



Local Electoral Amendment Act 2013

Public Act 2013 No 40
Date of assent 28 June 2013
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Local Electoral Amendment Act 2013.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Amendments to principal Act

- 3 Principal Act**
This Part amends the Local Electoral Act 2001 (the **principal Act**).
- 4 Section 5 amended (Interpretation)**
 - (1) In section 5(1), repeal the definition of **anonymous**.
 - (2) In section 5(1), insert in their appropriate alphabetical order:
 - “**allotment** has the meaning given by section 218(2) of the Resource Management Act 1991
 - “**candidate**—
 - “(a) means a person who has been nominated as a candidate in any election; and
 - “(b) includes, in Parts 5 and 5A, a person who has declared his or her intention of becoming a candidate”.
 - (3) In section 5(1), definition of **nomination day**, replace “50th” with “57th”.

5 Section 15 amended (General duties of electoral officer)

In section 15(2)(g), after “electoral”, insert “donations and”.

6 Section 19H amended (Review of representation arrangements for elections of territorial authorities)

(1) Replace section 19H(2)(b) with:

“(b) subsequently, at least once in every period of 6 years after the year in which the first determination was made.”

(2) After section 19H(2), insert:

“(2A) To avoid doubt, subsection (2) is subject to sections 19K(1AA) and 19M(1).”

7 Section 19I amended (Review of representation arrangements for elections of regional councils)

(1) Replace section 19I(2)(b) with:

“(b) subsequently, at least once in every period of 6 years after the year in which the first determination was made.”

(2) After section 19I(2), insert:

“(2A) To avoid doubt, subsection (2) is subject to sections 19K(1AA) and 19M(1).”

8 New sections 19JA and 19JB inserted

After section 19J, insert:

“19JA Minor alterations to boundaries by territorial authority

“(1) A territorial authority may, in accordance with this section, determine by resolution new proposed boundaries of wards, communities, or subdivisions of communities of the district of the territorial authority.

“(2) The territorial authority must be satisfied that,—

“(a) since the existing boundaries of the wards, communities, or subdivisions of communities took effect as the basis for election at the last triennial general election, there have been changes at or near those boundaries to the boundaries of 1 or more allotments; and

- “(b) the proposed boundaries of the wards, communities, or subdivisions constitute only minor alterations to the existing boundaries; and
 - “(c) the minor alterations will maintain the effective representation of communities of interest affected by the changes to the boundaries of the allotments; and
 - “(d) so far as is practicable, the proposed boundaries of the wards, communities, or subdivisions coincide with the boundaries of allotments; and
 - “(e) so far as is practicable, ward boundaries coincide with community boundaries (if applicable).
- “(3) Every meeting at which the territorial authority deliberates on the proposals contained in the resolution must be open to the public, except as provided by Part 7 of the Local Government Official Information and Meetings Act 1987.
- “(4) The territorial authority must refer the resolution to the Commission, together with the information concerning the communities of interest and population of the district or community, and the proposed wards, communities, or subdivisions, that is held by the territorial authority and is necessary for the purposes of subsection (6).
- “(5) However, the territorial authority must not refer the resolution and information to the Commission after 15 January in the year of a triennial general election.
- “(6) On receiving the reference, the Commission must—
- “(a) consider the resolution and information forwarded to it; and
 - “(b) determine whether to uphold the proposed boundaries of the wards, communities, or subdivisions.
- “(7) For the purposes of making its determination, the Commission may make any inquiries that it considers appropriate.
- “(8) The Commission may determine to uphold the proposed boundaries only if it is satisfied of the matters specified in subsection (2).
- “(9) The Commission must make its determination under subsection (6)(b) before 11 April in the year of the next triennial general election.

- “(10) Section 19S applies to the Commission’s determination as if it were made under section 19R(1)(b), and section 19Y(3) to (6) apply with any necessary modifications.
- “(11) A territorial authority must not use this section if the territorial authority—
- “(a) is required to make a resolution under section 19H before the next triennial general election; or
 - “(b) has, since the last triennial general election, made a resolution under section 19H; or
 - “(c) has, since the last triennial general election, already made a resolution under this section that was upheld by the Commission under subsection (6)(b).

