointed by the party under **subsection (1)** or taken to have been appointed under **subsection (2)**—

“(a) does not, for any reason, commence to hold office; or

“(b) ceases to hold office; or

“(c) becomes ineligible to hold office. 15

“(4) If at any time a party appoints a new auditor under **subsection (3)**, the party must—

“(a) notify the Electoral Commission; and

“(b) send to the Electoral Commission—

“(i) the name, address, and contact details of the new auditor; and

“(ii) the new auditor’s signed consent to the appointment. 20

“Compare: 1993 No 87 s 214D (pre-20 December 2007); 2007 No 111 s 10

“206K Persons eligible to be appointed as auditor 25

A person is eligible to be appointed as an auditor under **section 206J** unless that person is—

“(a) a constituency candidate; or

“(b) a list candidate; or

“(c) an employee or partner of a person referred to in **paragraph (a) or (b)**; or 30

“(d) an officer or employee of a party; or

“(e) a body corporate; or

“(f) a person who, by virtue of section 199(1) of the Companies Act 1993, may not be appointed or act as an auditor of a company; or 35

“(g) a Returning Officer.

“Compare: 1993 No 87 s 214D(2) (pre-20 December 2007); 2007 No 111 s 12

“**206L Auditor’s report on return of party’s election expenses**

- “(1) A party secretary must, before the Electoral Commission receives the return required by **section 206I**, obtain from the auditor appointed under **section 206J** a report on the return. 5
- “(2) The auditor must state in the report—
- “(a) the position shown by the return in respect of the requirement that the party’s total election expenses not exceed the maximum amount prescribed by **section 206B**; and 10
- “(b) either—
- “(i) whether, in the auditor’s opinion, the position stated under **paragraph (a)** is correct; or
- “(ii) that the auditor has been unable to form an opinion as to whether the position stated under **paragraph (a)** is correct. 15
- “(3) The auditor must make any examinations that the auditor considers necessary.
- “(4) The auditor must specify in the report any case in which— 20
- “(a) the auditor has not received from the party secretary all the information that the auditor requires to carry out his or her duties; or
- “(b) proper records of the party’s election expenses have not, in the auditor’s opinion, been kept by the party secretary. 25
- “(5) The auditor—
- “(a) must have access at all reasonable times to all records, documents, and accounts that relate to the party’s election expenses and that are held by the party or the party secretary; and 30
- “(b) may require the party secretary to provide any information and explanations that, in the auditor’s opinion, may be necessary to enable the auditor to prepare the report.

“Compare: 1993 No 87 s 214E (pre-20 December 2007); 2007 No 111 s 107 35

“206M Nil return

If a party secretary considers that there is no relevant information to disclose under **section 206I**, the party secretary must file a nil return under that section.

“Compare: 1993 No 87 s 214K (pre-20 December 2007); 2007 No 111 s 108 5

“206N Offences relating to return of party’s election expenses

“(1) A party secretary who fails, without reasonable excuse, to comply with **section 206I** is liable on summary conviction to a fine not exceeding \$40,000.

“(2) A party secretary who files a return under **section 206I** that is false in any material particular is guilty of— 10

“(a) a corrupt practice if he or she filed the return knowing it to be false in any material particular; or

“(b) an illegal practice in any other case unless the party secretary proves that— 15

“(i) he or she had no intention to misstate or conceal the facts; and

“(ii) he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate. 20

“(3) A person charged with an offence against **subsection (2)(a)** may be convicted of an offence against **subsection (2)(b)**.

“Compare: 1993 No 87 s 214C(2)–(4) (pre-20 December 2007); 2007 No 111 s 109

“206O Obligation to retain records necessary to verify return of party’s election expenses 25

“(1) A party secretary must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable a return under **section 206I** 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 return or in relation to any matter to which the return relates. 30

“(2) A party secretary who fails, without reasonable excuse, to comply with **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$40,000. 35

“Compare: 1993 No 87 s 214L (pre-20 December 2007); 2007 No 111 s 110

“206P Duty of Electoral Commission

If the Electoral Commission believes that any person has committed an offence specified in this subpart, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

5

“Compare: 1993 No 87 s 214C(6) (pre-20 December 2007); 2007 No 111 s 111

“206Q Return of party’s election expenses to be publicly available

“(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return and every accompanying auditor’s report filed under **section 206I**.

10

“(2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return and report referred to in **subsection (1)**.

15

“(3) The Electoral Commission may make inspection under **subsection (2)** subject to the payment of any charges that may be made under the Official Information Act 1982.

“Compare: 1993 No 87 s 214J (pre-20 December 2007); 2007 No 111 s 112

“206R Unlawful use of public money not validated

20

Nothing in this subpart validates any use of public money that would otherwise be unlawful.

“Compare: 1993 No 87 s 214B(5) (pre-20 December 2007)

“Subpart 3—General provisions relating to donations

25

“207 Interpretation

“(1) In this subpart, unless the context otherwise requires, **donation** means—

“(a) a candidate donation; or

“(b) a party donation.

30

“(2) In this subpart and **subparts 4 to 6** of this Part, unless the context otherwise requires,—

“**anonymous**,—

“(a) in relation to a candidate donation, means a donation that is made in such a way that the candidate who receives the donation—

“(i) does not know the identity of the donor; and 5

“(ii) could not, in the circumstances, reasonably be expected to know the identity of the donor:

“(b) in relation to a party donation, means a donation that is made in such a way that the party secretary who receives the donation— 10

“(i) does not know the identity of the donor; and

“(ii) could not, in the circumstances, reasonably be expected to know the identity of the donor

“**candidate donation** 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 candidate, or to any person on the candidate’s behalf, for use in the candidate’s campaign for election and— 15

“(a) includes,—

“(i) where goods or services are provided to a candidate, or to any person on the candidate’s behalf, under a contract or arrangement at a value less than their reasonable market value, the latter being a value that exceeds \$200, the amount of the difference between the former value and the reasonable market value of those goods or services; and 20 25

“(ii) where goods or services are provided by a candidate under a contract or arrangement at a value that is more than their reasonable market value, the amount of the difference between that value and the reasonable market value of those goods or services; and 30

“(iii) where credit is provided to a candidate on terms and conditions substantially more favourable than the commercial terms and conditions prevailing at the time for the same or similar credit, the value to the candidate of those more favourable terms and conditions; but 35

“(b) excludes the labour of any person that is provided to a candidate free of charge by that person

