



# Electoral Amendment Act 2022

Public Act 2022 No 80  
Date of assent 16 December 2022  
Commencement see section 2

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

**1 Title**

This Act is the Electoral Amendment Act 2022.

**2 Commencement**

- (1) This Act, except sections 21 and 22, comes into force on 1 January 2023.
- (2) Section 21 comes into force on 31 March 2023.
- (3) Section 22 comes into force 1 month after the day appointed as the latest day for the return of the writ for the 2023 general election.

**3 Principal Act**

This Act amends the Electoral Act 1993.

## **Part 1**

### **Amendments relating to donations and loans**

#### Subpart 1—Amendments relating to donations

#### **4 Section 207 amended (Interpretation)**

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

#### **5 New section 207BA inserted (Offence relating to contravention of section 207B)**

After section 207B, insert:

##### **207BA Offence relating to contravention of section 207B**

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

#### **6 Section 210 amended (Annual return of party donations)**

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

- (c) in respect of party donations received of an amount exceeding \$1,500 but not exceeding \$5,000,—
    - (i) the number of donations; and
    - (ii) the total amount of the donations.
- (3) After section 210(6A), insert:
- (6B) A return must also set out—
- (a) the total amount of all of the party donations disclosed under subsection (1)(a); and
  - (b) the total amount of all of the party donations disclosed under subsection (1)(c); and
  - (c) the total amount of all of the party donations disclosed under subsection (1)(d); and
  - (d) the total amount of all of the party donations disclosed under subsection (1)(e); and
  - (e) the total amount of all of the party donations disclosed under subsection (1)(f); and
  - (f) the aggregate of the total amounts referred to in paragraphs (a) to (e); and
  - (g) a breakdown of the aggregate referred to in paragraph (f) showing the total amount of—
    - (i) party donations received in money; and
    - (ii) other party donations received (whether of the equivalent of money or of goods or services).
- (4) Replace section 210(7)(c) with:
- (c) be accompanied by an auditor’s report, if an auditor’s report is required to be obtained under section 210A.

## **7 Section 210A amended (Auditor’s report on annual return of party donations)**

Replace section 210A(1) with:

- (1) This section applies if—
- (a) an annual return of party donations required to be filed under section 210 shows that the total amount of donations received by the party secretary for the year exceeds \$50,000; or
  - (b) an annual return of party donations required to be filed under section 210 shows that the total amount of donations received by the party secretary for the year does not exceed \$50,000, but the annual return of party loans filed by the party secretary under section 214C for the same year discloses that the party—

- (i) has entered into at least 1 loan during that year; or
  - (ii) has an unpaid balance exceeding \$15,000 on a loan entered into during any previous year.
- (1A) A party secretary must obtain from the auditor appointed under section 206J a report on the return of party donations.

**8 Section 210C amended (Return of party donation received from same donor exceeding \$30,000)**

- (1) In the heading to section 210C, replace “\$30,000” with “\$20,000”.
- (2) Replace section 210C(1) and (2) with:
  - (1) A party secretary must file with the Electoral Commission a return in respect of every party donation received from a donor during the period specified in subsection (2) (the **specified period**) that—
    - (a) exceeds \$20,000; or
    - (b) when aggregated with all previous donations received from the donor in the specified period, exceeds \$20,000.
  - (2) The specified period is,—
    - (a) if a general election is held in the calendar year in which the term of Parliament is due to expire, the period—
      - (i) commencing on the earlier of the following dates:
        - (A) the day after the date on which the Prime Minister gives public notice of the day that is to be polling day; and
        - (B) 1 January of that year; and
      - (ii) ending on the close of the day before polling day; or
    - (b) if a general election is held in a year other than in the calendar year in which the term of Parliament is due to expire, the period—
      - (i) commencing on the day after the date on which the Prime Minister gives public notice of the day that is to be polling day; and
      - (ii) ending on the close of the day before polling day.
- (3) In section 210C(3), replace “subsection (2)” with “subsection (1)(b)”.
- (4) In section 210C(4), replace “subsection (1)” with “subsection (1)(a)”.
- (5) In section 210C(4)(e), replace “\$30,000” with “\$20,000”.
- (6) In section 210C(5), replace “subsection (2)” with “subsection (1)(b)”.
- (7) In section 210C(6), replace “subsection (1) or (2)” with “subsection (1)(a) or (b)”.
- (8) After section 210C(6), insert:
  - (7) In this section, **give public notice** means issue a media statement.

