
INFORMATION NOTE

Donation Declaration Systems for Political Parties in the United Kingdom, New Zealand and Canada

1. Introduction

1.1 The Committee on Members' interests, at its meeting on 8 April 2003, requested the Research and Library Services Division to conduct a study on donation declaration systems for political parties. This information note provides some basic information on donation declaration systems in the United Kingdom (UK), New Zealand and Canada.

2. The United Kingdom

2.1 Regulations governing donations to political parties in the UK were first introduced in February 2001, following the enactment of the *Political Parties, Elections and Referendums Act (PPERA) 2000*. *PPERA* also establishes the Electoral Commission¹, whose roles include ensuring that political parties, other organizations and individuals comply with donation controls, and publishing a register of those making political donations.

2.2 In the UK, political parties must register with the Electoral Commission in order to field candidates at general elections, European elections, elections for devolved assemblies and most local government elections. Once a party has registered with the Commission, it is subject to the financial controls detailed below.

Acceptance of donations

2.3 Under *PPERA*, donations of more than £200 (HK\$2,540) made to a registered political party can only be accepted if they are from a permissible donor. There is no cap on the amount that can be accepted as a donation by a registered party. A permissible donor is defined by *PPERA* as:

- (a) an individual registered on a UK electoral register;
- (b) a UK registered political party;

¹ The Electoral Commission comprises not less than five but not more than nine Electoral Commissioners, who are appointed by Her Majesty.

- (c) a UK registered company;
- (d) a UK registered trade union;
- (e) a UK registered building society;
- (f) a UK registered limited liability partnership;
- (g) a UK registered friendly, industrial or provident society; or
- (h) a UK based unincorporated association.

2.4 Since only individuals who are on a UK electoral register and only organizations that are registered and carry on business in the UK can make donations, overseas donations are categorically prohibited by *PPERA*.

2.5 Any party receiving donations from anonymous or impermissible sources must either return them, or surrender them to the Consolidated Fund.²

Definition of party donation

2.6 Under section 50 of *PPERA*, a donation to a registered party is defined as:

- (a) any gift to the party of money or other property;
- (b) subscriptions and affiliation fees;
- (c) money spent to pay party's expenses;
- (d) non-commercial loans;
- (e) non-commercial provision of property, services or facilities; and
- (f) some specific sponsorship defined by law.

2.7 Certain payments and services do not count as donations, such as:

- (a) grants to cover security costs at party conferences;
- (b) the services of a volunteer in his own time and free of charge; and
- (c) the broadcasting of party political broadcasts.

² The general fund into which almost all government receipts are paid and out of which almost all government expenditure is met.

2.8 Donations of less than £200 (HK\$2,540) are not regulated under *PPERA*. Donations to particular candidates can be disregarded because the candidates themselves have to declare these donations in their election expenses.

Donation reporting requirements

2.9 Political parties are required to submit a quarterly donation report to the Electoral Commission, listing donations of more than £5,000 (HK\$63,500), as a lump sum or in sums of smaller amounts from the same source, accepted by the party's headquarters. Parties must also report donations of more than £1,000 (HK\$12,700), as a lump sum or in sums of smaller amounts from the same source, accepted by branches of the party.

2.10 In addition, any donations received, but not accepted, from impermissible or unidentifiable sources must be reported. To comply with the reporting requirements, political parties have to keep records of all donations above £200 (HK\$2,540) which have been received and accepted.

2.11 In a general election period, parties contesting the election must report at weekly rather than quarterly intervals for donations over £5,000 (HK\$63,500). This applies to donations that have been received whether or not they were accepted. If no such donations have been made, the weekly reports have to state this. Weekly reports normally have to be made within seven days.

2.12 Under *PPERP*, companies are required to seek shareholder approval before making a donation to a political party. However, in relation to donations made by other permissible donors, the obligation to report a donation usually rests with the recipient of the donation. Donors are only required to report to the Electoral Commission themselves if over the course of a calendar year they have made donations of more than £5,000 (HK\$63,500) (to an organization) or more than £1,000 (HK\$12,700) (to an individual) in sums of £200 (HK\$2,540) or less by 31 January of the following year.