“**contribution** means any thing (being money or the equivalent of money or goods or services or a combination of those things) that makes up a donation or is included in a donation or has been used to wholly or partly fund a donation, and that— 5

“(a) was given—

“(i) to the donor; or

“(ii) to a person who was required or expected to pass on all or any of its amount or value to the donor, whether directly or indirectly (for example, through one or more intermediaries, trustees, or nominees); and 10

“(b) would have been a donation if it had been given directly to the candidate or party; and 15

“(c) was given in the knowledge or expectation (whether by reference to a trust, agreement, or understanding) that it would be wholly or partly applied to make up, or to be included in, or to fund, a donation

“**contributor** means a person who makes a contribution and who immediately before making the contribution— 20

“(a) beneficially holds any money, or the equivalent of money, or any goods that make up the contribution or are included in the contribution; or

“(b) provides any services that make up the contribution or are included in the contribution or pays for those services out of money that the person beneficially holds 25

“**donation funded from contributions** means a donation that is made up of, includes, or is wholly or partly funded from 1 or more contributions 30

“**donor** means a person who makes a donation

“**party donation** 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— 35

“(a) includes,—

“(i) where goods or services are provided to a party, or to any person on the party’s behalf, under a

- contract or arrangement at a value less than their reasonable market value, the latter being a value that exceeds \$1,000, the amount of the difference between the former value and the reasonable market value of those goods or services; and 5
- “(ii) where goods or services are provided by a party under a contract or arrangement at a value that is more than their reasonable market value, the amount of the difference between that value and the reasonable market value of those goods or services; and 10
- “(iii) where credit is provided to a party on terms and conditions substantially more favourable than the commercial terms and conditions prevailing at the time for the same or similar credit, the value to the party of those more favourable terms and conditions; but 15
- “(b) excludes—
- “(i) the labour of any person that is provided to a party free of charge by that person; and 20
- “(ii) any candidate donation that is included in a return made by a candidate under **section 205K**
- “**receive**, in relation to a donation, means to get a donation that has been given or sent by—
- “(a) the donor directly; or 25
- “(b) the donor indirectly, via a transmitter
- “**transmitter** means a person to whom a donor gives or sends a donation for transmittal to a candidate or party.
- “(3) For the purposes of **sections 207B, 207C, 207E, 207G, 207I, and 210C**,— 30
- “(a) **donation** does not include a donation protected from disclosure (as defined in **section 208**); and
- “(b) **party donation** does not include a donation protected from disclosure (as defined in **section 208**).
- “Compare: 2007 No 111 s 21 35
- “**207A Donations and contributions include GST**
- All references to an amount or value of a donation or contribution are inclusive of any goods and services tax incurred by

the donor or contributor in respect of the goods or service donated or contributed.

“Compare: 2007 No 111 s 22

“**207B Donations to be transmitted to candidate or party secretary**

5

“(1) Every person to whom a candidate donation is given or sent must, within 10 working days after receiving the donation, transmit the donation to the candidate.

“(2) Every person to whom a party donation is given or sent must, within 10 working days after receiving the donation, transmit the donation to the party secretary.

10

“Compare: 2007 No 111 s 23

“**207C Contributors to be identified**

“(1) This section applies to a donation that is funded from contributions.

15

“(2) If this section applies to a donation, the donor must, at the time of making the donation,—

“(a) disclose the fact that the donation is funded from contributions; and

“(b) if 1 or more contributions are each in sum or value \$1,000 or less, disclose the total amount of those contributions; and

20

“(c) if 1 or more contributions are each in sum or value more than \$1,000, disclose the following information about those contributions:

25

“(i) the total amount of those contributions; and

“(ii) the information described in **subsection (3)** about those contributions.

“(3) The information that must be disclosed about contributions under **subsection (2)(c)(ii)** is—

30

“(a) the name and address of each contributor and whether each contributor is an overseas person within the meaning of **section 207K**; and

“(b) the amount of each contributor’s contribution.

“(4) A candidate must give back to the donor the entire amount of the donation, or its entire value, if the candidate knows, or

35

has reasonable grounds to believe, that the donor has failed to comply with **subsection (2)** in any respect.

“(5) A party secretary must give back to the donor the entire amount of the donation, or its entire value, if the party secretary knows, or has reasonable grounds to believe, that the donor has failed to comply with **subsection (2)** in any respect. 5

“(6) For the purposes of **sections 209 and 210**, any amount given back by a candidate under **subsection (4)**, or by a party secretary under **subsection (5)**, is taken not to have been received by the candidate or the party secretary, as the case may be. 10

“Compare: 2007 No 111 s 24

“**207D Offence relating to contravention of section 207C**

A donor who fails to comply with **section 207C** with the intention of concealing the identity of any or all of the contributors commits an offence and is liable on summary conviction to a fine not exceeding \$40,000. 15

“Compare: 2007 No 111 s 25

“**207E Identity of donor to be disclosed by transmitter, if known**

“(1) When a transmitter transmits a donation to a candidate or party secretary on behalf of the donor, the transmitter must disclose to the candidate or party secretary— 20

“(a) the fact that the donation is transmitted on behalf of the donor; and

“(b) the name and address of the donor; and 25

“(c) whether **section 207C** applies to the donation and, if so, all information disclosed by the donor under **subsections (2) and (3)** of that section.

“(2) Where a transmitter does not disclose, or is unable to disclose, the information required by **subsection (1)(b)**, then the donation must be treated as an anonymous donation. 30

“Compare: 2007 No 111 s 26

“**207F Offence relating to contravention of section 207E**

A transmitter who fails to comply with **section 207E** with the intention of concealing the identity of the donor or any or all of 35

the contributors commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.

“Compare: 2007 No 111 s 27

“207G Disclosure of identity of donor

“(1) If any person involved in the administration of the affairs of a candidate in relation to his or her election campaign knows the identity of the donor of an anonymous candidate donation exceeding \$1,000, the person must disclose the identity of the donor to the candidate. 5

“(2) If a candidate, list candidate, or any person involved in the administration of the affairs of a party knows the identity of the donor of an anonymous party donation exceeding \$1,000, the candidate, list candidate, or person must disclose the identity of the donor to the party secretary. 10

“Compare: 2007 No 111 s 28

15

“207H Offence relating to contravention of section 207G

A person who fails to comply with **section 207G** with the intention of concealing the identity of the donor commits an offence and is liable on summary conviction to a fine not exceeding \$40,000. 20

“Compare: 2007 No 111 s 29

“207I Anonymous donation may not exceed \$1,000

“(1) If an anonymous candidate donation exceeding \$1,000 is received by a candidate, the candidate must, within 20 working days of receipt of the donation, pay to the Chief Electoral Officer the amount of the donation, or its value, less \$1,000. 25

“(2) If an anonymous party donation exceeding \$1,000 is received by a party secretary, the party secretary must, within 20 working days of receipt of the donation, pay to the Electoral Commission the amount of the donation, or its value, less \$1,000. 30

“(3) All amounts received by the Chief Electoral Officer and the Electoral Commission under this section must be paid into a Crown Bank Account.