## Subpart 2—Amendments relating to loans

### 9 Section 211 replaced (Application of this Part)

Replace section 211 with:

#### 211 Application of this Part

This Part applies to loans entered into by—

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

### 10 Section 212 amended (Interpretation)

- (1) In section 212, replace the definition of **loan** with:

**loan,—**

- (a) to a candidate,—
  - (i) means a written or an oral agreement or arrangement under which a lender lends money or agrees to lend money at specified dates or on request or on the occurrence of a particular event for use in the candidate’s campaign for election; but
  - (ii) does not include any money lent by a registered lender at a commercial interest rate:
- (b) to a party,—
  - (i) means a written or an oral agreement or arrangement under which a lender lends money or agrees to lend money at specified dates or on request or on the occurrence of a particular event; but
  - (ii) does not include any money lent by a registered bank at a commercial interest rate

- (2) In section 212, insert in their appropriate alphabetical order:

**late period**, in relation to the filing of a return, means the period commencing on the day after the date on which the return is required to be filed and ending on the day that is 15 working days later

**registered lender** means a lender who is registered as a financial service provider under the Financial Service Providers (Registration and Dispute Resolution) Act 2008

### 11 Section 214B amended (Records of loans)

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

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

After section 214B, insert:

**214BA Records of loans: candidates**

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

**13 Section 214C amended (Annual return of loans)**

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

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

- (1) Replace the heading to section 214D with “**Auditor’s report on annual return of party loans**”.
- (2) Replace section 214D(1) with:
  - (1) This section applies to a return of party loans required to be filed under section 214C, except for a nil return filed under section 214E.
  - (1A) A party secretary must obtain a report on the return of party loans from the auditor appointed under section 206J.
- (3) In section 214D(2) and (4)(a), after “return”, insert “of party loans”.

**15 Section 214E amended (Nil return)**

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

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

- (1) Replace the heading to section 214F with “**Return of party loan provided by same lender exceeding \$30,000**”.
- (2) In section 214F(1), after “entered into”, insert “on behalf of the party”.
- (3) In section 214F(2), after “every loan entered into”, insert “on behalf of the party”.
- (4) In section 214F(3), replace “by the party” with “on behalf of the party”.

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

Repeal section 214G(5).

**18 New sections 214GA to 214GC inserted**

After section 214G, insert:



**214GA Return of candidate loans**

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

**214GB Nil return: candidates**

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

**214GC Offences relating to return of candidate loans**

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

- (a) a corrupt practice if the candidate filed the return knowing it to be false in any material particular; or
  - (b) an illegal practice in any other case unless the candidate proves that—
    - (i) the candidate had no intention to misstate or conceal the facts; and
    - (ii) the candidate took all reasonable steps in the circumstances to ensure that the information in the return was accurate.
- (4) A candidate charged with an offence against subsection (3)(a) may be convicted of an offence against subsection (3)(b).

**19 Section 214I amended (Obligation to retain records necessary to verify return of party loans)**

- (1) In the heading to section 214I, delete “party”.
- (2) After section 214I(2), insert:
- (3) A candidate must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable returns filed under section 214GA to be verified are retained until the expiry of the period within which a prosecution may be commenced under this Act in relation to the returns or in relation to any matter to which the returns relate.
- (4) A candidate who fails, without reasonable excuse, to comply with subsection (3) commits an offence and is liable on conviction to a fine not exceeding \$40,000.

**20 Section 214J amended (Return of party loans to be publicly available)**

- (1) Replace the heading to section 214J with “Returns of loans to be publicly available”.
- (2) After section 214J(1)(c), insert:
  - (d) a return filed under section 214GA.

## Part 2

### Other amendments

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

**21 Section 80 amended (Disqualifications for registration)**

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

**22 Section 80 amended (Disqualifications for registration)**

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

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

### 23 Section 3 amended (Interpretation)

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

**regulated period** has the meaning given to it by—

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

### 24 Section 3B amended (Meaning of regulated period)

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

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

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

- (a) subsections (2) and (3), if the Prime Minister gives public notice of the day that is to be polling day for the general election and that day is not subsequently changed to a later day; and
- (b) subsection (4), if the Prime Minister gives public notice of the day that is to be polling day for the general election and that day is subsequently changed to a later day.

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

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

- (a) the period—
  - (i) commencing on the day after the date on which the Prime Minister gives public notice of day B; and
  - (ii) ending on the close of the day before day B; and
- (b) the period—
  - (i) commencing 3 months before day B; and
  - (ii) ending on the close of the day before day B.

