

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 **candidate advertisement**: to insert after “graphics” (lines 9 and 10 on page 8) “, or both,”.

Definition of **party advertisement**: to insert after “graphics” (line 17 on page 9) “, or both,”.

Paragraph (a) of the definition of **public inspection period**: to insert after “receipt” (line 14 on page 10) “by the Chief Electoral Officer or the Electoral Commission, as the case may be,”.

Paragraph (b) of the definition of **public inspection period**: to insert after “receipt” (line 17 on page 10) “by the Chief Electoral Officer or the Electoral Commission, as the case may be,”.

Clause 5(2)(da)

To omit “website” in each place where it appears (lines 31 and 33 on page 13) and substitute in each case “Internet site”.

Clause 6(2)(b)(ii)

To insert after “New Zealand” (line 1 on page 16) “for a period exceeding 10 working days”.

Clause 7

Subclause (1): to omit “in relation to the party’s election campaign” (lines 22 and 23 on page 16).

Subclause (2): to omit “the Electoral Finance Act 2007” (lines 25 and 26 on page 16) and substitute “this Act”.

Subclause (2)(b)(ii): to insert after “New Zealand” (line 34 on page 16) “for a period exceeding 10 working days”.

Subclause (3): to omit “the Electoral Finance Act 2007” (lines 2 and 3 on page 17) and substitute “this Act”.

Clause 8

To insert the following subclause after *subclause (3)* (after line 28 on page 17):

- (3A) A third party may at any time appoint a new financial agent for the third party.

Clause 14(3)

To omit “non-contesting party” (line 31 on page 20) and substitute “**non-contesting party**”.

Clause 16

Subclause (3)(b)(iii): to omit “application complies with **section 14**” (line 22 on page 22) and substitute “applicant is eligible under **section 14** to be listed as a third party”.

Subclause (4)(a): to omit “party” in the first place where it appears (line 27 on page 22) and substitute “political party”.

Subclause (4)(a)(ii): to omit “of constituency candidates with the Chief Electoral Officer” (lines 31 and 32 on page 22).

Subclause (4)(b): to omit “party” in the first place where it appears (line 37 on page 22) and substitute “political party”.

Subclause (4)(b)(ii): to omit “of candidates” (line 4 on page 23).

Clause 17

To insert after “promoter” (line 13 on page 23) “as a third party”.

Clause 18(1)(ab)

To omit “**section 16(4)(b)**” (line 29 on page 23) and substitute “that subsection”.

Clause 19(2)

To omit “to refuse” (lines 18 and 19 on page 24) and substitute “for refusing”.

Clause 21(1)(b)(iii)

To omit “confirmation” (lines 21 and 22 on page 25) and substitute “notice”.

*Part 2**Clause 22(2)*

To insert after “**subparts 1A to 4**” (line 4 on page 26) “of this Part”.

Definition of **specified amount**: to omit this definition (line 27 on page 28).

Clause 22(4)

To omit “purpose” (line 4 on page 30) and substitute “purposes”.

Clause 22A

To omit this clause (lines 11 to 20 on page 30) and substitute the following clause:

22A 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 good or service donated or contributed.

Clause 23C(2)

To omit “**or (c)**” (line 6 on page 32).

Clause 24

Subclause (2): to insert after “party secretary,” in each place where it appears (lines 25 and 28 on page 32) “candidate,”.

Subclause (2): to omit “the party” in the first place where it appears (line 26 on page 32) and substitute “a party”.

Subclause (3): to insert after “donor to” (line 4 on page 33) “the”.

Clause 25B

Heading to clause 25B: to omit “**anonymous donation**” (line 30 on page 33) and substitute “**contravention of section 25A**”.

Subclause (1): to omit “which” (line 32 on page 33) and substitute “that”.

Clause 25C

The definitions of **contribution** and **donation** in *subclause (1)*: to omit these definitions (lines 9 and 10 on page 34).

To insert the following subclause after *subclause (2)* (after line 29 on page 34):

- (2A) If a financial agent receives, from a donor who is not an overseas person (within the meaning of **section 25C(1)**), a donation funded from contributions that include any contribution exceeding \$1,000 from an overseas person, the financial agent must, within 20 working days after notification of that fact under **section 23A**,—
 - (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 or third party donation.

Subclause (3): to insert after “**subsection (2)**” (line 31 on page 34) “or **(2A)**”.

Clause 25D

Heading to clause 25D: to omit “**overseas donation**” (line 1 on page 35) and substitute “**contravention of section 25C**”.

Subclause (1): to omit “which has the effect of circumventing **section 25C(2)**” (lines 3 and 4 on page 35) and substitute “that has the effect of circumventing **section 25C(2) or (2A)**”.

