



# Electoral Amendment Act 2019

Public Act      2019 No 72  
Date of assent      6 December 2019  
Commencement      see section 2

## Contents

	Page
1      Title	2
2      Commencement	2
3      Principal Act	2

### Part 1

#### Amendments relating to overseas donations

4      Section 204K amended (Promoters eligible to be registered)	2
5      Section 207 amended (Interpretation)	2
6      Section 207C amended (Contributors to be identified)	3
7      Section 207I replaced (Anonymous donation may not exceed \$1,500)	4
207I      Anonymous donations	4
8      New section 207JA inserted (Duty to ascertain whether donation from overseas person)	4
207JA      Duty to ascertain whether donation from overseas person	5
9      Section 207K amended (Overseas donation or contribution may not exceed \$1,500)	5
10     Section 207L amended (Offence relating to contravention of section 207K)	5
11     Section 208A amended (Method of making donation protected from disclosure)	5
12     Section 208D amended (Duties of Electoral Commission on receipt of donation)	6
13     Section 209 amended (Return of candidate donations)	6
14     Section 210 amended (Annual return of party donations)	6

**Part 2**  
**Other amendments**

15	Section 3 amended (Interpretation)	7
16	New section 3EA inserted (Meaning of party secretary)	7
	3EA Meaning of party secretary	7
17	Section 221A amended (Electoral advertisements)	7

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

**1 Title**

This Act is the Electoral Amendment Act 2019.

**2 Commencement**

- (1) This Act, except sections 15 and 16, comes into force on 1 January 2020.
- (2) Sections 15 and 16 come into force on 1 April 2020.

**3 Principal Act**

This Act amends the Electoral Act 1993 (the **principal Act**).

**Part 1**

**Amendments relating to overseas donations**

**4 Section 204K amended (Promoters eligible to be registered)**

In section 204K(d), replace “section 207K” with “section 207(2)”.

**5 Section 207 amended (Interpretation)**

- (1) In section 207(2), definition of **candidate donation**, paragraph (a)(i), after “provided”, insert “by a New Zealand person”.
- (2) In section 207(2), definition of **candidate donation**, after paragraph (a)(i), insert:
  - (ia) where goods or services are provided by an overseas person to a candidate, or to any person on the candidate’s behalf, under a contract or an arrangement at a value less than their reasonable market value, the latter being a value that exceeds \$50, the amount of the difference between the former value and the reasonable market value of those goods and services; and
- (3) In section 207(2), definition of **candidate donation**, paragraph (b)(ii), after “provided”, insert “by a New Zealand person”.
- (4) In section 207(2), definition of **candidate donation**, after paragraph (b)(ii), insert:

- (iii) goods or services provided by an overseas person free of charge to a candidate, or to any person on the candidate's behalf, that have a reasonable market value of \$50 or less
- (5) In section 207(2), insert in their appropriate alphabetical order:
- New Zealand person** means a person who is not an overseas person
- overseas person** means—
- (a) an individual who—
    - (i) resides outside New Zealand; and
    - (ii) is not a New Zealand citizen or registered as an elector; or
  - (b) a body corporate incorporated outside New Zealand; or
  - (c) an unincorporated body that has its head office or principal place of business outside New Zealand
- (6) In section 207(2), definition of **party donation**, paragraph (a)(i), after “provided”, insert “by a New Zealand person”.
- (7) In section 207(2), definition of **party donation**, after paragraph (a)(i), insert:
- (ia) where goods or services are provided by an overseas person to a party, or to any person on the party's behalf, under a contract or an arrangement at a value less than their reasonable market value, the latter being a value that exceeds \$50, the amount of the difference between the former value and the reasonable market value of those goods or services; and
- (8) In section 207(2), definition of **party donation**, paragraph (b)(ii), after “provided”, insert “by a New Zealand person”.
- (9) In section 207(2), definition of **party donation**, after paragraph (b)(ii), insert:
- (ia) goods or services provided by an overseas person free of charge to a party, or to any person on the party's behalf, that have a reasonable market value of \$50 or less; and

