

House of Representatives

Supplementary Order Paper

Tuesday, 4 December 2007

Electoral Finance Bill

Proposed amendments

Hon Annette King, in Committee, to move the following amendments:

Part 1

Clause 4(1)

Definition of **broadcast**: to omit this definition (lines 4 and 5 on page 8).

Paragraph (b) of the definition of **publish**: to insert after “display” (line 23 on page 10) “, to the public”.

Paragraph (e) of the definition of **publish**: to insert after “broadcast” (line 27 on page 10) “(for example, in the form of a radio or television broadcast)”.

Paragraph (g) of the definition of **publish**: to insert after “disseminate” (line 29 on page 10) “to the public”.

Paragraph (i) of the definition of **publish**: to omit this paragraph (line 33 on page 10).

Clause 5(2)(d)

To omit this paragraph (lines 28 and 29 on page 13) and substitute the following paragraph:

- (d) any content of a radio or television programme, other than advertising material, that has been selected by, or with the authority of, a broadcaster (within the meaning of the Broadcasting Act 1989) solely for the purpose of informing, enlightening, or entertaining its audience:

Clause 17(a)(i)

To omit “writ day” (lines 17 and 18 on page 23) and substitute “the 21st day before polling day”.

Part 2

Clause 22(1)

To insert the following definitions (after line 10 on page 27):

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—

- (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 1 or more intermediaries, trustees, or nominees); and
- (b) would have been a donation if it had been given directly to the candidate, party, or third party; and
- (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—

- (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

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

Clause 23A

To omit this clause (lines 1 to 24 on page 31) and substitute the following clause:

23A Contributors to be identified

- (1) This section applies to a donation that is funded from contributions.
- (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
 - (c) if 1 or more contributions are each in sum or value more than \$1,000, disclose the following information about those contributions:
 - (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—
 - (a) the name and address of each contributor of those contributions, and whether each contributor is an overseas person within the meaning of **section 25C(1)**; and
 - (b) the amount of each contributor’s contribution.
- (4) The financial agent must give back to the donor the entire amount of the donation, or its entire value, if the financial agent knows, or has reasonable grounds to believe, that the donor has failed to comply with **subsection (2)** in any respect.
- (5) For the purposes of any of **sections 29, 35, and 47** any amount given back by the financial agent under **subsection (4)** is taken not to have been received by the financial agent.

Clause 27

To add (line 21 on page 35) “, unless the Chief Electoral Officer considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police”.

Clause 28

To add (line 27 on page 35) “, unless the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police”.

Clause 53

Subclause (1): to omit “person” (line 1 on page 58) and substitute “promoter”.

Subclause (5): to omit this subclause (lines 11 and 12 on page 59) and substitute the following subclause:

- (5) Every promoter is guilty of an illegal practice who wilfully contravenes **subsection (1)**.

Clause 57A

To add (line 27 on page 62) “, unless the Chief Electoral Officer or the Electoral Commission, as the case may be, considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police”.

Clause 77

To add (line 19 on page 74) “, unless the Chief Electoral Officer considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police”.

Clause 96

To add (line 19 on page 85) “, unless the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police”.

Clause 116

To add (line 27 on page 96) “, unless the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police”.

Explanatory note

This Supplementary Order Paper amends the following provisions of the Electoral Finance Bill:

- *clause 4(1)* is amended by omitting *paragraph (i)* from the definition of **publish** so as to narrow this term to particular types of publishing, and by omitting the definition of **broadcast** so as to leave it with its ordinary meaning. *Paragraphs (b) and (g)* of the definition of **publish** are amended to clarify that those paragraphs relate to display or dissemination to the public:
- *clause 5(2)* is amended, consequential to the amendment to *clause 4(1)*, to substitute a new **paragraph (d)**, for the exclusion relating to broadcasts:
- *clause 17* is amended to provide that where a general election is to be held in a year in which Parliament is due to expire, the period during which a promoter may not be listed as a third party commences on the 21st day before polling day, instead of on writ day:
- *clause 22* is amended by inserting definitions of **contribution** and **contributor**. In general terms, a contribution is any thing given towards a donation in the knowledge or expectation that it will be applied to fund the donation. A contributor is the person who makes the contribution and who beneficially holds what is contributed. This eliminates trustees and other intermediaries for disclosure purposes:
- *clause 23A* provides for the disclosure of contributions contained in donations. When making a donation, the donor must disclose the total of those contributions that are \$1,000 or less as well the total of those contributions that are more than \$1,000. For the contributions over \$1,000, the donor must disclose the name and address of each contributor, whether the contributor is an overseas person, and the amount of each contribution. If the disclosure requirements are not complied with, or if the financial agent has reasonable grounds to believe that they have not been complied with, the financial agent must return the entire donation:
- *clauses 27, 28, 57A, 77, 96, and 116* are amended to provide that the Chief Electoral Officer and Electoral Commission are not under a duty to report a suspected offence against relevant provisions of the Bill to the New Zealand Police if the Chief Electoral Officer or the Electoral Commission, as the case may be, considers that the offence is so inconsequential that there is no public interest in doing so:
- *clause 53* is amended so that *subclause (1)*, which sets out the conditions that must be met before an election advertisement is published, applies

only to promoters and not to the general public. *Subclause (5)* is consequentially amended.