“19JB Minor alterations to boundaries by regional council

- “(1) A regional council may, in accordance with this section, determine by resolution new proposed boundaries of constituencies of the region of the regional council.
- “(2) The regional council must be satisfied that,—
- “(a) since the existing boundaries of the constituencies took effect as the basis for election at the last triennial general election, there have been changes at or near those boundaries to the boundaries of 1 or more allotments; and
 - “(b) the proposed boundaries of the constituencies constitute only minor alterations to the existing boundaries; and
 - “(c) the minor alterations will maintain the effective representation of communities of interest affected by the changes to the boundaries of the allotments; and
 - “(d) so far as is practicable, the proposed boundaries of the constituencies coincide with the boundaries of allotments; and
 - “(e) so far as is practicable, constituency boundaries coincide with the boundaries of 1 or more territorial authority districts or the boundaries of wards.
- “(3) Every meeting at which the regional council deliberates on the proposals contained in the resolution must be open to the public, except as provided by Part 7 of the Local Government Official Information and Meetings Act 1987.

- “(4) The regional council must refer the resolution to the Commission, together with the information concerning the communities of interest and population of the region, and the proposed constituencies, that is held by the regional council and is necessary for the purposes of subsection (6).
- “(5) However, the regional council must not refer the resolution and information to the Commission after 15 January in the year of a triennial general election.
- “(6) On receiving the reference, the Commission must—
- “(a) consider the resolution and information forwarded to it; and
 - “(b) determine whether to uphold the proposed boundaries of the constituencies.
- “(7) For the purposes of making its determination, the Commission may make any inquiries that it considers appropriate.
- “(8) The Commission may determine to uphold the proposed boundaries only if it is satisfied of the matters specified in subsection (2).
- “(9) The Commission must make its determination under subsection (6)(b) before 11 April in the year of the next triennial general election.
- “(10) Section 19S applies to the Commission’s determination as if it were made under section 19R(1)(b), and section 19Y(3) to (6) apply with any necessary modifications.
- “(11) A regional council must not use this section if the regional council—
- “(a) is required to make a resolution under section 19I before the next triennial general election; or
 - “(b) has, since the last triennial general election, made a resolution under section 19I; or
 - “(c) has, since the last triennial general election, already made a resolution under this section that was upheld by the Commission under subsection (6)(b).”

9 Section 19K amended (Requirements for resolution)

Before section 19K(1), insert:

- “(1AA) A resolution under section 19H, 19I, or 19J that affects the next triennial general election of members of a territorial au-

thority, regional council, or community board must be passed no earlier than 1 March of the year before the year of the election.”

10 Section 19L amended (Distribution of copies of resolution)

Replace section 19L(a)(iv) with:

“(iv) the Remuneration Authority; and”.

11 Section 19N amended (Response to submissions)

(1) After section 19N(2)(b), insert:

“(ba) specify the communities of interest considered by the territorial authority (as required by sections 19T and 19V) or regional council (as required by sections 19U and 19V); and

“(bb) specify the ratio of population to proposed members for each proposed ward, constituency, or subdivision, and the reasons for those proposals in terms of section 19V(2) and, if applicable, section 19V(3); and”.

(2) Replace section 19N(3)(a)(iv) with:

“(iv) the Remuneration Authority; and”.

12 Section 19S amended (Determination of Commission)

In section 19S(2)(c), delete “the Higher Salaries Commission or”.

13 Section 19V amended (Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions)

(1) Replace section 19V(3)(a) with:

“(a) if the territorial authority or the Commission considers that 1 or more of the following apply, wards and subdivisions of a community may be defined and membership distributed between them in a way that does not comply with subsection (2):

“(i) non-compliance with subsection (2) is required for effective representation of communities of interest within island communities or isolated com-

munities situated within the district of the territorial authority; or

“(ii) compliance with subsection (2) would limit effective representation of communities of interest by dividing a community of interest between wards or subdivisions; or

“(iii) compliance with subsection (2) would limit effective representation of communities of interest by uniting within a ward or subdivision 2 or more communities of interest with few commonalities of interest.”.

(2) In section 19V(4), replace “(3)(b)” with “(3)”.

(3) In section 19V(4), (5), and (6)(a), before “regional council”, insert “territorial authority or”.

14 Section 19Y amended (When determinations take effect)

In section 19Y(2)(a)(iv), delete “the Higher Salaries Commission or”.

15 Section 19ZI amended (Guidelines in relation to reviews of representation)

(1) In the heading to section 19ZI, after “**representation**”, insert “**or minor alterations to boundaries**”.

(2) In section 19ZI(1), replace “19J” with “19JB”.

16 Section 55 amended (Nomination of candidates)

(1) Replace section 55(2)(e) with:

“(e) the electoral officer receives the deposit prescribed for the applicable class of elections; and

“(f) the electoral officer receives the following together:

“(i) the nomination paper required by subsection (1):

“(ii) the consent and certification required by paragraph (a):

“(iii) the deposit required by paragraph (e).”