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

After section 3B, insert:

#### **3BA Meaning of regulated period: by-election**

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

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

## **26 Section 221B amended (Display of advertisement of a specified kind)**

After section 221B(1), insert:

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

### Subpart 3—Amendments relating to annual financial statements

## **27 Section 67 amended (Registration)**

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

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

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

## **28 Part 6A heading replaced**

Replace the Part 6A heading with:

## Part 6A

### Election expenses, donations, and annual financial statements

#### 29 New subpart 7 of Part 6A inserted

After section 210F, insert:

#### Subpart 7—Annual financial statements of parties

##### 210G Annual financial statements to be provided to Electoral Commission

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

**default balance date** means 31 March in any year

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

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

**210H Auditor's report on annual financial statements**

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

**210I Publication of annual financial statements**

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

**210J Offences relating to annual financial statements**

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

**Subpart 4—Miscellaneous amendments****30 Section 63A amended (Application fee)**

Replace section 63A(2) with:

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

**31 Section 127A amended (Deposit by party secretary)**

Replace section 127A(2) with:

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

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

Replace section 128(1)(d) with:

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

**33 Section 144 amended (Deposit by candidate)**

Replace section 144(2) with:

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

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

Replace section 146F(2) with:

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

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

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

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

Replace section 165(1) with:

- (1) No person other than an electoral official may communicate with a voter in a polling place, either before or after the voter has voted.
- (1A) An electoral official (with an interpreter if necessary) may ask only the questions the electoral official is authorised to put and give any general directions that may assist any voter, and in particular may, on request, inform a voter orally of the names of—
  - (a) all the constituency candidates in alphabetical order with their party designations; and
  - (b) all the parties in alphabetical order who have submitted a party list, and the names of the candidates on each list in the order of preference submitted by the party in accordance with section 127.

**37 Section 183 amended (Scrutineers for recounts and allocation of list seats)**

Repeal section 183(7).

**38 Section 208A amended (Method of making donation protected from disclosure)**

Replace section 208A(2) with:

- (2) A person to whom this section applies may send a donation in excess of \$1,500 to the Electoral Commission by paying the amount of the donation by direct credit to a bank account nominated by the Electoral Commission.

**39 Section 208F amended (Offence of prohibited disclosure)**

Replace section 208F(3)(c) with:

- (c) any other person to whom the identifying details must be supplied to enable the donation to be made:

Subpart 5—Related and consequential amendments

**40 Schedule 1AA amended**

In Schedule 1AA,—

- (a) insert the Part set out in the Schedule of this Act as the last Part; and  
 (b) make all necessary consequential amendments.

*Amendments to Electoral (Advertisements of a Specified Kind) Regulations  
2005*

**41 Principal regulations**

Sections 42 to 44 amend the Electoral (Advertisements of a Specified Kind) Regulations 2005.

**42 Regulation 3 amended (Interpretation)**

In regulation 3, insert in its appropriate alphabetical order:

**Act** means the Electoral Act 1993

**43 Regulation 4 amended (Application)**

- (1) Replace regulation 4(b) with:

(b) regulations 5 to 8 apply only during the specified period:

- (2) In regulation 4(d), replace “Electoral Act 1993” with “Act”.

- (3) In regulation 4, insert as subclause (2):

- (2) In this regulation, **specified period** means whichever of the following applies:

- (a) the period specified in section 221B(1) of the Act; or  
 (b) both of the periods specified in section 221B(1A) of the Act.

**44 Regulation 8 amended (Size of lettering and line spacing)**

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



**Schedule**  
**New Part 3 inserted into Schedule 1AA**

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**Part 3**  
**Provisions relating to Electoral Amendment Act 2022**

**5 Transitional provision relating to annual return of party donations for year ending 31 December 2022**

Despite sections 6 and 7 of the Electoral Amendment Act 2022, sections 210 and 210A as in force immediately before 1 January 2023 continue to apply in respect of an annual return of party donations required to be filed by a party secretary with the Electoral Commission for the year ending on 31 December 2022.

**6 Transitional provision relating to party donations received from same donor over \$30,000**

Despite section 8 of the Electoral Amendment Act 2022, section 210C as in force immediately before 1 January 2023 continues to apply on and after that date in respect of all party donations received before the close of 31 December 2022.

**Legislative history**

20 July 2022	Introduction (Bill 152–1)
2 August 2022	First reading and referral to Justice Committee
1 December 2022	Reported from Justice Committee (Bill 152–2)
6 December 2022	Second reading
7 December 2022	Committee of the whole House
13 December 2022	Third reading
16 December 2022	Royal assent

This Act is administered by the Ministry of Justice.