2.13 The Electoral Commission maintains a register of party political donations, which is updated four times a year. The register can be viewed on the Commission's website.³

Other declaration requirements

2.14 Both the House of Commons and the House of Lords maintain a Register of Members' Interests. In the House of Commons, Members of Parliament (MPs) are required to declare their interests, which are being recorded in the Register of Members' Interests.

³ <http://www.electoralcommission.gov.uk>.

2.15 The Register of Members' Interests is published annually. Ten categories of interests are required to be registered. They are (a) remunerated directorships; (b) remunerated employment, professions and offices; (c) the names of clients for whom a Member provides services which arise out of his or her parliamentary position; (d) sponsorship or financial support; (e) gifts, benefits and hospitality; (f) overseas visits; (g) overseas benefits and gifts; (h) land and property of substantial value (excluding a Member's home); (i) registrable shareholdings; and (j) miscellaneous and unremunerated interests.

2.16 Under the fourth category, which is on sponsorship or financial support, a Member is required to register (a) any donation of more than £1,000 (HK\$12,700) received by a Member's constituency association⁴ which is linked either to candidacy at an election or to membership of the House; and (b) any other form of financial or material support as a Member. This includes any regular donation in excess of £1,000 (HK\$12,700) per year made by an organization or company to the Member's constituency association if the donation is linked directly to the Member's candidacy in the constituency or to membership of the House.

3. New Zealand

3.1 Regulations governing donations to political parties in New Zealand are laid down in the *Electoral Act 1993* and its series of amendments. The Electoral Commission⁵ is an independent body established under the *Electoral Act* to carry out a number of functions related to the parliamentary electoral system, such as ensuring political parties to comply with donation reporting requirements.

3.2 In New Zealand, MPs are elected using the Mixed Member Proportional Representation system (MMP). Under MMP, each voter has two votes — one for a Member to represent an electorate and the other for a party which the voter prefers. A party must be registered by the Electoral Commission before a general election to be entitled to submit a party list at the election and thus appear on the Party Vote. Nonetheless, a party does not have to be registered in order to contest electorate seats at a general election or by-election.

Acceptance of donations

3.3 Political parties are legally allowed to accept donations from known persons or anonymous sources. The meaning of 'person' includes a corporation sole, a body corporate, and an unincorporated body.

⁴ A constituency association is the basic organizational unit of a political party.

⁵ The Electoral Commission is an independent Crown entity, usually consisting of four Commissioners. The President of the Commission, who must be a serving or retired judge of the District Court, High Court or Court of Appeal, is appointed by the Governor General for up to five years. The second Commissioner, the Commission's Chief Executive, is also appointed by the Governor General for up to five years. The Secretary for Justice and the Chief Judge of the Maori Land Court are Commissioners *ex officio*.

3.4 In relation to a party donation, the term 'anonymous' is defined in the *Electoral Act* as meaning:

"a donation that is made in such a way that none of the following knows who made the donation:

- (i) the candidates of the party to which the donation is made;*
- (ii) the persons involved in the administration of the affairs of that party." ⁶*

3.5 In New Zealand, there is no prohibition on foreign donations to political parties.⁷ There is also no upper limit on the amount of donation that can be accepted by a registered political party.

Definition of party donation

3.6 Under section 214F of the *Electoral Act*, party donation —

"(a) means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things) —

- (i) which is received by or on behalf of the party by any person or body of persons involved in the administration of the affairs of the party; and*
- (ii) which, either on its own or when aggregated with all other such donations made in the same year by the same person exceeds [NZ]\$10,000 [HK\$44,900] in sum or value (inclusive of goods and services tax); and*

(b) includes, where goods or services are provided to the party under a contract at 90% or less of their reasonable market value, the amount of the difference between the contractual price of the goods or services and the reasonable market value of those goods or services."

3.7 Party donation does not include the labour of any person which is provided to the party free of charge; and does not include any constituency donation that is included in a return made by a constituency candidate.⁸

⁶ Section 3, the *Electoral Act* 1993.

⁷ According to the Electoral Commission, many New Zealand citizens and permanent residents living overseas are entitled to vote and may wish to donate to a party. In any event, there have not been many instances of parties receiving disclosable donations from overseas.

⁸ Section 214F(c) and (d), the *Electoral Act* 1993.