(2) Replace section 55(3) with:

“(3) The consent and certification required by subsection (2)(a) may be given in a manner other than in writing that is approved

by the electoral officer, if the person nominated is outside New Zealand.”

17 Section 59 amended (Forfeiture of deposit and refund of deposit)

- (1) Replace section 59(2)(a)(i) with:
 - “(i) withdraws his or her nomination before the close of nominations; or
 - “(ia) has his or her nomination cancelled because of incapacitation (certified by a medical practitioner) after the close of nominations but before the close of voting; or”.
- (2) Replace section 59(2)(b) with:
 - “(b) the candidate (other than a candidate who dies before the close of voting) complies with section 112A (which requires candidates to file a return of electoral donations and expenses).”

18 Section 61 amended (Candidate profile statements)

- (1) Replace section 61(2)(b) with:
 - “(b) must be provided to the electoral officer, together with the nomination paper and other things referred to in section 55(2)(f); and”.
- (2) After section 61(2)(c), insert:
 - “(ca) must state whether or not the candidate’s principal place of residence, being the address in respect of which the candidate is registered as a parliamentary elector, is in the local government area for which the candidate seeks election (for example, either ‘My principal place of residence is in the Lambton Ward’ or ‘My principal place of residence is not in the Lambton Ward’); and
 - “(cb) if the candidate is seeking election to any other positions in elections to which this Act applies (under section 7), must specify each position and state that the candidate is seeking to be elected to the positions; and”.
- (3) After section 61(2), insert:

“(2A) The information required by subsection (2)(ca) and (cb) does not count for the purposes of the word limit under subsection (2)(a).”

19 Section 65 amended (Further notice to electors of election or poll)

Repeal section 65(2)(da).

20 Cross-heading above section 69 replaced

Replace the cross-heading above section 69 with:

“Death, incapacity, or invalid or cancelled nominations of candidates”.

21 Section 69 replaced (Candidate may retire after close of nominations)

Replace section 69 with:

“69 Application for cancellation of nomination if candidate incapacitated after close of nominations

“(1) An application may be made for the cancellation of the nomination of a candidate if the candidate becomes incapacitated after the close of nominations but before the close of voting.

“(2) The application must be made to the electoral officer by—
“(a) the 2 electors who nominated the candidate; or
“(b) if 1 or both electors are unavailable or unable to act for any reason, a person with authority to act on the candidate’s behalf.

“(3) The application must be made on a form provided by the electoral officer, and must be witnessed by a Justice of the Peace or a solicitor.

“(4) The application must be accompanied by a certificate signed by a medical practitioner that certifies—
“(a) as to the candidate’s condition; and
“(b) that, in the practitioner’s opinion, the candidate is incapacitated.

“(5) The application must be submitted to the electoral officer—
“(a) as soon as practicable after the candidate becomes incapacitated; and
“(b) before the close of voting.

“(6) The application may be submitted by hand, post, fax, or electronic transmission.

“(7) In this section,—

“**incapacitated** means that a candidate, because he or she is suffering from a serious illness or has sustained a serious injury, would be unlikely to be capable of performing the functions and duties of office if elected to the office

“**medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

“69A How application for cancellation of nomination dealt with

“(1) On receiving an application under section 69, the electoral officer must promptly determine whether the candidate became incapacitated (as defined by section 69(7)) after the close of nominations but before the close of voting.

“(2) For the purposes of making the determination, the electoral officer may make any inquiries, and seek any assistance (including expert medical assistance), that the electoral officer considers necessary.

“(3) If, before the close of voting, the electoral officer determines that the candidate became incapacitated as described in subsection (1), the electoral officer must cancel the candidate’s nomination.

“(4) If the electoral officer has not made a determination before the close of voting, the application is to be treated as having been declined.

“(5) As soon as practicable after making a determination, the electoral officer must inform the applicant of the determination.”

22 Section 71 amended (Retirement, death, incapacity, or invalid nomination of candidate)

(1) Replace the heading to section 71 with “**Death, incapacity, or invalid or cancelled nomination of candidate**”.

(2) Replace section 71(1)(a) with:

- “(a) the electoral officer has cancelled under section 69A a candidate’s nomination in any election; or”.
- (3) In section 71(2), replace “retirement, death, incapacity, or the invalid nomination” with “death, incapacity, or invalid or cancelled nomination”.
- (4) In section 71(3) and (4), replace “retirement, death, incapacity, or invalid nomination” with “death, incapacity, or invalid or cancelled nomination”.
- (5) In section 71(5) and (6), replace “retired, deceased, or incapacitated candidate, or for a candidate whose nomination is invalid” with “deceased or incapacitated candidate, or for a candidate whose nomination is invalid or cancelled”.