Subclause (2): to omit “**section 25C(3)**” (line 7 on page 35) and substitute “**section 25C(2) or (2A)**”.

Clause 27

To insert after “**subpart 2**” (line 19 on page 35) “of this Part”.

Clause 28

To insert after “**4**” (line 26 on page 35) “of this Part”.

Clause 28B

Subclause (1): to omit “in sum or value” (line 9 on page 36).

Subclause (2): to omit “in sum and value” (line 15 on page 36) and substitute “by way of a cheque, cash, or a bank draft”.

Subclause (3)(a): to omit “who” (line 19 on page 36) and substitute “that”.

Subclause (3)(c): to omit “in sum or value” (lines 24 and 25 on page 36).

Clause 28C

Subclause (1): to omit “in sum or value” (line 34 on page 36).

Subclause (2): to omit “in sum or value” (lines 9 and 10 on page 37).

Subclause (3): to omit “in sum or value” (line 17 on page 37).

Subclause (4): to omit “in sum or value” (line 23 on page 37).

Clause 28C(5)

Paragraph (b): to omit this paragraph (lines 35 to 37 on page 37) and substitute the following paragraph:

- (b) to avoid doubt, if there is a change in the name of a donor, political party, or third party, the donor, political party, or third party must be treated as the same donor, political party, or third party (as the case may be) as the donor, political party, or third party was prior to the change of name.

Paragraph (c): to omit this paragraph (lines 1 to 3 on page 38).

Clause 28D

Paragraph (a): to omit “website” (line 8 on page 38) and substitute “Internet site”.

Clause 28E

Subclause (1)(b): to omit “**section 28D**” (line 21 on page 38) and substitute “**section 28C**”.

Subclause (2)(a): to omit “is” (line 23 on page 38) and substitute “are”.

Subclause (3)(a): to omit “is” (line 29 on page 38) and substitute “are”.

Subclause (3)(a): to omit “**section 28D**” (lines 31 and 32 on page 38) and substitute “**section 28C**”.

Subclause (3)(b): to omit “**section 28D**” (line 34 on page 38) and substitute “**section 28C**”.

Clause 28G

Subclause (1)(a): to omit “, office holder, or other person involved in the administration of the” (line 22 and 23 on page 39) and substitute “or person involved in the administration of the affairs of the”.

Clause 29(1)

Paragraph (a): to omit “the specified amount” (lines 12 and 13 on page 41) and substitute “\$1,000 in sum or value”.

Paragraph (ab): to insert after “if so,” (line 14 on page 41) “and to the extent known or ascertainable from the information supplied under that section,”.

Paragraph (ab): to omit “during the regulated period exceeds \$1,000” (line 19 on page 41) and substitute “for use in the same campaign exceeds \$1,000 in sum or value”.

Clause 29(2A)(d)

To omit this paragraph (lines 6 and 7 on page 42) and substitute the following paragraph:

- (d) the date on which each related donation funded from contributions was made.

Clause 29(3A)(c)

To omit “**section 25B(2)**” (line 19 on page 42) and substitute “**section 25C(2) or (2A)**”.

Clause 35(1)

Paragraph (a): to omit “the specified amount” (lines 25 and 26 on page 45) and substitute “\$10,000 in sum or value”.

Paragraph (ab): to insert after “if so,” (line 27 on page 45) “and to the extent known or ascertainable from the information supplied under that section,”.

Paragraph (ab): to omit “period covered by the return exceeds \$10,000” (lines 32 and 33 on page 45) and substitute “year exceeds \$10,000 in sum or value”.

Clause 35(2A)(d)

To omit this paragraph (lines 22 and 23 on page 46) and substitute the following paragraph:

- (d) the date on which each related donation funded from contributions was made.

Clause 35(3A)(c)

To omit “**section 25B(2)**” (line 8 on page 47) and substitute “**section 25C(2) or (2A)**”.

Clause 40

Heading to clause 40: to omit “**returns**” (line 33 on page 49) and substitute “**return**”.

Clause 47(1)

Paragraph (a): to omit “during the regulated period, exceeds the specified amount” (lines 22 and 23 on page 53) and substitute “in respect of the same general election, exceeds \$5,000 in sum or value”.

Paragraph (ab): to insert after “if so,” (line 24 on page 53) “and to the extent known or ascertainable from the information supplied under that section,”.

Paragraph (ab): to insert after “**section 23A**” in the second place where it appears (line 26 on page 53) “notified”.