“Compare: 2007 No 111 s 30

“207J Offence relating to contravention of section 207I

“(1) A person who enters into an agreement, arrangement, or understanding with any other person that has the effect of circumventing **section 207I(1) or (2)** is guilty of—

“(a) a corrupt practice if the circumvention is wilful; or 5

“(b) an illegal practice in any other case.

“(2) A candidate or party secretary who contravenes **section 207I** is guilty of an illegal practice.

“Compare: 2007 No 111 s 31

“207K Overseas donation may not exceed \$1,000

10

“(1) For the purposes of this section, **overseas person** means—

“(a) an individual who—

“(i) resides outside New Zealand; and

“(ii) is not a New Zealand citizen or registered as an elector; or

15

“(b) a body corporate incorporated outside New Zealand; or

“(c) an unincorporated body that has its head office or principal place of business outside New Zealand.

“(2) If a donation exceeding \$1,000 is received from an overseas person by a candidate or party secretary, the candidate or party secretary must, within 20 working days of receipt of the donation,—

20

“(a) return to the overseas person the amount of the donation, or its value, less \$1,000; or

“(b) if this is not possible, pay the amount of the donation, or its value, less \$1,000—

25

“(i) to the Chief Electoral Officer, in the case of a candidate donation; or

“(ii) to the Electoral Commission, in the case of a party donation.

30

“(3) If a candidate or party secretary receives, from a donor who is not an overseas person (as defined in **subsection (1)**), a donation funded from contributions that includes any contribution exceeding \$1,000 from an overseas person, the candidate or party secretary must, within 20 working days after notification of that fact under **section 207C**,—

35

“(a) give back to the donor the amount of the donation, or its value; or

- “(b) if this is not possible, pay the amount of the donation, or its value,—
- “(i) to the Chief Electoral Officer, in the case of a candidate donation; or
- “(ii) to the Electoral Commission, in the case of a party donation. 5
- “(4) All amounts received by the Chief Electoral Officer and the Electoral Commission under **subsection (2) or (3)** must be paid into a Crown Bank Account. 10
- “Compare: 2007 No 111 s 32
- “207L Offence relating to contravention of section 207K**
- “(1) A person who enters into an agreement, arrangement, or understanding with any other person that has the effect of circumventing **section 207K(2) or (3)** is guilty of— 15
- “(a) a corrupt practice if the circumvention is wilful; or
- “(b) an illegal practice in any other case.
- “(2) A candidate or party secretary who contravenes **section 207K(2) or (3)** is guilty of an illegal practice.
- “Compare: 2007 No 111 s 33
- “207M Records of candidate donations** 20
- “(1) A candidate must keep proper records of all candidate donations received by him or her.
- “(2) A candidate who fails, without reasonable excuse, to comply with **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$40,000. 25
- “Compare: 2007 No 111 s 34
- “207N Records of party donations**
- “(1) A party secretary must keep proper records of all party donations received by him or her.
- “(2) A party secretary who fails, without reasonable excuse, to comply with **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$40,000. 30
- “Compare: 2007 No 111 s 34

“207O Duty of Chief Electoral Officer in relation to donations

If the Chief Electoral Officer believes that any person has committed an offence against this subpart in relation to candidate donations or **subpart 5** of this Part, the Chief Electoral Officer must report the facts on which that belief is based to the New Zealand Police. 5

“Compare: 2007 No 111 s 35

“207P Duty of Electoral Commission in relation to donations

If the Electoral Commission believes that any person has committed an offence against this subpart in relation to party donations or **subpart 4 or 6** of this Part, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police. 10

“Compare: 2007 No 111 s 36

“Subpart 4—Donations protected from disclosure 15

“208 Interpretation

In this subpart, unless the context otherwise requires,—

“**authorised person** has the meaning given to it by **section 208F(3)** 20

“**donation protected from disclosure** means a donation made under **section 208A(2)** in accordance with **section 208A(3)**.

“Compare: 2007 No 111 s 37

“208A Method of making donation protected from disclosure

“(1) This section applies to any person who intends to make a donation in excess of \$1,000 to a party while preventing the disclosure of the person’s identity to— 25

“(a) the party concerned; and

“(b) the public generally.

“(2) A person to whom this section applies may send a donation in excess of \$1,000 by way of a cheque, cash, or a bank draft to the Electoral Commission. 30

“(3) A donation under **subsection (2)** must be accompanied by a statement identifying—

“(a) the name of the party that is to receive the donation; and 35

- “(b) the full name and address of the donor; and
- “(c) if the donation made by the donor includes or comprises contributions from others, the name and address of every person who has contributed in excess of \$1,000. 5
- “(4) The Electoral Commission may request the donor to provide any further information the Commission considers necessary to confirm the identity of the donor or other details provided by the donor, and the donor must take all reasonable steps to comply with such a request as soon as is practicable. 10
- “Compare: 2007 No 111 s 38
- “208B Limit on maximum amount of donations protected from disclosure**
- “(1) The maximum amount that a party may be paid in donations made to the Electoral Commission for the benefit of that party during a specified period is 10% (excluding any interest paid under **section 208E(2)**) of the maximum amount of election expenses allowed under **section 206B(1)** to be incurred by a party that is listed in the part of the ballot paper that relates to the party vote and that has a candidate contesting every electoral district. 20
- “(2) The maximum amount that a party may be paid in donations made to the Electoral Commission for the benefit of the party from the same donor during any specified period is 15% (excluding any interest paid under **section 208E(2)**) of the amount that may be paid to that party under **subsection (1)**. 25
- “(3) For the purposes of this section,—
- “(a) a **specified period** is—
- “(i) the period beginning on 9 November 2008 and ending with the close of the day before polling day for the next general election after that date; and 30
- “(ii) any subsequent period between polling day for one general election and polling day for the following general election: 35
- “(b) to avoid doubt, if there is a change in the name of a donor or party, the donor or party must be treated as the

same donor or party (as the case may be) as the donor or party was prior to the change of name.