23 Section 72 amended (If election becomes unnecessary)

In section 72(1), replace “retirement, death, incapacity, or invalid nomination” with “death, incapacity, or invalid or cancelled nomination”.

24 New section 73A inserted (Adjournment of electoral processes)

After section 73, insert:

“73A Adjournment of electoral processes

- “(1) The Governor-General may, by Order in Council made in accordance with this section, specify a later date for 1 or more of the following in respect of a triennial general election of members of 1 or more local authorities and community boards:
- “(a) the date by which, or dates during which, a certain qualification entitles an elector to be included on the electoral roll:
- “(b) the nomination day:
- “(c) the polling day:
- “(d) the date by which anything else may or must be done under this Act or regulations made under this Act.
- “(2) The Order in Council must be made in the year in which the triennial general election is to be held.
- “(3) A date specified by the Order in Council must be no more than 6 weeks after the date that would otherwise have applied.

- “(4) A date may be specified by the Order in Council only if the order commences on or before the date that would otherwise have applied.
- “(5) The Order in Council must be made on the recommendation of the Minister.
- “(6) Before recommending the making of the Order in Council, the Minister—
- “(a) must be satisfied, on reasonable grounds, that the order is necessary to ensure that the adverse effects of an emergency (whether local or national) or of anything referred to in section 73(1)(a) to (d) do not deny electors a reasonable opportunity to cast a valid vote, nominate a candidate, or accept nomination as a candidate in relation to the election; and
 - “(b) must have consulted every local authority and electoral officer that will be affected.
- “(7) Upon the commencement of an Order in Council made under this section,—
- “(a) a date specified in the order has effect in relation to the triennial general election of members of the 1 or more local authorities and community boards to which the order applies; and
 - “(b) this Act and any regulations made under this Act apply to the election with any necessary modifications.
- “(8) The electoral officer must, as soon as practicable, give public notice of every change of date made by the Order in Council, and may give any other notice that the electoral officer considers desirable.”

25 Section 75 amended (What voting documents for election must contain)

- (1) In section 75(2)(f), after “may be”, insert “; and”.
- (2) After section 75(2)(f), insert:
 - “(g) a warning describing the offences that a person may commit under sections 122(1)(a), 123(1)(c), and 124(b).”

26 Section 76 amended (What voting documents for polls must contain)

- (1) In section 76(2)(d), after “may be”, insert “; and”.
- (2) After section 76(2)(d), insert:
 - “(e) a warning describing the offences that a person may commit under sections 122(1)(a), 123(1)(c), and 124(b).”

27 Section 79 repealed (Early processing of votes)

Repeal section 79.

28 Section 80 amended (Processing before close of voting)

Replace section 80(1) with:

- “(1) The electoral officer may, at his or her discretion, process during the voting period and in the prescribed manner any voting documents received before the close of voting for any election or poll.”

29 Part 5 heading replaced

Replace the Part 5 heading with:

**“Part 5
“Electoral donations and expenses”.**

30 New subpart 1 of Part 5 and subpart 2 of Part 5 heading inserted

After the Part 5 heading, insert:

“Subpart 1—Electoral donations

“103A Interpretation

In this subpart and subpart 3, unless the context otherwise requires,—

“**anonymous**, in relation to an electoral donation, means a donation that is made in such a way that the candidate who receives the donation—

- “(a) does not know the identity of the donor; and
- “(b) could not, in the circumstances, reasonably be expected to know the identity of the donor

“**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; and

“(c) was given in the knowledge or expectation (whether by reference to a trust, an agreement, or an 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

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

“**electoral donation** or **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—

“(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 an arrangement at a value that is less than their reasonable market value, the lat-

ter being a value that exceeds \$300, the amount of the difference between the former value and the reasonable market value of those goods or services; and

“(ii) where goods or services are provided by a candidate under a contract or an 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

“(b) excludes—

“(i) the labour of any person that is provided to a candidate free of charge by that person; and

“(ii) goods or services provided free of charge to a candidate, or to any person on the candidate’s behalf, that have a reasonable market value of \$300 or less

“**receive**, in relation to a donation, means to get a donation that has been given or sent by—

“(a) the donor directly; or

“(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.