Donation reporting requirements

3.8 Under the *Electoral Act*, every registered party is required to appoint an auditor.⁹ Before 30 April each year, the secretary of each registered party must provide the Electoral Commission with an accurate audited return showing the names and addresses of every person or body of persons who made one or more donations to the party totalling more than NZ\$10,000 (HK\$44,900) during the previous calendar year. Each anonymous donation in excess of NZ\$10,000 (HK\$44,900) must also be listed in the return. There is no requirement for an unregistered party to provide a return of donations.

3.9 There are legal obligations to file a nil return and to retain records necessary to verify a return. The Electoral Commission must make the returns of party donations and auditors' reports available for public inspection.¹⁰

Other declaration requirements

3.10 In New Zealand, there is no current register of interests for MPs other than Ministers. The *Standing Orders of the House of Representatives* provide that a Member must, before participating in the consideration of any item of business, declare any pecuniary interest¹¹ which the Member has in that business.

⁹ Section 214D(1), the *Electoral Act 1993*.

¹⁰ See <http://www.elections.org.nz/elections/esyst/parties.html>.

¹¹ Under the *Standing Orders of the House of Representatives* 165, a pecuniary interest is defined as:

"(1) A pecuniary interest is a direct financial benefit that might accrue to a member personally, or to any trust, company or other business entity in which the member holds an appreciable interest, as a result of the outcome of the House's consideration of a particular item of business.

(2) A pecuniary interest —

(a) includes a pecuniary interest held by a member's spouse or domestic partner or by any child of the member who is wholly or mainly dependent on the member for support, but

(b) does not include any interest held by a member or any other person as one of a class of persons who belong to a profession, vocation or other calling or who hold public offices or an interest held in common with the public."

4. Canada

4.1 Regulations governing contributions¹² to political parties at the federal level of Canada are laid down in the *Canada Elections Act*. The Office of the Chief Electoral Officer¹³ of Canada, commonly known as Elections Canada, is the non-partisan agency of Parliament responsible for the conduct of federal elections and referendums. One of the mandates of Elections Canada is to examine and disclose financial returns of registered political parties.

4.2 Political parties must be properly registered by the Chief Electoral Officer before candidates may use the party name on the election ballot.

Acceptance of contributions

4.3 Contributions to a registered party can be made by individuals, corporations, unions and other organizations. Only non-Canadians and foreign companies, associations, unions or governments are prohibited from making contributions.¹⁴ There is no upper limit on the amount of contributions.

4.4 Anonymous contributions are legally forbidden. Under section 425 of the *Canada Elections Act*, a registered agent of a registered party must, without delay, pay an amount of money equal to the value of a contribution received by the registered party, to the Chief Electoral Officer who must forward it to the Receiver General, if:

- (a) the registered agent cannot determine to which of the classes the contributor belongs; or
- (b) the amount is more than CAN\$200 (HK\$1,140) and the name or address of a contributor or the name of the chief executive officer or president of a contributor is not known.

Definition of party contribution

4.5 The word 'contribution' means a monetary contribution or a non-monetary contribution.

¹² In Canada, the term 'contribution' rather than 'donation' is commonly used.

¹³ The Chief Electoral Officer is an officer of Parliament, appointed by resolution of the House of Commons. He or she serves until the age of 65 or resignation, and can be removed only for cause by the Governor General following a joint address of the House of Commons and the Senate.

¹⁴ There is a bill in the House of Commons intending to strengthen regulations on the financing of political parties and candidates. The new bill prohibits corporations, unions and associations from making contributions to any registered party. For details, see James R. Robertson, "Bill C-24: An Act To Amend The Canada Elections Act And The Income Tax Act (Political Financing)," Parliamentary Research Branch, Parliament of Canada, SE-448E, 2003.

Contribution reporting requirements

4.6 For each fiscal period of a registered party, its chief agent must provide the Chief Electoral Officer with:

- (a) a financial transactions return on the registered party's financial transactions;
- (b) the auditor's report on the financial transactions return;
- (c) a declaration in the prescribed form by the chief agent concerning those financial transactions; and
- (d) a trust fund return and the auditor's report on it.