“Compare: 2007 No 111 s 39

“208C Duty of Electoral Commission to provide advice on actual figures under section 208B 5

The Electoral Commission—

“(a) must, as soon as practicable after the commencement of this Act, publish on its Internet site, and by any other means the Commission considers appropriate, guidance specifying the relevant figures that constitute the maximum amounts referred to in **section 208B(1) and (2)**; and 10

“(b) may alter that guidance from time to time to reflect any changes in the relevant figures.

“Compare: 2007 No 111 s 40 15

“208D Duties of Electoral Commission on receipt of donation

“(1) The Electoral Commission, on receiving a donation under **section 208A(2)**, must pay it to the secretary of the party for whom it is intended, unless—

“(a) the requirements of **section 208A(3) or (4)** have not been complied with; or 20

“(b) payment of the donation would contravene a maximum amount referred to in **section 208B**.

“(2) If **subsection (1)(a)** applies, the Electoral Commission must,— 25

“(a) if the name and contact details of the donor are known or can be readily ascertained, return the donation to the donor:

“(b) in any other case, pay the donation into a Crown Bank Account. 30

“(3) If **subsection (1)(b)** applies, the Electoral Commission must,—

“(a) if the name and contact details of the donor are known or can be readily ascertained, return any portion of the donation that exceeds a maximum limit set out in **section 208B** to the donor: 35

“(b) in any other case, pay any portion of the donation that exceeds a maximum limit set out in **section 208B** into a Crown Bank Account.

“Compare: 2007 No 111 s 41

“208E Timing of payment to parties 5

“(1) The Electoral Commission must pay all outstanding amounts due to a party under **section 208D(1)**—

“(a) weekly, during the period between writ day and the return of the writ, at any general election:

“(b) monthly, at any other time. 10

“(2) If any interest is earned on a donation received under **section 208A(2)** for a party, that interest, so far as it can reasonably be calculated, must be added to—

“(a) any sum paid by the Electoral Commission to the secretary of that party; or 15

“(b) any sum returned by the Electoral Commission to the donor; or

“(c) any sum paid by the Electoral Commission into a Crown Bank Account.

“Compare: 2007 No 111 s 42 20

“208F Offence of prohibited disclosure

“(1) No person may disclose the name or other identifying details of a donor or contributor in respect of a donation made, or proposed to be made, under **section 208A(2)** in a manner that indicates or suggests that the person has made, or proposes to make, such a donation or contribution, to— 25

“(a) any party secretary or person involved in the administration of the affairs of the party for whom the donation is intended; or

“(b) any other person (other than an authorised person). 30

“(2) Every person who contravenes **subsection (1)** without reasonable excuse is guilty of an illegal practice.

“(3) In this section, **authorised person** means—

“(a) a member or employee or other person engaged by the Electoral Commission: 35

“(b) a donor or contributor and any officer, employee, relative, adviser, or agent of the donor or contributor:

- “(c) any other person to whom the identifying details must be supplied to enable the donation to be made (for example, an employee of a bank who processes a cheque by which the donation is made):
- “(d) any person to whom the identifying details must be supplied to comply with 1 or more of the Inland Revenue Acts (within the meaning of section 3(1) of the Tax Administration Act 1994): 5
- “(e) the Auditor-General:
- “(f) any other person entitled to the information in question in accordance with any search warrant, summons, or any process under rules of court, or in the course of any proceedings. 10
- “(4) Except as provided in this section, if there is any inconsistency between **subsection (1)** and any other enactment, **subsection (1)** prevails. 15
- “Compare: 2007 No 111 s 43

“208G Duty of Electoral Commission to report

- “(1) The Electoral Commission must, in the manner required by **subsection (2)**, report on— 20
- “(a) the total amounts received in donations under **section 208A(2)**:
- “(b) the amounts paid to a party secretary under **section 208D(1)** during the period being reported on:
- “(c) the amount returned to donors under **section 208D(2)(a) or (3)(a)** during the period being reported on: 25
- “(d) the amount paid into a Crown Bank Account under **section 208D(2)(b) or (3)(b)** during the period being reported on. 30
- “(2) The Electoral Commission must report on the matters set out in **subsection (1)**—
- “(a) in each annual report, in relation to the financial year to which the report relates; and
- “(b) quarterly, by publication on the Commission’s Internet site and by any other means the Commission considers appropriate, in respect of the preceding 3-month period. 35
- “Compare: 2007 No 111 s 44

“Subpart 5—Disclosure of candidates’
donations

“209 **Return of candidate donations**

- “(1) A candidate must, at the same time as filing a return of election expenses under **section 205K**, file with the Chief Electoral Officer a return setting out—
- “(a) the details specified in **subsection (2)** in respect of every candidate donation (other than a donation of the kind referred to in **paragraphs (c) and (d)**) received by him or her that, either on its own or when aggregated with all other donations made by or on behalf of the same donor for use in the same campaign, exceeds \$1,000 in sum or value; and
- “(b) whether **section 207C** applies to any donation, and if so, and to the extent known or ascertainable from the information supplied under that section, the details specified in **subsection (3)** in respect of every contribution referred to in **section 207C** notified to him or her that, either on its own or when aggregated with other contributions made by or on behalf of the same person for use in the same campaign, exceeds \$1,000 in sum or value; and
- “(c) the details specified in **subsection (4)** in respect of every anonymous candidate donation received by him or her exceeding \$1,000; and
- “(d) the details specified in **subsection (5)** in respect of every candidate donation, or contribution to a candidate donation, received by him or her from an overseas person exceeding \$1,000.
- “(2) The details referred to in **subsection (1)(a)** are—
- “(a) the name of the donor; and
- “(b) the address of the donor; and
- “(c) the amount of the donation; and
- “(d) the date the donation was received.
- “(3) The details referred to in **subsection (1)(b)** are—
- “(a) the name of the contributor; and
- “(b) the address of the contributor; and
- “(c) the amount of each contribution made by the contributor; and