“Compare: 1993 No 87 s 207

“103B Donations and contributions include GST

All references to the 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 services donated or contributed.

“Compare: 1993 No 87 s 207A

“103C Donations to be transmitted to candidate

Every person, other than a candidate, to whom an electoral donation is given or sent must, within 10 working days after receiving the donation, transmit the donation to the candidate.

“Compare: 1993 No 87 s 207B(1)

“103D Contributors to be identified

- “(1) This section applies to a donation (other than an anonymous donation) that is made up of, includes, or is wholly or partly funded from 1 or more contributions.
- “(2) If this section applies to a donation, the donor must, at the time of making the donation, disclose—
- “(a) the fact that the donation is funded from contributions; and
 - “(b) the following information about any contribution that, either on its own or when aggregated with other contributions made by the same contributor to the donation, exceeds \$1,500 in sum or value:
 - “(i) the name of the contributor; and
 - “(ii) the address of the contributor; and
 - “(iii) the amount of the contribution or, in the case of aggregated contributions, the total amount of the aggregated contributions; and
 - “(c) the total of all of the amounts disclosed under paragraph (b)(iii) in relation to the donation; and
 - “(d) the total of all of the other contributions made in relation to the donation.
- “(3) A candidate must give back to the donor the entire amount of the donation, or its entire value, if the candidate knows, or has reasonable grounds to believe, that the donor has failed to comply with subsection (2) in any respect.
- “(4) For the purpose of section 112A, any amount given back by a candidate under subsection (3) is taken not to have been received by the candidate.

“Compare: 1993 No 87 s 207C

“103E Offence relating to contravention of section 103D

A donor who fails to comply with section 103D with the intention of concealing the identity of any or all of the contributors commits an offence and is liable on conviction to a fine not exceeding \$5,000.

“Compare: 1993 No 87 s 207D

“103F Identity of donor to be disclosed by transmitter, if known

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

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

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

“(c) whether section 103D applies to the donation and, if so, all information disclosed by the donor under subsection (2) of that section.

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

“Compare: 1993 No 87 s 207E

“103G Offence relating to contravention of section 103F

A transmitter who fails to comply with section 103F(1) with the intention of concealing the identity of the donor or any or all of the contributors commits an offence and is liable on conviction to a fine not exceeding \$5,000.

“Compare: 1993 No 87 s 207F

“103H Disclosure of identity of donor

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 donation exceeding \$1,500, the person must disclose the identity of the donor to the candidate.

“Compare: 1993 No 87 s 207G(1)

“103I Offence relating to contravention of section 103H

A person who fails to comply with section 103H with the intention of concealing the identity of the donor commits an offence and is liable on conviction to a fine not exceeding \$5,000.

“Compare: 1993 No 87 s 207H

“103J Anonymous donation may not exceed \$1,500

- “(1) If an anonymous donation exceeding \$1,500 is received by a candidate in relation to an election campaign, the candidate must, within 20 working days of receiving the donation, pay to the electoral officer responsible for the conduct of the election to which that campaign relates the amount of the donation, or its value, less \$1,500.
- “(2) If an anonymous donation exceeding \$1,500 is received by a candidate who is seeking election to more than 1 office, the candidate must—
- “(a) designate 1 election campaign for election to 1 office for which the donation will be used; and
 - “(b) within 20 working days of receiving the donation, pay to the electoral officer responsible for the conduct of the election to which that campaign relates the amount of the donation, or its value, less \$1,500.
- “(3) An electoral officer who receives an amount under subsection (1) or (2) must, within 20 working days of receiving that amount,—
- “(a) issue a receipt to the candidate; and
 - “(b) pay the amount into the general fund of the local authority that appointed the electoral officer.

“Compare: 1993 No 87 s 207I(1)

“103K Offence relating to contravention of section 103J

- “(1) A person who enters into an agreement, arrangement, or understanding with any other person that has the effect of circumventing section 103J(1) or (2) commits an offence and is liable on conviction to a fine not exceeding \$5,000.
- “(2) A candidate who contravenes section 103J(1) or (2) commits an offence and is liable on conviction to a fine not exceeding \$5,000.

“Compare: 1993 No 87 s 207J

“103L Records of electoral donations

- “(1) A candidate must keep proper records of all 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 conviction to a fine not exceeding \$5,000.

“Compare: 1993 No 87 s 207M

“Subpart 2—Electoral expenses”.