## 6 Section 207C amended (Contributors to be identified)

- (1) Replace section 207C(2)(b) with:
- (b) the details specified in subsection (3) in respect of any contribution that, either on its own or when aggregated with other contributions made by or on behalf of the same contributor to the donation, exceeds—
    - (i) \$1,500 in sum or value in the case of a contributor who is a New Zealand person; or
    - (ii) \$50 in sum or value in the case of a contributor who is an overseas person; and
- (2) In section 207C(2)(c), replace “paragraph (b)(iv)” with “paragraph (b)”.
- (3) After section 207C(2), insert:

- (3) The details referred to in subsection (2)(b) are—
- (a) the name of the contributor; and
  - (b) the address of the contributor; and
  - (c) whether the contributor is an overseas person; and
  - (d) the amount of the contribution or, in the case of aggregated contributions, the total amount of the aggregated contributions.

**7 Section 207I replaced (Anonymous donation may not exceed \$1,500)**

Replace section 207I with:

**207I Anonymous donations**

- (1) If an anonymous candidate donation is received by a candidate, the candidate must, within 20 working days, pay to the Electoral Commission—
- (a) the amount of the donation, or its value, less \$50, if—
    - (i) the candidate believes or has reasonable grounds to suspect the donor is an overseas person; and
    - (ii) the donation exceeds \$50; or
  - (b) the amount of the donation, or its value, less \$1,500, if—
    - (i) the candidate does not have reasonable grounds to suspect the donor is an overseas person; and
    - (ii) the donation exceeds \$1,500.
- (2) If an anonymous party donation is received by a party secretary, the party secretary must, within 20 working days, pay to the Electoral Commission—
- (a) the amount of the donation, or its value, less \$50, if—
    - (i) the party secretary believes or has reasonable grounds to suspect the donor is an overseas person; and
    - (ii) the donation exceeds \$50; or
  - (b) the amount of the donation, or its value, less \$1,500, if—
    - (i) the party secretary does not have reasonable grounds to suspect the donor is an overseas person; and
    - (ii) the donation exceeds \$1,500.
- (3) All amounts received by the Electoral Commission under this section must be paid into a Crown Bank Account.

**8 New section 207JA inserted (Duty to ascertain whether donation from overseas person)**

After section 207J, insert:

**207JA Duty to ascertain whether donation from overseas person**

- (1) A candidate or party secretary who receives a donation (not being an anonymous donation) that exceeds \$50 must take all reasonable steps in the circumstances to ascertain whether—
  - (a) the donation was made by or on behalf of an overseas person; or
  - (b) any contribution to the donation was made by or on behalf of an overseas person.
- (2) If a candidate or party secretary ascertains that a donation or contribution to a donation was made by an overseas person, or that there are reasonable grounds to suspect that the donation or contribution was made by an overseas person, the candidate or party secretary must comply with section 207K.

**9 Section 207K amended (Overseas donation or contribution may not exceed \$1,500)**

- (1) In the heading to section 207K, replace “\$1,500” with “\$50”.
- (2) Repeal section 207K(1).
- (3) In section 207K(2), (2A), and (3), replace “\$1,500” with “\$50” in each place.
- (4) In section 207K(4), replace “subsection (2) or (3)” with “subsection (2), (2A), or (3)”.

**10 Section 207L amended (Offence relating to contravention of section 207K)**

- (1) In section 207L(1) and (2), replace “section 207K(2) or (3)” with “section 207K(2), (2A), or (3)”.
- (2) After section 207L(2), insert:
- (3) It is a defence to a charge under subsection (2) if the candidate or party secretary proves that he or she took all reasonable steps in the circumstances to ascertain that—
  - (a) a donation exceeding \$50, or a contribution exceeding \$50 to a donation, was not made by or on behalf of an overseas person; or
  - (b) there were no reasonable grounds to suspect that a donation exceeding \$50, or a contribution exceeding \$50 to a donation, was made by or on behalf of an overseas person.