Paragraph (ab): to omit “during the regulated period exceeds \$5,000” (lines 28 and 29 on page 53) and substitute “in respect of the same general election exceeds \$5,000 in sum or value”.

Clause 47(2)(e)

To omit this paragraph (lines 22 to 24 on page 54).

Clause 47(2AA)(d)

To omit this paragraph (lines 30 and 31 on page 54) and substitute the following paragraph:

- (d) the date on which each related donation funded from contributions was made.

Clause 47(2B)(c)

To insert after “**section 25C(2)**” (line 9 on page 55) “**or (2A)**”.

Clause 53(1AA)

To omit “day. Section” (line 28 on page 57) and substitute “day; section”.

Clause 54(2)

To omit “limits set by” (line 24 on page 59).

Clause 55

Subclause (1): to insert after “unless the” (line 32 on page 59) “publication of the”.

Subclause (2): to insert after “unless the” (line 4 on page 60) “publication of the”.

Subclause (3): to insert after “unless the” (line 12 on page 60) “publication of the”.

Subclause (3)(a): to omit “either” (line 13 on page 60).

Subclause (3)(a): to omit “or by the financial agent of the party to which those candidates belong” (lines 14 and 15 on page 60).

Clause 55B

To add the following subclause as subclause (2) (after line 12 on page 61):

- (2) To avoid doubt, **subsection (1)** does not—
 - (a) prevent any broadcaster from broadcasting any election programme, or Television New Zealand or Radio New Zealand from broadcasting opening or closing addresses, under Part 6 of the Broadcasting Act 1989; or
 - (b) prevent any person or body referred to in **subsection (1)** that is in the business of broadcasting or publishing advertising material, from publishing or causing or permitting to be published an election advertisement in the course of business; or
 - (c) prevent any individual referred to in **subsection (1)** who is or desires to become a candidate for election as a member of Parliament from publishing or causing or permitting to be published an election advertisement relating in whole or in part to his or her election campaign.

Clause 58

Definition of **publish**: to omit “publish” (line 19 on page 63) and substitute “**publish**”.

Clause 59

Subclause (2)(e): to omit “the cost incurred by any person in” (line 15 on page 64).

Subclause (2A): to omit “any” (line 19 on page 64) and substitute “**any**”.

Subclause (2A)(b)(ix): to omit “buildings” (line 6 on page 65) and substitute “building”.

Subclause (2A)(b)(ix): to omit “**section 59**” (line 9 on page 65) and substitute “this section”.

Clause 59A

To omit “means, in relation to a candidate, the total of the following expenses:” (lines 6 and 7 on page 66) and substitute “means the total election expenses in relation to a candidate, whether paid or incurred before, during, or after the regulated period and includes—”.

Paragraph (a): to omit this paragraph (lines 8 and 9 on page 66).

Clause 62(3)

To omit this subclause (lines 15 to 17 on page 67).

Clause 65(4)(a)

To omit “(as defined in **section 80**)” (line 36 on page 68).

Clause 66

Subclause (2): to omit “(as defined in **section 80**)” (line 13 on page 69).

Subclause (3)(b): to omit “10” (line 19 on page 69) and substitute “in at least 10”.

The definition of **list candidate** in *subclause (4)*: to omit “**section 22**” (line 25 on page 69) and substitute “**section 22(1)**”.

Clause 72

Subclause (1): to omit “incurred in relation to candidate activities undertaken during the regulated period” (lines 20 to 22 on page 71).

Subclause (2): to omit “be” (line 1 on page 72).

Subclause (2)(a): to omit “in” (line 2 on page 72) and substitute “be in”.

Clause 74

To insert after “information” (lines 13 and 14 on page 73) “to disclose”.

Clause 81

Subclause (1)(b)(ii): to omit “or applied for” (line 4 on page 77) and substitute “for or applied towards”.

Subclause (2A): to omit “any” (line 28 on page 77) and substitute “**any**”

Subclause (2A)(b)(ix): to omit “buildings” (line 14 on page 78) and substitute “building”.

Subclause (2A)(b)(ix): to omit “**section 59**” (line 17 on page 78) and substitute “this section”.

Clause 81A

To omit this clause (lines 12 to 18 on page 79) and substitute the following clause:

81A Meaning of party's election expenses

In this subpart, **party's election expenses**—

- (a) means the total election expenses in relation to a party, whether paid or incurred before, during, or after the regulated period; and
- (b) includes any election expense of an election activity that is apportioned to the party under **section 65 or 85A**.

Clause 84(4)

To omit this subclause (lines 22 to 24 on page 80).

Clause 85(1)

To omit “**to**” (line 28 on page 80) and substitute “**and**”.