31 Section 104 amended (Interpretation)

- (1) In section 104, replace “In this Part” with “In this subpart and subpart 3.”
- (2) In section 104, repeal the definition of **electoral donation**.
- (3) In section 104, definition of **electoral expenses**, paragraph (g), after “person”, insert “; and”.
- (4) In section 104, definition of **electoral expenses**, after paragraph (g), insert:

“(h) does not include the cost of any framework (other than a commercial framework) that supports a hoarding on which an advertisement is displayed”.

32 Section 105 amended (Periods for claiming and paying expenses)

After section 105(2), insert:

- “(3) A person who makes a payment in breach of this section commits an offence and is liable on conviction to a fine not exceeding \$5,000.”

33 Sections 109 and 110 repealed

Repeal sections 109 and 110.

34 New section 112AA inserted (Offence to pay electoral expenses in excess of relevant prescribed maximum)

After section 112, insert:

“112AA Offence to pay electoral expenses in excess of relevant prescribed maximum

- “(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 electoral expenses any sum

in excess of the relevant maximum amount prescribed by section 111.

- “(2) The candidate or person commits an offence and is liable on conviction—
- “(a) to a term of imprisonment not exceeding 2 years, or a fine not exceeding \$10,000, if he or she knew the payment was in excess of the relevant prescribed maximum amount; or
 - “(b) to a fine not exceeding \$5,000 in any other case, unless he or she proves that he or she took all reasonable steps to ensure that the electoral expenses did not exceed the relevant prescribed maximum amount.”

35 New subpart 3 of Part 5 inserted

After section 112AA, insert:

**“Subpart 3—Return of electoral donations
and expenses**

“112A Return of electoral donations and expenses

- “(1) Within 55 days after the day on which the successful candidates at any election are declared to be elected, every candidate at the election must file a return of electoral donations and expenses.
- “(2) However, in any case where a candidate is outside New Zealand on the day on which the successful candidates are declared to be elected (**election result day**), the return must be filed within 76 days after election result day.
- “(3) The return of electoral donations and expenses must set out—
- “(a) the details specified in subsection (4) in respect of every electoral donation (other than a donation of the kind referred to in paragraph (c)) received by the candidate 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 \$1,500 in sum or value; and
 - “(b) whether any donation is funded from contributions, and if so, and to the extent known or ascertainable from the information supplied under section 103D, the details specified in subsection (5) in respect of every con-

- tribution that, either on its own or when aggregated with other contributions by the same contributor to the donation, exceeds \$1,500 in sum or value; and
- “(c) the details specified in subsection (6) in respect of every anonymous electoral donation received by the candidate that exceeds \$1,500; and
 - “(d) details of the candidate’s electoral expenses.
- “(4) The details referred to in subsection (3)(a) are—
- “(a) the name of the donor; and
 - “(b) the address of the donor; and
 - “(c) the amount of the donation or, in the case of aggregated donations, the total amount of the donations; and
 - “(d) the date the donation was received or, in the case of aggregated donations, the date that each donation was received.
- “(5) The details referred to in subsection (3)(b) are—
- “(a) the name of the contributor; and
 - “(b) the address of the contributor; and
 - “(c) the amount of the contribution or, in the case of aggregated contributions, the total amount of the aggregated contributions.
- “(6) The details referred to in subsection (3)(c) are—
- “(a) the date the donation was received; and
 - “(b) the amount of the donation; and
 - “(c) the amount paid to the electoral officer under section 103J(1) or (2) and the date that payment was made.
- “(7) Every return filed under this section must be in the form prescribed in Schedule 2.
- “(8) It is the duty of every electoral officer to ensure that this section is complied with.
- “(9) In this section, **file** in relation to a return, means to send the return to the electoral officer responsible for the conduct of the election.

“Compare: 1993 No 87 s 209

“112B Nil return

If a candidate considers that there is no relevant information to disclose under section 112A, the candidate must file a nil return under that section.

“Compare: 1993 No 87 s 209A

“112C Failure to file return of electoral donations and expenses

A candidate who fails, without reasonable excuse, to comply with section 112A commits an offence and is liable on conviction to—

- “(a) a fine not exceeding \$1,000; and
- “(b) if he or she has been elected to office, a further fine not exceeding \$400 for every day that he or she continues to hold office until the return is filed.

“112D Filing a false return of electoral donations and expenses

A candidate who files a return under section 112A that is false in any material particular commits an offence and is liable on conviction—

- “(a) to a term of imprisonment not exceeding 2 years, or a fine not exceeding \$10,000, if he or she filed the return knowing it to be false in any material particular; or
- “(b) to a fine not exceeding \$5,000 in any other case, unless the candidate 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 the information in the return was accurate.