- “(d) the date on which each related donation funded from contributions was made.
- “(4) The details referred to in **subsection (1)(c)** are—
- “(a) the date the donation was received; and
 - “(b) the amount of the donation; and 5
 - “(c) the amount paid to the Chief Electoral Officer under **section 207I(1)**, and the date that payment was made.
- “(5) The details referred to in **subsection (1)(d)** are—
- “(a) the date the donation or contribution was received; and
 - “(b) the amount of the donation or contribution; and 10
 - “(c) the amount paid to the overseas person or to the Chief Electoral Officer under **section 207K(2) or (3)**, and the date that payment was made.
- “(6) Every return filed under **subsection (1)** must be in the form required by the Chief Electoral Officer. 15
- “Compare: 2007 No 111 s 45
- “209A Nil return**
- If a candidate considers that there is no relevant information to disclose under **section 209**, the candidate must file a nil return under that section. 20
- “Compare: 2007 No 111 s 46
- “209B Offences relating to return of candidate donations**
- “(1) A candidate who fails, without reasonable excuse, to comply with **section 209** is liable on summary conviction to—
- “(a) a fine not exceeding \$40,000; and 25
 - “(b) if he or she has been elected, a further fine not exceeding \$400 for every day that he or she sits or votes in the House of Representatives until the return is filed.
- “(2) A candidate who files a return under **section 209** that is false in any material particular is guilty of— 30
- “(a) a corrupt practice if he or she 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) he or she had no intention to misstate or conceal the facts; and 35

“(ii) he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.

“Compare: 2007 No 111 s 48

“**209C Obligation to retain records necessary to verify return of candidate donations** 5

“(1) A candidate must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable a return under **section 209** 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 return or in relation to any matter to which the return relates. 10

“(2) A candidate who fails, without reasonable excuse, to comply with **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$40,000. 15

“Compare: 2007 No 111 s 47

“**209D Return of candidate donations to be sent by Chief Electoral Officer to Electoral Commission**

As soon as practicable after receiving a return filed under **section 209**, the Chief Electoral Officer must send a copy of the return to the Electoral Commission. 20

“Compare: 2007 No 111 s 49

“**209E Return of candidate donations to be publicly available**

“(1) The Chief Electoral Officer may publish, in any manner that the Chief Electoral Officer considers appropriate, every return filed under **section 209**. 25

“(2) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return received from the Chief Electoral Officer under **section 209D**.

“(3) During the public inspection period, the Chief Electoral Officer must make available for public inspection a copy of every return filed under **section 209**. 30

“(4) The Chief Electoral Officer may make inspection under **subsection (3)** subject to the payment of any charges that may be made under the Official Information Act 1982.

“Compare: 2007 No 111 s 50

“Subpart 6—Disclosure of parties’ donations 5

“**210 Annual return of party donations**

“(1) A party secretary must file with the Electoral Commission, by 30 April in each year, a return of the party donations setting out, for the year ending with the immediately preceding 31 December,— 10

“(a) the details specified in **subsection (2)** for every party donation (other than a donation of the kind referred to in **paragraphs (c) to (e)**) received by him or her that, either on its own or when aggregated with all other donations made by or on behalf of the same donor during the year, exceeds \$10,000 in sum or value; and 15

“(b) whether **section 207C** applies to any donation, and if so, and to the extent known or ascertainable from the information supplied under that section, the details specified in **subsection (3)** in respect of every contribution referred to in **section 207C** notified to him or her that, either on its own or when aggregated with other contributions made by or on behalf of the same person during the year, exceeds \$10,000 in sum or value; and 20

“(c) the details specified in **subsection (4)** in respect of every anonymous party donation received by him or her exceeding \$1,000; and 25

“(d) the details specified in **subsection (5)** in respect of every party donation, or contribution to a party donation, received by him or her from an overseas person exceeding \$1,000; and 30

“(e) the details specified in **subsection (6)** in respect of every payment of donations received from the Electoral Commission under **section 208D**.

“(2) The details referred to in **subsection (1)(a)** are— 35

“(a) the name of the donor; and

“(b) the address of the donor; and

“(c) the amount of the donation; and

- “(d) the date the donation was received.
- “(3) The details referred to in **subsection (1)(b)** are—
- “(a) the name of the contributor; and
- “(b) the address of the contributor; and
- “(c) the amount of each contribution made by the contribu- 5
tor; and
- “(d) the date on which each related donation funded from
contributions was made.
- “(4) The details referred to in **subsection (1)(c)** are—
- “(a) the date the donation was received; and 10
- “(b) the amount of the donation; and
- “(c) the amount paid to the Electoral Commission under
section 207I(2), and the date that payment was made.
- “(5) The details referred to in **subsection (1)(d)** are—
- “(a) the date the donation or contribution was received; and 15
- “(b) the amount of the donation or contribution; and
- “(c) the amount paid to the overseas person or to the Elect-
oral Commission under **section 207K(2) or (3)**, and
the date that payment was made.
- “(6) The details referred to in **subsection (1)(e)** are— 20
- “(a) the date the payment was received; and
- “(b) the amount of the payment; and
- “(c) the amount of interest included in the payment.
- “(7) Every return filed under **subsection (1)** must be—
- “(a) in the form required by the Electoral Commission; and 25
- “(b) accompanied by an auditor’s report obtained under **sec-
tion 210A**.
- “(8) Despite anything in **subsection (1)**, if a party secretary is re-
quired to file under that subsection a return of party donations 30
that relates to the year in which the party became registered,
that return is to relate to the period beginning with the date of
registration of the party and ending with 31 December of that
year.

“Compare: 2007 No 111 s 51

“210A Auditor’s report on annual return of party donations

- “(1) A party secretary must, before the Electoral Commission receives the return required by **section 210**, obtain from the auditor appointed under **section 206J** a report on the return.
- “(2) The auditor must state in the report whether, in the auditor’s opinion, the return fairly reflects the party donations received by the party secretary. 5
- “(3) The auditor must make any examinations that the auditor considers necessary.
- “(4) The auditor must specify in the report any case in which— 10
- “(a) the return does not, in the auditor’s opinion, fairly reflect the party donations received by the party secretary:
 - “(b) the auditor has not received from the party secretary all the information that the auditor requires to carry out his or her duties: 15
 - “(c) proper records of party donations have not, in the auditor’s opinion, been kept by the party secretary.
- “(5) The auditor—
- “(a) must have access at all reasonable times to all records, documents, and accounts that relate to the party donations and that are held by the party or the party secretary; and 20
 - “(b) may require the party secretary to provide any information and explanations that, in the auditor’s opinion, may be necessary to enable the auditor to prepare the report. 25

“Compare: 2007 No 111 s 52

“210B Nil return

If a party secretary considers that there is no relevant information to disclose under **section 210**, the party secretary must file a nil return under that section. 30

