

# **Parliamentary Service Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The Bill provides a meaning of the term funding entitlements for parliamentary purposes for the Parliamentary Service Act 2000.

Following the Controller and Auditor-General's 2006 report on his inquiry into advertising expenditure incurred by the Parliamentary Service in the 3 months before the 2005 General Election, legislation was needed to give clarity to the term. The Bill provides a permanent meaning of the term currently provided for in the Parliamentary Service (Continuation of Interim Meaning of Funding for Parliamentary Purposes) Act 2009 that expires on 31 December 2010.

The meaning of the term has been developed in the context of the Government's electoral finance reform and the resulting legislation to amend the Electoral Act 1993.

The meaning of the term funding entitlements for parliamentary purposes includes funding for—

- the performance by a member of Parliament of his or her role and functions as a member of Parliament:
- the performance by a parliamentary party of its role and functions as a parliamentary party:

- the provision of travel, accommodation, and attendance services available to members of Parliament and their families in accordance with a determination under the Civil List Act 1979 or a direction under the Parliamentary Service Act 2000;
- the provision of communications services (other than services including electioneering) available to members of Parliament and their families in accordance with a determination under the Civil List Act 1979 or a direction under the Parliamentary Service Act 2000;
- the provision of services and resources to support electoral candidates in accordance with directions made by the Speaker under the Parliamentary Service Act 2000;
- the provision of existing benefits or privileges to former members of Parliament and members of their families.

Electioneering is defined to mean—

- any communication that explicitly—
  - seeks votes for particular persons or political parties; or
  - encourages people to join particular political parties; or
  - solicits subscriptions or other financial support; or
  - supports voting for one of the answers to the precise question to be put to voters in an indicative referendum initiated under the Citizens Initiated Referenda Act 1993; or
  - supports voting for one of the responses to be put to electors in a government initiated referendum;
- an election advertisement published during the regulated period in relation to a general election;
- a referendum advertisement published during the regulated period in relation to a government initiated referendum.

Funding entitlements for parliamentary purposes does not include the provision of travel, accommodation, and communication services in accordance with any determination made by the Speaker of the House of Representatives under section 20A of the Civil List Act 1979 in respect of members of Parliament participating in the official inter-parliamentary travel programme.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* provides that the Bill comes into force on 1 January 2011.

*Clause 3* provides that the Bill amends the Parliamentary Service Act 2000.

*Clause 4* amends the interpretation section to reflect the amendments made by the Bill. Key terms relevant to the meaning of funding entitlements for parliamentary purposes are introduced, including—

- election advertisement, which has the same meaning as given to it by the Electoral (Finance Reform and Advance Voting) Amendment Bill:
- referendum advertisement, which relates only to a government initiated referendum and means an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to vote or not to vote in a particular way in such a referendum:
- regulated period, in relation to a general election, which has the same meaning as given to it by the Electoral (Finance Reform and Advance Voting) Amendment Bill:
- regulated period, in relation to a government initiated referendum, which means the period (if any) specified in an enactment as being the regulated period for the referendum.

*Clause 5* inserts *new sections 3A to 3D*. *New section 3A* sets out a permanent meaning of the term funding entitlements for parliamentary purposes. It is to the same effect as the meaning given by section 4 of the Parliamentary Service (Continuation of Interim Meaning of Funding for Parliamentary Purposes) Act 2009 (which will expire on 31 December 2010) except that the following 4 types of communication are added to the purposes for which funding is excluded (collectively defined as electioneering). These are—

- a communication that explicitly supports voting for one of the answers to the question to be put in an indicative referendum promoted under the Citizens Initiated Referenda Act 1993:
- a communication that explicitly supports voting for one of the responses to be put to electors in a government initiated referendum:
- an election advertisement published within the regulated period in relation to a general election:

- a referendum advertisement published within the regulated period in relation to a government initiated referendum.

*New section 3B* provides for the apportionment of expenses for the publication of an election advertisement or a referendum advertisement both before and during a regulated period. The portion of the expenses attributed to the publication of the advertisement during the regulated period is not fundable as being for a parliamentary purpose (*new section 3A(2)(d)*).

*New section 3C* provides for the opinion of the Electoral Commission given under new section 204J(3) of the Electoral Act 1993 (as proposed to be inserted in that Act by clause 7 of the Electoral (Finance Reform and Advance Voting) Amendment Bill) to be taken into account in deciding whether an advertisement is an election advertisement for the purposes of *new section 3A(2)(b)* and therefore outside what is fundable as being for a parliamentary purpose. New section 204J of the Electoral Act 1993 provides that the Electoral Commission must, if requested to do so by any person, provide advice on whether in its opinion an advertisement that a promoter proposes to promote is an election advertisement for the purposes of that Act.

*New section 3D* provides that all determinations of the Speaker of the House of Representatives under section 20A of the Civil List Act 1979 (which set out the travel, accommodation, attendance, and communications services available to members of Parliament and members of their families) must be interpreted consistently with *new sections 3A and 3B*.

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*Hon Gerry Brownlee*

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Parliamentary Service Amendment Act **2010**.