“112E Obligation to retain records necessary to verify return

- “(1) A candidate must take all reasonable steps to retain all records, documents, and accounts that are necessary to enable a return under section 112A to be verified.
- “(2) The records, documents, and accounts must be retained until the expiry of the period within which a prosecution may be commenced under this Act in relation to the return or to any matter to which the return relates.

- “(3) 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 \$5,000.

“Compare: 1993 No 87 s 209C

“112F Return of electoral donations and expenses to be open for public inspection

- “(1) The electoral officer must keep every return filed under section 112A in the electoral officer’s office, or at some other convenient place to be appointed by the chief executive of the local authority, for a period of 7 years after the date of the election to which it relates (the **public inspection period**).
- “(2) During the public inspection period the electoral officer must—
- “(a) publish, electronically or in any other manner the electoral officer considers appropriate, every return filed under section 112A; and
 - “(b) make available for public inspection a copy of every return filed under section 112A; and
 - “(c) provide to any person upon request a copy of 1 or more returns filed under section 112A, subject to the payment of any charges that may be made under the Local Government Official Information and Meetings Act 1987.”

36 New Part 5A heading inserted

Before section 113, insert:

**“Part 5A
“Electoral advertising”.**

37 Section 113 amended (Advertisements for candidates)

After section 113(5), insert:

- “(6) A person who wilfully contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$1,000.”

38 Section 115 amended (When members come into office)

Replace section 115(1) and (2) with:

“(1) Candidates at a triennial general election who are declared to be elected come into office on the day after the day on which the official result of the election is declared by public notice under section 86.”

39 Section 132 and cross-heading repealed

Repeal section 132 and the cross-heading above section 132.

40 Sections 133 to 136 repealed

Repeal sections 133 to 136.

41 Section 138 replaced (Duty to take action in respect of offences)

Replace section 138 with:

“138 Duty to take action in respect of offences

“(1) Subsection (2) applies if an electoral officer—

“(a) receives a written complaint that an offence has been committed under—

“(i) Part 5; or

“(ii) this Part; or

“(b) believes for any other reason that an offence has been committed under either of the Parts specified in paragraph (a).

“(2) If this subsection applies, the electoral officer must—

“(a) report the complaint or belief to the Police; and

“(b) provide the Police with the details of any inquiries that he or she considers may be relevant.

“(3) Subsection (2) does not prevent any person from reporting an alleged offence to the Police.

“(4) Despite subsection (2), an electoral officer is not required to report the failure by a candidate to file a return under section 112A if the candidate files the return promptly after being required to do so by the electoral officer.

“138AA Time limit for prosecutions

“(1) A prosecution under section 112C must be commenced within 6 months of the date on which the return was required to be filed.

- “(2) A prosecution under section 103K or 112D 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
 - “(b) not later than 3 years after the offence was committed.”

42 Schedule 1A amended

In Schedule 1A, clause 1(2)(b)(ii), after “are to be elected separately”, insert “; and”.

43 Schedule 2 replaced

Replace Schedule 2 with the Schedule 2 set out in Schedule 1 of this Act.

44 Transitional provision for representation review processes

- (1) This section applies if a resolution under section 19H, 19I, 19J, or 19N of the principal Act, or a determination under section 19R of the principal Act, would affect the 2013 triennial general election of members of a territorial authority, regional council, or community board.
- (2) The principal Act applies in relation to the resolution or determination as if section 19V had not been amended by this Part.

45 Transitional provision for donations received before commencement of Act

For the purposes of the next triennial general election held after the commencement of this Act,—

- (a) the following provisions of the principal Act do not apply to anonymous donations received before the commencement of this Act:
 - (i) paragraph (b) of the definition of **anonymous** in section 103A; and
 - (ii) sections 103C to 103K; and
 - (iii) section 112A(6)(a) and (c); and
- (b) the following sections of the principal Act do not apply to donations received by a candidate before the commencement of this Act:

- (i) section 103B, to the extent it relates to contributions; and
- (ii) section 103D; and
- (iii) section 103F(1)(c); and
- (iv) section 103G, to the extent it relates to contributors; and
- (v) section 103L; and
- (vi) section 112A(3)(b), (4)(d), and (5); and
- (vii) section 112E; and
- (c) the definition of **candidate** in section 5(1) of the principal Act does not include any person who has, before the commencement of this Act, declared his or her intention of becoming a candidate.