“Compare: 2007 No 111 s 53

“210C Return of party donation received from same donor exceeding \$20,000

- “(1) A party secretary must file with the Electoral Commission a return in respect of every party donation that exceeds \$20,000. 35

- “(2) A party secretary must file with the Electoral Commission a return in respect of every party donation that—
- “(a) the party secretary knows is from a donor who in the 12 months immediately preceding the date of receipt of the donation (the **last 12 months**) has made 1 or more previous donations; and 5
- “(b) when aggregated with all previous donations received from the donor in the last 12 months exceeds \$20,000.
- “(3) If a return is made under **subsection (2)**, the donations disclosed in that return must be disregarded when applying this section in relation to a party donation that is made after that return is filed. 10
- “(4) A return filed under **subsection (1)** must be in the form required by the Electoral Commission and set out—
- “(a) the name of the donor (if known); and 15
- “(b) the address of the donor (if known); and
- “(c) the amount of the donation; and
- “(d) the date the donation was received.
- “(5) A return filed under **subsection (2)** must be in the form required by the Electoral Commission and set out— 20
- “(a) the name of the donor; and
- “(b) the address of the donor; and
- “(c) the amount of the donation; and
- “(d) the amounts of all previous donations; and
- “(e) the date the donation was received; and 25
- “(f) the dates all previous donations were received.
- “(6) A return must be filed under **subsection (1) or (2)** within 10 working days of the donation being received by the party secretary. 30
- “Compare: 2007 No 111 s 54

“210D Offences relating to return of party donations

- “(1) A party secretary who fails, without reasonable excuse, to comply with **section 210 or 210C** commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.
- “(2) A party secretary who files a return under **section 210 or 210C** that is false in any material particular is guilty of— 35

- “(a) a corrupt practice if he or she filed the return knowing it to be false in any material particular; or
- “(b) an illegal practice in any other case unless the party secretary proves that—
- “(i) he or she had no intention to misstate or conceal the facts; and
- “(ii) he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.
- “Compare: 2007 No 111 s 56

“210E Obligation to retain records necessary to verify return of party donations

- “(1) A party secretary must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable returns under **sections 210 and 210C** 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.
- “(2) A party secretary who fails, without reasonable excuse, to comply with **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.
- “Compare: 2007 No 111 s 55

“210F Return of party donations to be publicly available

- “(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, the following returns and reports:
- “(a) a return filed under **section 210**; and
- “(b) a report obtained under **section 210A** accompanying the return referred to in **paragraph (a)**; and
- “(c) a return filed under **section 210C**.
- “(2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return and report referred to in **subsection (1)**.
- “(3) The Electoral Commission may make inspection under **subsection (2)** subject to the payment of any charges that may be made under the Official Information Act 1982.
- “Compare: 2007 No 111 s 57”.

7 New section 219 inserted

The following section is inserted above section 220:

“219 Payments for exhibition of election notices

“(1) No payment or contract for payment may be made to any elector on account of the exhibition of, or the use of any house, land, building, or premises for the exhibition of, any address, poster, or notice that promotes or procures the election of a candidate or candidates at an election. 5

“(2) **Subsection (1)** does not apply if it is the ordinary business of an elector to exhibit for payment posters and advertisements and the payment or contract is made in the ordinary course of that business. 10

“(3) If any payment or contract for payment is knowingly made in contravention of this section before, during, or after an election, the person making the payment or contract and, if he or she knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract is guilty of an illegal practice. 15

“Compare: 1993 No 87 s 219”.

8 New section 221 inserted

20

The following section is inserted after section 220:

“221 Advertisements for candidates and political parties

“(1) Subject to **subsections (2) and (3)**, no person may publish or cause or permit to be published in any newspaper, periodical, poster, or handbill, or broadcast or cause or permit to be broadcast by any radio or television station, any advertisement that— 25

“(a) is used or appears to be used to promote or procure the election of a constituency candidate; or

“(b) encourages or persuades or appears to encourage or persuade voters to vote for a party registered under Part 4. 30

“(2) A person may publish or cause or permit to be published an advertisement of the kind described in **subsection (1)(a)** if—

“(a) the publication of that advertisement is authorised in writing by the candidate or the candidate’s agent or, in the case of an advertisement relating to more than one 35

- candidate, the candidates or the party to which they belong; and
- “(b) the advertisement contains a statement setting out the true name of the person for whom or at whose direction it is published and the address of his or her place of residence or business. 5
- “(3) A person may publish or cause or permit to be published an advertisement of the kind described in **subsection (1)(b)** if—
- “(a) the publication of that advertisement is authorised in writing by the party secretary or his or her delegate; and 10
- “(b) the advertisement contains a statement setting out the true name of the person for whom or at whose direction it is published and the address of his or her place of residence or business.
- “(4) Subject to **subsections (2) and (3)**, a person who wilfully contravenes **subsection (1)** is guilty of an illegal practice. 15
- “(5) A candidate or the party secretary or his or her delegate will not be liable for an illegal practice under this section committed by an agent without the consent or connivance of the candidate or of the party secretary or his or her delegate, as the case may be. 20
- “(6) Nothing in this section restricts the publication of any news or comments relating to an election in a newspaper or other periodical or in a radio or television broadcast made by a broadcaster within the meaning of section 2(1) of the Broadcasting Act 1989. 25
- “Compare: 1993 No 87 s 221 (pre-20 December 2007)”.

9 New section 221B inserted

The following section is inserted after section 221A:

- “**221B Display of advertisement of specified kind** 30
- “(1) During the period beginning 2 months before polling day and ending with the close of the day before polling day, the display of an advertisement of a specified kind is not subject to—
- “(a) any prohibition or restriction imposed in any other enactment or bylaw, or imposed by any local authority, that applies in relation to the period when an advertisement of a specified kind may be displayed; or 35