- 2 Commencement**  
This Act comes into force on 1 January 2011.
- 3 Principal Act amended**  
This Act amends the Parliamentary Service Act 2000.
- 4 Interpretation** 5  
Section 3 is amended by inserting the following definitions in their appropriate alphabetical order:  
 “**election advertisement** has the meaning given to it by **section 3A** of the Electoral Act 1993 (as inserted by **section 5** of the **Electoral (Finance Reform and Advance Voting) Amendment Act 2010**) 10  
 “**electioneering** means—  
 “(a) a communication of the kind described in **section 3A(2)(a)**; and  
 “(b) an advertisement of the kind described in **section 3A(2)(b)**; and 15  
 “(c) an advertisement of the kind described in **section 3A(2)(c)**  
 “**funding entitlements for parliamentary purposes** has the meaning given to it by **section 3A** 20  
 “**government initiated referendum** means a binding or indicative referendum initiated by the Government  
 “**referendum advertisement** means an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to vote, or not to vote, in a particular way in a government initiated referendum 25  
 “**regulated period**, in relation to a general election, has the meaning given to it by **section 3B(2) and (3)** of the Electoral Act 1993 (as inserted by **section 5** of the **Electoral (Finance Reform and Advance Voting) Amendment Act 2010**) 30  
 “**regulated period**, in relation to a government initiated referendum, means the period (if any) specified in an enactment as being the regulated period for the referendum”.
- 5 New sections 3A to 3D inserted** 35  
The following sections are inserted after section 3:

- “3A Meaning of funding entitlements for parliamentary purposes**
- “(1) In this Act, unless the context otherwise requires, **funding entitlements for parliamentary purposes** includes funding for all or any of the following purposes: 5**
- “(a) the performance by a member of Parliament of his or her role and functions as a member of Parliament: 5**
  - “(b) the performance by a recognised party of its role and functions as a recognised party: 10**
  - “(c) the provision of travel, accommodation, and attendance services in accordance with any determination made by the Speaker of the House of Representatives under section 20A of the Civil List Act 1979 or any direction given by the Speaker of the House of Representatives under this Act: 15**
  - “(d) the provision of communications services (other than services including electioneering) in accordance with any determination made by the Speaker of the House of Representatives under section 20A of the Civil List Act 1979 or any direction given by the Speaker of the House of Representatives under this Act: 20**
  - “(e) the provision of services and resources to support electoral candidates to whom section 9C applies in accordance with directions given by the Speaker under section 9B: 25**
  - “(f) the provision of benefits or privileges of a specified kind for former members of Parliament and members of their families in accordance with an appropriation by Parliament of money for that purpose. 25**
- “(2) However, **funding entitlements for parliamentary purposes** does not include funding for— 30**
- “(a) any communication that explicitly—**
    - “(i) seeks support for the election of a particular person or people; or**
    - “(ii) seeks support for the casting of a party vote for a particular political party or political parties; or 35**
    - “(iii) encourages a person to become a member of a particular political party or political parties; or**

- “(iv) solicits subscriptions or other financial support; or
- “(v) seeks support for casting a vote for one of the answers to the precise question to be put to voters in an indicative referendum initiated under the Citizens Initiated Referenda Act 1993; or
- “(vi) seeks support for casting a vote for one of the responses to a proposal to be put to electors in a government initiated referendum; or
- “(b) an election advertisement published during the regulated period in relation to a general election, regardless of whether all or any part of an expense in relation to the advertisement is incurred or paid before, during, or after the regulated period in relation to a general election; or
- “(c) a referendum advertisement published during the regulated period in relation to a government initiated referendum, regardless of whether all or any part of an expense in relation to the advertisement is incurred or paid before, during, or after the regulated period in relation to a government initiated referendum; or
- “(d) expenses attributed to the publication of an election advertisement or a referendum advertisement during the regulated period in accordance with **section 3B**; or
- “(e) the provision of travel, accommodation, and communications services in accordance with any determination made by the Speaker of the House of Representatives under section 20A of the Civil List Act 1979 in respect of members of Parliament participating in the official inter-parliamentary travel programme.
- “3B Apportionment of funding for election advertisement or referendum advertisement published both before and during regulated period**
- “(1) This section applies if—
- “(a) an election advertisement is published—
- “(i) before the regulated period in relation to a general election and continues to be published during the regulated period; or



- “(ii) both before and during the regulated period in relation to a general election; or
- “(b) a referendum advertisement is published—
- “(i) before the regulated period in relation to a government initiated referendum and continues to be published during the regulated period; or
- “(ii) both before and during the regulated period in relation to a government initiated referendum.
- “(2) If this section applies,—
- “(a) the election advertisement is deemed to be published during the regulated period in relation to the general election, or (as the case may be) the referendum advertisement is deemed to be published during the regulated period in relation to the government initiated referendum; but
- “(b) the expenses for the publication of the advertisement must be apportioned so that only a fair proportion of the expenses is attributed to the publication of the advertisement during the regulated period.
- “**3C Opinion given by Electoral Commission may be taken into account in determining whether advertisement is election advertisement**
- An opinion given to any person by the Electoral Commission under **section 204J(3)** of the Electoral Act (as inserted by **section 7** of the **Electoral (Finance Reform and Advance Voting) Amendment Act 2010**) may be taken into account in determining whether an advertisement is an election advertisement for the purposes of **section 3A(2)(b)** of this Act.

**“3D Interpretation of determinations under section 20A of Civil List Act 1979**

All determinations made by the Speaker under section 20A of the Civil List Act 1979 must be interpreted consistently with **sections 3A and 3B.**”

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