Part 2

Amendments to regulations

46 Amendments to Local Electoral Regulations 2001

- (1) This Part amends the Local Electoral Regulations 2001.
 - (2) Amend the Local Electoral Regulations 2001 as set out in Schedule 2.
-

Schedule 1 s 43
Schedule 2 of principal Act replaced

Schedule 2 s 112A
Return of electoral donations and expenses

Section 112A, Local Electoral Act 2001

I, *[name]*, was a candidate for the following elections held on *[date]*:
[List all elections at which the candidate stood for election on the above date.]

Part A
Return of electoral donations

I make the following return of all electoral donations received by me that exceed \$1,500:

[Set out the following details in respect of every electoral donation received (other than an anonymous electoral donation) 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 \$1,500 in sum or value:

- *the name of the donor:*
- *the address of the donor:*
- *the amount of the donation or, in the case of aggregated donations, the total amount of the donations:*
- *the date the donation was received or, in the case of aggregated donations, the date that each donation was received.*

Set out the following details in respect of every anonymous electoral donation received that exceeds \$1,500:

- *the date the donation was received:*
- *the amount of the donation:*
- *the specific election campaign to which the donation was designated:*
- *the amount paid to the electoral officer and the date the payment was made.*

In the case of any electoral donation funded from contributions, set out the following details in respect of each contribution that, either

on its own or when aggregated with other contributions made by the same contributor to the donation, exceeds \$1,500 in sum or value:

- *the name of the contributor:*
- *the address of the contributor:*
- *the total amount of the contributor's contributions made in relation to the donation.]*

Part B
Return of electoral expenses

I make the following return of all electoral expenses incurred by me:

[Set out the following details in respect of every electoral expense incurred by or on behalf of the candidate at the election in respect of any electoral activity:

- *the name and description of every person or body of persons to whom any sum was paid:*
- *the reason that sum was paid.*

Sums paid for radio broadcasting, television broadcasting, newspaper advertising, posters, pamphlets, etc, must be set out separately and under separate headings.]

Signed:

Date:

Place:

Schedule 2
Amendments to Local Electoral
Regulations 2001

s 46(2)

Regulation 3

Revoke regulation 3.

Regulation 10

In regulation 10(3), after “included”, replace “in” with “on”.

In regulation 10(3) and (4), replace “50th” with “57th”.

Regulation 16

In regulation 16(2), replace “rateable” with “rating” in each place.

Regulation 21

In regulation 21, replace “50th” with “57th”.

Regulation 29

In regulation 29(2), replace “during the voting period” with “at any time after the close of nominations”.

Regulation 56

Replace regulation 56(1) with:

“(1) An electoral officer may process voting documents during the voting period in accordance with section 80 of the Act.”

Regulation 57

Replace regulation 57 with:

“57 Processing voting documents after voting period

The electoral officer must process voting documents as soon as practicable after the close of voting if the voting documents have not already been processed during the voting period.”

Regulation 60

In regulation 60(1), before “least”, replace “as” with “at”.

Regulation 65

In regulation 65(1)(b)(iv), delete “; and”.

Regulation 79B

In regulation 79B(1), before “least”, replace “as” with “at”.

Regulation 91

In regulation 91(1), definition of **valid**, replace second paragraph (b) with:

- “(c) precluded from being a valid voting document under regulation 105(2) or 125(2)”.

Regulation 101

Replace regulation 101(1) with:

- “(1) An electoral officer may process voting documents during the voting period in accordance with section 80 of the Act.”

Regulation 102

Replace regulation 102 with:

“102 Processing voting documents after voting period

The electoral officer must process voting documents as soon as practicable after the close of voting if the voting documents have not already been processed during the voting period.”

Regulation 104A

In regulation 104A(1), before “least”, replace “as” with “at”.

Regulation 105A

In regulation 105A(2), replace “subsection” with “subclause”.

Regulation 124A

In regulation 124A(1), before “least”, replace “as” with “at”.

Regulation 125A

In regulation 125A(2), replace “subsection” with “subclause”.

Schedule 1A

In Schedule 1A, clause 22, replace “retirement, death, incapacity, or invalid nomination” with “death, incapacity, or invalid or cancelled nomination”.

Legislative history

15 October 2012	Introduction (Bill 76–1)
6 November 2012	First reading and referral to Justice and Electoral Committee
8 March 2013	Reported from Justice and Electoral Committee (Bill 76–2)
21 March 2013	Second reading
11 June 2013	Committee of the whole House (Bill 76–3)
25 June 2013	Third reading
28 June 2013	Royal assent

This Act is administered by the Department of Internal Affairs.