- “(b) any prohibition or restriction imposed in any bylaw, or imposed by any local authority, that applies in relation to the content or language used in an advertisement of a specified kind.
- “(2) In this section, **advertisement of a specified kind** means an advertisement displayed in a public place or on private property that does not exceed 3 square metres in size and that—
- “(a) encourages or persuades, or appears to encourage or persuade, voters to vote for a party registered under Part 4; or
- “(b) is used, or appears to be used, to promote or procure the election of a candidate; but
- “(c) does not include—
- “(i) an advertisement published in any newspaper, periodical, or handbill, or in any poster less than 150 square centimetres in size; or
- “(ii) an advertisement broadcast by any television station or by any electronic means of communication.
- “(3) Nothing in this section limits or prevents the display before polling day of any advertisement relating to an election that complies with any prohibition or restriction imposed in any enactment or bylaw, or imposed by any local authority.
- “Compare: 1993 No 87 s 221B (pre-20 December 2007)”.
- 10 New section 224 substituted**
- Section 224 is repealed and the following section substituted:
- “224 Punishment for corrupt or illegal practice**
- “(1) Every person who is guilty of any corrupt practice is liable on conviction on indictment to either or both of the following:
- “(a) a term of imprisonment not exceeding 2 years;
- “(b) a fine not exceeding—
- “(i) \$100,000 in the case of a person who is a constituency candidate or a party secretary and who is convicted of any corrupt practice under **Part 6A**; or
- “(ii) \$40,000 in any other case.
- “(2) Every person who is guilty of any illegal practice is liable on conviction on indictment to a fine not exceeding—

- “(a) \$40,000 in the case of a person who is a constituency candidate or a party secretary and who is convicted of any illegal practice under **Part 6A**; or
- “(b) \$10,000 in any other case.
- “(3) **Subsection (1)** does not apply in relation to a corrupt practice under— 5
- “(a) section 201; or
- “(b) section 43 of the Citizens Initiated Referenda Act 1993.
- “Compare: 1993 No 87 s 224 (pre-20 December 2007); 2007 No 111 ss 141, 142”. 10
- 11 New section 226 substituted**
- Section 226 is repealed and the following section substituted:
- “226 Time limit for prosecutions**
- “(1) A prosecution under any of the following provisions must be commenced within 6 months of the date on which the return was required to be filed: 15
- “(a) **section 205N(1)**;
- “(b) **section 206N(1)**;
- “(c) **section 209B(1)**;
- “(d) **section 210D(1)**. 20
- “(2) A prosecution against any person for a corrupt practice or an illegal practice must be commenced—
- “(a) within 6 months of the date on which the prosecutor is satisfied that there is sufficient evidence to warrant the commencement of the proceedings; but 25
- “(b) not later than 3 years after the corrupt practice or illegal practice was committed.
- “Compare: 1993 No 87 s 226 (pre-20 December 2007); 2007 No 111 s 140”.
- 12 Section 226A repealed**
- Section 226A is repealed. 30
- 13 New sections 267A and 267B inserted**
- The following sections are inserted after section 267:
- “267A Regulations relating to advertisement of a specified kind**
- “(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make 35 regulations regulating—

- “(a) all or any of the following matters in relation to an advertisement of a specified kind:
- “(i) design:
 - “(ii) layout:
 - “(iii) shape: 5
 - “(iv) colour:
- “(b) the procedures to be followed by any person before displaying an advertisement of a specified kind.
- “(2) Regulations made under **subsection (1)(a)**—
- “(a) may be made only for the purpose of ensuring that an advertisement of a specified kind does not endanger the safety of road users; and 10
 - “(b) apply only during the period beginning 2 months before polling day and ending with the close of the day before polling day. 15
- “(3) Regulations made under **subsection (1)** may—
- “(a) impose different requirements for an advertisement of a specified kind depending on how it is published:
 - “(b) override or modify any other enactment and any bylaw or other instrument. 20
- “(4) In this section, **advertisement of a specified kind** has the same meaning as in **section 221B(2)**.
- “(5) This section is subject to **section 267B**.
 “Compare: 1993 No 87 s 267A (pre-20 December 2007)
- “**267B Requirements before Minister can recommend that regulations be made** 25
- “(1) The Minister may not recommend the making of any regulations under **section 267A(1)(a)** unless—
- “(a) the Minister has consulted with the Minister who is for the time being responsible for the administration of the Land Transport Act 1998; and 30
 - “(b) the Minister is satisfied that the regulations do not restrict the rights of candidates and political parties any more than is reasonably necessary to ensure that an advertisement of a specified kind does not endanger the safety of road users; and 35

- “(c) the recommendation is agreed by at least half of the parliamentary leaders of all political parties represented in Parliament; and
- “(d) the members of Parliament of the political parties whose parliamentary leaders agree with the Minister’s recommendation comprise at least 75% of all members of Parliament. 5
- “(2) The Minister may not recommend the making of any regulations under **section 267A(1)(b)** unless—
- “(a) the Minister has consulted with the Minister of Local Government; and 10
- “(b) the recommendation is agreed by at least half of the parliamentary leaders of all political parties represented in Parliament; and
- “(c) the members of Parliament of the political parties whose parliamentary leaders agree with the Minister’s recommendation comprise at least 75% of all members of Parliament. 15
- “Compare: 1993 No 87 s 267B (pre-20 December 2007)”.
- 14 Other amendments to principal Act** 20
The principal Act is amended in the manner indicated in **Schedule 1**.

Part 2

Repeal, consequential amendments, and transitional and savings provisions 25

Subpart 1—Repeal and consequential amendments

- 15 Repeal of Electoral Finance Act 2007**
The Electoral Finance Act 2007 (2007 No 111) is repealed.
- 16 Consequential amendments to other enactments** 30
The enactments listed in **Schedule 2** are amended in the manner indicated in that schedule.

Subpart 2—Transitional and savings provisions

- 17 Continuation of obligations and rights arising from election expenses in respect of 2008 general election**
- (1) This section applies where, in respect of the 2008 general election, a person would, but for the repeal of the Electoral Finance Act 2007 by **section 15** of this Act,—
- (a) be subject to a duty, liability, or restriction under any of the following provisions of the Electoral Finance Act 2007:
- (i) sections 82 and 85 to 92 (which relate to candidates' election expenses):
- (ii) sections 102 and 105 to 112 (which relate to parties' election expenses):
- (iii) sections 123 and 126 to 133 (which relate to third parties' election expenses); or
- (b) be entitled to seek relief under sections 83, 84, 103, 104, 124, and 125 of the Electoral Finance Act 2007 (which provide for the commencement of proceedings in respect of unpaid election expenses); or
- (c) be entitled to inspect a copy of a return under sections 92, 112, and 133 of the Electoral Finance Act 2007 (which provide for the publication and inspection of returns of election expenses filed for candidates, parties, and third parties).
- (2) The duty, liability, restriction, or entitlement must be complied with or recognised, as the case may be, and for that purpose the Electoral Finance Act 2007 continues in force as if it had not been repealed.
- (3) This section has effect despite **section 15** of this Act.
- 18 Continuation of obligations and rights arising under the Electoral Finance Act 2007 in respect of donations**
- (1) This section applies where, in respect of a candidate donation, party donation, or third party donation made before the commencement of this Act, a person would, but for the repeal of the Electoral Finance Act 2007 by **section 15** of this Act,—