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

- (1) In section 208A(1), replace “person” with “New Zealand person”.
- (2) Replace section 208A(3) with:
- (3) A donation under subsection (2) must be accompanied by a statement specifying—
  - (a) the name of the party that is to receive the donation; and

- (b) the full name and address of the donor; and
- (c) whether the donor is a New Zealand person; and
- (d) the matters set out in paragraphs (a) to (c) in respect of every person who has contributed in excess of \$1,500 to the donation, if the donation made by the donor includes or comprises contributions from others.

**12 Section 208D amended (Duties of Electoral Commission on receipt of donation)**

- (1) After section 208D(1)(b), insert:
  - (c) the Electoral Commission believes or has reasonable grounds to believe that the donation is made by an overseas person, or includes or comprises contributions from an overseas person.
- (2) In section 208D(2), replace “subsection (1)(a)” with “subsection (1)(a) or (c)”.

**13 Section 209 amended (Return of candidate donations)**

- (1) In section 209(1)(b), replace “every contribution” with “every contribution received from a New Zealand person”.
- (2) Replace section 209(1)(c) with:
  - (c) the details specified in subsection (4) in respect of every anonymous candidate donation received by him or her—
    - (i) exceeding \$50, in any case where the candidate believes or has reasonable grounds to suspect the donor is an overseas person; or
    - (ii) exceeding \$1,500, in any other case; and
- (3) In section 209(1)(d) and (e), replace “\$1,500” with “\$50”.

**14 Section 210 amended (Annual return of party donations)**

- (1) In section 210(1)(b), replace “every contribution” with “every contribution received from a New Zealand person”.
- (2) Replace section 210(1)(c) with:
  - (c) the details specified in subsection (4) in respect of every anonymous party donation received by him or her—
    - (i) exceeding \$50, in any case where the party secretary believes or has reasonable grounds to suspect the donor is an overseas person; or
    - (ii) exceeding \$1,500, in any other case;
- (3) In section 210(1)(d) and (da), replace “\$1,500” with “\$50”.
- (4) Repeal section 210(6A)(b).

## Part 2

### Other amendments

#### 15 Section 3 amended (Interpretation)

In section 3(1), replace the definition of **party secretary** with:

**party secretary** or **secretary** has the meaning given to it by section 3EA

#### 16 New section 3EA inserted (Meaning of party secretary)

After section 3E, insert:

##### 3EA Meaning of party secretary

- (1) In this Act, **party secretary** or **secretary**, in relation to a party, means the person who is responsible for the administration and correspondence of the party and who has been (or is required to be) designated under any of the following provisions as secretary of the party for the purposes of this Act:
  - (a) section 63(2)(c)(iii) or (iv):
  - (b) section 67(3)(c):
  - (c) section 67AA(2).
- (2) The person designated as party secretary must live in New Zealand.

#### 17 Section 221A amended (Electoral advertisements)

- (1) Replace section 221A(1) with:
  - (1) A person must not publish or cause or permit to be published in any medium, or broadcast or cause or permit to be broadcast in any medium, any advertisement relating to an election (not being an election advertisement as defined in section 3A) unless the advertisement includes a statement specifying—
    - (a) the true name of the person for whom or at whose direction it is published or broadcast; and
    - (b) the address of that person's place of residence or business.
  - (2) In section 221A(2), replace "Subsection (1) shall not apply to any advertisement published or broadcast, or caused or permitted to be published or broadcast" with "Subsection (1) does not apply to any advertisement published or broadcast, or caused or permitted to be published or broadcast, in any medium".
  - (3) Replace section 221A(4) with:
  - (4) Nothing in this section—
    - (a) restricts the publication or broadcast in any medium of any news or comments relating to an election made in a newspaper or periodical or by a broadcaster (as that term is defined in section 2(1) of the Broadcasting Act 1989); or

- (b) applies to the editorial content of a publication on a news media Internet site; or
- (c) applies to any publication on the Internet, or other electronic medium, of personal political views by an individual who does not make or receive a payment in respect of the publication of those views.
- (5) In this section, **medium** includes the Internet or any other electronic medium.

### Legislative history

3 December 2019	Introduction (Bill 195–1), first reading, second reading, committee of the whole House, third reading
6 December 2019	Royal assent

This Act is administered by the Ministry of Justice.