4.7 A financial transactions return must set out:

- (a) a statement of contributions received from the following classes of contributor: individuals, businesses, commercial organizations, governments, trade unions, corporations without share capital other than trade unions, and unincorporated organizations or associations other than trade unions;
- (b) the number of contributors in each class; and
- (c) the name and address of each contributor in a class listed above who made contributions of a total amount of more than CAN\$200 (HK\$1,140) to the registered party for its use, either directly or through one of its electoral district associations or a trust fund established for the election of a candidate endorsed by the registered party, and that total amount.

4.8 The chief agent of a registered party must provide the Chief Electoral Officer with the above documents within six months after the end of the fiscal period.

4.9 All the financial information submitted to the Chief Electoral Officer by parties is available to the public at all times. Financial reports of political parties are published on Elections Canada's website.¹⁵

Other declaration requirements

4.10 There is no requirement for MPs and Senators to disclose financial interests generally. However, Standing Order 21 of the House of Commons provides that Members are not entitled to vote on questions in which they have direct pecuniary interests; if they do, their votes will be disallowed. A similar provision is found in the Rules of the Senate.

¹⁵ See <http://www.elections.ca>.

Table 1 - Comparison of donation declaration systems for political parties in the United Kingdom, New Zealand and Canada

Attributes	The United Kingdom	New Zealand	Canada
(1) Regulatory Framework			
Legislation	The <i>Political Parties, Elections and Referendums Act 2000</i> .	The <i>Electoral Act 1993</i> .	The <i>Canada Elections Act</i> .
Responsible Authority	The Electoral Commission.	The Electoral Commission.	The Office of the Chief Electoral Officer.
(2) Acceptance of Donation/Contribution			
Donors' Requirement	Permissible donors defined by law, including registered voters, registered political parties, companies, trade unions and building societies.	Known persons or anonymous sources. A 'person' includes a corporation sole, a body corporate and an unincorporated body.	Individuals, corporations, unions and other organizations.
Foreign donation/contribution	Not allowed.	Allowed.	Not allowed.
Cap on donation/contribution	No	No	No
Anonymous donation/contribution	Not allowed.	Allowed.	Not allowed.
(3) Party Donation/Contribution			
Definition	<ul style="list-style-type: none"> (a) Any gift to the party of money or other property; (b) subscriptions and affiliation fees; (c) money spent to pay party's expenses; (d) non-commercial loans; (e) non-commercial provision of property, services or facilities; and (f) some specific sponsorship defined by law. 	<p>It (a) means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things) —</p> <ul style="list-style-type: none"> (i) in the administration of the affairs of the party; and (ii) which, either on its own or when aggregated with all other such donations made in the same year by the same person exceeds NZ\$10,000 (HK\$44,900) in sum or value (inclusive of goods and services tax); and <p>(b) includes, where goods or services are provided to the party under a contract at 90% or less of their reasonable market value, the amount of the difference between the contractual price of the goods or services and the reasonable market value of those goods or services.</p>	A monetary contribution or a non-monetary contribution.

Table 1 - cont'd

Attributes	The United Kingdom	New Zealand	Canada
(4) Donation/Contribution Reporting			
Reporting Requirements	<p>A quarterly donation report to the Electoral Commission listing all donations of more than £5,000 (HK\$63,500) accepted by the party's headquarters and donations of more than £1,000 (HK\$12,700) accepted by branches of the party.</p> <p>A weekly report for donations over £5,000 (HK\$63,500) in a general election period.</p>	<p>Each year, the secretary of each registered party must provide the Electoral Commission with an accurate audited return showing the names and addresses of every person or body of persons who made one or more donations to the party totalling more than NZ\$10,000 (HK\$44,900) during the previous calendar year. Each anonymous donation in excess of NZ\$10,000 (HK\$44,900) must also be listed in the return.</p>	<p>For each fiscal period of a registered party, its chief agent must provide the Chief Electoral Officer with:</p> <p>(a) a financial transactions return on the registered party's financial transactions;</p> <p>(b) the auditor's report on the financial transactions return;</p> <p>(c) a declaration in the prescribed form by the chief agent concerning those financial transactions; and</p> <p>(d) a trust fund return and the auditor's report on it.</p>

Prepared by CHAU Pak-kwan
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Tel: 2869 9593

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