- (a) be subject to a duty or liability under any of the following provisions of the Electoral Finance Act 2007:
- (i) sections 23 to 36 (which are general provisions relating to donations):
 - (ii) sections 38 to 44 (which relate to donations protected from disclosure): 5
 - (iii) sections 45 to 50 (which relate to the disclosure of candidate donations):
 - (iv) sections 51 to 57 (which relate to the disclosure of party donations): 10
 - (v) sections 58 to 62 (which relate to the disclosure of third party donations); or
- (b) be entitled to have a donation returned under either of the following provisions of the Electoral Finance Act 2007: 15
- (i) section 32 (which relates to the return of an overseas donation):
 - (ii) section 41 (which relates to the return of a donation protected from disclosure); or
- (c) be entitled to inspect a copy of a return under sections 20 50, 57, and 62 of the Electoral Finance Act 2007 (which provide for the publication and inspection of returns of donations filed for candidates, parties, and third parties).
- (2) The duty, liability, or entitlement must be complied with or 25 recognised, as the case may be, and for that purpose the Electoral Finance Act 2007 continues in force as if it had not been repealed.
- (3) This section has effect despite **section 15** of this Act.
- 19 Annual return of party donations for year ending 30**
31 December 2008
- (1) A party secretary is not required by **section 210** of the principal Act to file by 30 April 2009 an annual return of party donations for the year ending 31 December 2008.
- (2) **Subsection (1)** does not affect the obligations arising under 35 section 51 of the Electoral Finance Act 2007 as continued by **section 18** of this Act.

- 20 Annual return of party donations for year ending 31 December 2009**
- (1) A return of party donations filed by a party secretary under **section 210** of the principal Act for the year ending 31 December 2009 must include in the details required by that section any party donation that— 5
- (a) was received by the party financial agent during the period beginning on 1 January 2009 and ending on 28 February 2009; and
- (b) would otherwise have been required to be included in a return under section 51 of the Electoral Finance Act 2007 as continued by **section 18** of this Act. 10
- (2) Despite **section 18** of this Act, a party financial agent is not required to file by 30 April 2010 an annual return of party donations under section 51 of the Electoral Finance Act 2007 for the year ending 31 December 2009. 15
- (3) In this section, **party financial agent** means the financial agent of a party appointed under section 7 of the Electoral Finance Act 2007.
- 21 Transitional provision relating to section 210C of principal Act** 20
- Until 1 March 2010, **section 210C(3)** of the principal Act must be read as if the reference to **subsection (2)** of that section was a reference to **subsection (2)** of that section or section 54(2) of the Electoral Finance Act 2007. 25
- 22 Saving of section 19 of Interpretation Act 1999**
- Sections 17 and 18** of this Act do not limit section 19 of the Interpretation Act 1999 (which enables the investigation and prosecution of offences committed under the Electoral Finance Act 2007 before it was repealed). 30
- 23 Transitional regulations**
- Without limiting the powers conferred by sections 267 and **267A** of the principal Act, the Governor-General may from time to time, by order in Council, make regulations—
- (a) prescribing transitional and savings provisions concerning the coming into force of this Act, which may be in 35

- addition to or in place of the transitional and savings provisions of this subpart:
- (b) providing that subject to such conditions as may be specified in the regulations, during a specified transitional period,—5
 - (i) specified provisions of either the Electoral Finance Act 2007 or the principal Act (including definitions) do not apply:
 - (ii) specified terms have the meanings given to them by the regulations: 10
 - (iii) specified provisions repealed or amended or revoked by this Act are to continue to apply.
- 24 Expiry of section 23**
Section 23 expires on the close of 1 March 2011 and on the close of that date is repealed. 15
-

Schedule 1**s 14****Other amendments to principal Act****Section 4(1)**

Omit “and the Electoral Finance Act 2007”. 5

Section 5(c)

Repeal and substitute:

“(c) to supervise political parties’ compliance with the requirements of this Act relating to the filing of returns of donations and election expenses: 10

“(ca) to carry out such duties in relation to donations protected from disclosure as are prescribed in **subpart 4 of Part 6A**.”.

Section 18

Omit “and the Electoral Finance Act 2007”. 15

Section 63(2)

Paragraph (c)(v): omit “, being a person who is eligible for appointment under section 10 of the Electoral Finance Act 2007,” and substitute “eligible under **section 206K**”.

Paragraph (c)(viii): repeal. 20

Section 63(5)

Repeal.

Section 127A(4)

Paragraph (a): omit “section 106 of the Electoral Finance Act 2007” and substitute “**section 206I**”. 25

Paragraph (b): omit “section 107 of the Electoral Finance Act 2007” and substitute “**section 206L**”.

Section 128(1)(da)

Repeal.

Section 144(4)

Omit “sections 45 and 86 of the Electoral Finance Act 2007” and substitute “**sections 205K and 209**”.

Section 145(1)(ca)

Repeal. 5

Section 146F(4)

Omit “sections 45 and 86 of the Electoral Finance Act 2007” and substitute “**sections 205K and 209**”.

Section 146G(1)(da)

Repeal. 10

Section 153(1)

Omit “candidate whose name is included on a list submitted under section 127” and substitute “list candidate”.

Section 220

Omit “repaying any money expended in any such payment” and substitute “any election expenses incurred in excess of the maximum amount allowed by this Act, or for repaying any money expended in any such payment or expenses”. 15

Section 221A(1)

Omit “(not being an election advertisement as defined in section 5 of the Electoral Finance Act 2007)”. 20

Schedule 2**s 16****Consequential amendments****Citizens Initiated Referenda Act 1993 (1993 No 101)**

Section 24(5): insert “**205 to 210F, 221,**” after “204, ”. 5

Section 24A(3): omit “215 to 218” and substitute “**205 to 205S, 207 to 207P** (so far as they are applicable to candidate donations), **209 to 209E, 215 to 219, 221**”.

Summary Proceedings Act 1957 (1957 No 87)

Part 2 of Schedule 1: insert the following item after the item relating to section 218 of the Electoral Act 1993: 10

219 Payments for exhibition of election notices

Part 2 of Schedule 1: insert the following item after the item relating to section 220 of the Electoral Act 1993:

221 Advertisements for candidates and political parties

Part 2 of Schedule 1: omit the items relating to the Electoral Finance Act 2007. 15