Clause 91(1)

To omit “of the party's election expenses incurred in respect of a party activity undertaken during the regulated period” (lines 13 and 14 on page 83) and substitute “setting out the party's election expenses”.

Clause 99

Paragraph (b) of the definition of **third party activity**: to omit “a election” (line 7 on page 87) and substitute “an election”.

Clause 100

Subclause (1)(b)(ii): to omit “or applied for” (line 20 on page 87) and substitute “for or applied towards”.

Subclause (2A): to omit “any” (line 1 on page 88) and substitute “**any**”.

Subclause (2A)(b)(ix): to omit “**section 59**” (line 27 on page 88) and substitute “this section”.

Clause 100A

To omit this clause (lines 17 to 23 on page 89) and substitute the following clause:

100A Meaning of third party's election expenses

In this subpart, **third party's election expenses**—

- (a) means the total election expenses in relation to a third party, whether paid or incurred before, during, or after the regulated period; and
- (b) includes any election expense of an election activity that is apportioned to a third party under **section 105A**.

Clause 103(3)

To omit this subclause (lines 24 to 26 on page 90).

Clause 111(1)

To omit “election expenses incurred in respect of a third party activity undertaken during the regulated period” (lines 11 to 13 on page 94) and substitute “third party's election expenses”.

Clause 117

Heading to clause 117: to omit “**party,**” (line 23 on page 97) and substitute “**party's**”.

Part 3

Clause 122(2)

To insert after “practice or” (line 28 on page 100) “an”.

Clause 130A(4)

To insert after “applies,” (line 10 on page 105) “a reference to”.

Clause 131

To omit “enactment specified in the **Schedule** is” (line 18 on page 105) and substitute “enactments specified in the **Schedule** are”.

Clause 149A

New section 128(1)(da): to omit “the list” (line 13 on page 110) and substitute “if the list”.

Clause 150

To omit “and any auditor’s report required under **section 73** of that Act” (lines 24 and 25 on page 110).

Clause 150A

New section 145(1)(ca): to omit “the nomination” (line 29 on page 110) and substitute “if the nomination”.

Clause 151

To omit “and any auditor’s report required under **section 73** of that Act” (lines 11 and 12 on page 111).

Clause 151A

New section 146G(1)(da): to omit “the schedule” (line 17 on page 111) and substitute “if the schedule”.

Clause 156(3)

New section 224(2): to omit “provisions” (line 23 on page 112).

Schedule

Item relating to section 24(5) of the Citizens Initiated Referenda Act 1993 (1993 No 101): to omit “221” (line 5 on page 115) and substitute “221,”.

Explanatory note

This Supplementary Order Paper amends the Electoral Finance Bill to—

- correct drafting errors, make other drafting improvements, and make the changes set out below:
- amend *clause 6* to provide that the financial agent of a candidate may be absent from New Zealand for up to 10 working days before the candidate is deemed to have appointed himself or herself in place of the financial agent:
- amend *clause 7* similarly in respect of the financial agent of a party:
- substitute a new *clause 22A* to provide that donations and contributions are inclusive of any goods or services tax incurred by the donor or contributor in respect of any good or service donated or contributed:
- amend *clause 25C* to provide that where a donation includes any contribution exceeding \$1,000 from an overseas person, the donation must be returned to the donor. If this is not possible, the donation 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 or third party donation:

- amend *clauses 28B and 28C* to clarify that donations protected from disclosure made under *subpart 1A* of *Part 2* are donations of money only, paid by way of cash, cheque, or bank draft:
 - amend *clause 29* to refer expressly to the specified amount of \$1,000 in sum or value (previously set out in *clause 22A(1)(a)*), being the threshold above which a donation must be included in a candidate's return of donations:
 - amend *clause 35* to refer expressly to the specified amount of \$10,000 in sum or value (previously set out in *clause 22A(1)(b)*), being the threshold above which a donation must be included in a party's return of donations:
 - amend *clause 47* to refer expressly to the specified amount of \$5,000 in sum or value (previously set out in *clause 22A(1)(c)*), being the threshold above which a donation must be included in a third party's return of donations. *Clause 47* is also amended to require returns to be made in respect of certain third party donations and contributions that are made in respect of the same general election, rather than just during the regulated period:
 - amend *clause 55B* to clarify its intended effect:
 - amendments to *clauses 59A, 62(3), 72, 81A, 84(4), 91(1), 100A, 103(3), and 111(1)* make it clear that (as is the case under the Electoral Act) total election expenses must be counted in an expense return, whether paid or incurred before, during, or after the regulated period. The term **election expense** is defined in *clauses 59* (candidates), *81* (political parties) and *100* (third parties).
-