Reprint
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Electoral Act 1993

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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An Act to reform the electoral system and to provide, in particular, if the proposal for the introduction of the mixed member proportional system is carried at the referendum held under the Electoral Referendum Act 1993,—

(a) for the introduction of the mixed member proportional system of representation in relation to the House of Representatives:

(b) for the establishment of an Electoral Commission:

(c) for the repeal of the Electoral Act 1956

1 Short Title

This Act may be cited as the Electoral Act 1993.

2 Commencement

(1) If the Chief Electoral Officer makes, in accordance with section 19(5) of the Electoral Referendum Act 1993, a declaration that the proposal favouring the introduction of the proposed mixed member proportional system as provided in this Act is carried, Part 4 and Parts 6 to 9 and Schedules 2 and 3 shall, except as provided in subsection (2), come into force on 1 July 1994.

(2) If the Chief Electoral Officer makes, in accordance with section 19(5) of the Electoral Referendum Act 1993, a declaration that the proposal favouring the introduction of the proposed mixed member proportional system as provided in this Act is carried, section 3 and Parts 1, 2, 3, and 5 and sections 267, 269, and 270 and Schedule 1 shall come into force on the day after the date on which that declaration is published in the *Gazette*.

(3) If the Chief Electoral Officer makes, in accordance with section 19(5) of the Electoral Referendum Act 1993, a declaration that the proposal favouring the

introduction of the proposed mixed member proportional system as provided in this Act is not carried,—

(a) section 3 and Parts 1 to 9 and Schedules 1, 2, and 3 shall not come into force; and

(b) on 1 July 1994, this Act shall be deemed to be repealed.

(4) Except as provided in subsections (1) to (3), this Act shall come into force on the day on which it receives the Royal assent.

Section 2(2): section 3, Parts 1–3 and 5, sections 267, 269, and 270, and Schedule 1brought into force, on 17 December 1993, by declaration in the *Gazette* 1993, p 3753.

3 Interpretation

(1) In this Act, unless the context otherwise requires,—

adult—

(a) means a person of or over the age of 18 years; but

(b) where a writ has been issued for an election, includes, on or after the Monday immediately before polling day, a person under the age of 18 years if that person's 18th birthday falls in the period beginning on that Monday and ending on polling day

approved electronic medium, in relation to the making of an application or the providing of any information, means an electronic medium approved by the Electoral Commission for the making of that application or the providing of that information

bribery has the meaning assigned to that term by section 216

by-election means any election other than a general election

candidate,—

(a) means a constituency candidate; and

(b) includes a list candidate (other than in Parts 6AA and 6A); and

(c) in the definition of **candidate advertisement** and in section 3A and Parts 6AA, 6A, 7, and 8 includes a person who has declared his or her intention of becoming a constituency candidate; and

(d) in Parts 7 and 8 includes a person who has declared his or her intention of becoming a list candidate

candidate advertisement means an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to do either or both of the following:

(a) to vote for a constituency candidate (whether or not the name of the candidate is stated):

(b) not to vote for a constituency candidate (whether or not the name of the candidate is stated)

census means the census of population and dwellings carried out by the Department of Statistics pursuant to the Statistics Act 1975

Chief Electoral Officer means the Chief Electoral Officer appointed under this Act; and includes any person authorised to exercise the powers, duties, and functions of the Chief Electoral Officer

component party means, in relation to a registered political party (in this definition called the **registered party**) or in relation to a political party that is applying for registration (in this definition called the **applicant party**),—

(a) a political party that is a member of the registered party or of the applicant party; or

(b) a political party that has combined some or all of its membership with that of another political party and thereby formed the registered party or the applicant party or augmented the membership of such a party, as the case may be

constituency candidate means a person who has been nominated as a candidate for a seat in the House of Representatives representing an electoral district

corrupt practice means any act declared by this Act to be a corrupt practice

Corrupt Practices List, in relation to any district, means the Corrupt Practices List made out for that district under section 100

costs includes charges and expenses

Crown means Her Majesty in respect of the Government of New Zealand

current financial member, in relation to a political party, means a member of the party—

(a) whose membership of the party resulted from an application made by the member to join the party; and

(b) who is, under the party's rules, subject to an obligation to pay to the party a membership fee—

(i) on becoming a member; and

(ii) then at specified intervals of not more than 3 years; and

(c) who has paid to the party every membership fee that has for the time being become payable by the member in accordance with those rules

district or **electoral district** or **electorate** means a General electoral district or a Maori electoral district constituted under this Act

election means an election of a member of the House of Representatives

election advertisement has the meaning given to it by section 3A

election expenses,—

(a) in relation to a constituency candidate, has the meaning given to it by section 205:

(b) in relation to a party that is registered under Part 4, has the meaning given to it by section 206

elector, in relation to any district, means a person registered, or qualified to be registered, as an elector of that district

Electoral Commission means the Electoral Commission established by section 4B

Electoral Commissioner or **Commissioner** means a member of the Electoral Commission

electoral official means any person that the Electoral Commission employs or engages for the purpose of assisting with the performance of its functions

electoral roll, in relation to any district, means, subject to sections 101 to 103, the forms of application for registration kept by the Electoral Commission of persons registered as electors of that district (including a form returned following an inquiry under section 89D)

eligible political party means a political party that has at least 500 current financial members who are eligible to enrol as electors

enduring power of attorney means a power of attorney described in section 95 of the Protection of Personal and Property Rights Act 1988

general election means an election that takes place after the dissolution or expiration of Parliament

General electoral district means an electoral district other than a Maori electoral district

General electoral population means total ordinarily resident population as shown in the last periodical census of population and dwellings with the exception of the Maori electoral population

Government means the Government of New Zealand

hospital means a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001

illegal practice means any act declared by this Act to be an illegal practice

issuing officer, in relation to a polling place, means the manager of the polling place or a person authorised, under section 158(3)(a), to issue ballot papers in the polling place

list candidate means any person whose name is specified in a party list submitted to the Electoral Commission under section 127

main roll, in relation to any district, means, subject to section 107, the main roll printed for the district and for the time being in force

manager, in relation to a polling place, means the person designated, under section 158(2), as the manager of the polling place

Maori means a person of the Maori race of New Zealand; and includes any descendant of such a person

Maori electoral district means an electoral district constituted under section 45

Maori electoral population means a figure representing both the persons registered as electors of the Maori electoral districts and a proportion of the persons of New Zealand Maori descent who are not registered as electors of any electoral district and a proportion of the persons of New Zealand Maori descent under the age of 18 years, which figure shall be fixed—

(a) by ascertaining a proportion determined by dividing—

(i) the total number of persons registered as at the close of the last day of the period specified in the last notice published under section 77(2) as electors of Maori electoral districts, and persons on the dormant rolls for Maori electoral districts; by

(ii) the total number of persons of New Zealand Maori descent registered as at the close of the day referred to in subparagraph (i) as electors of either General electoral districts or Maori electoral districts, and persons on the dormant rolls for Maori electoral districts and General electoral districts; and

(b) by applying the proportion ascertained under paragraph (a) to the total number of ordinarily resident persons of New Zealand Maori descent as determined by the last periodical census

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

member of the Defence Force means any person resident in New Zealand within the meaning of this Act who is for the time being a member of the New Zealand Defence Force constituted by section 11(1) of the Defence Act 1990; and includes any person so resident who is attached to, or employed by, or carries out duties of the New Zealand Defence Force which necessitate his or her being outside New Zealand

mental impairment, in relation to any person, means an impairment causing a person to lack, wholly or partly, the capacity to understand the nature of any decision about registering as an elector

meshblock means statistical meshblock

Minister means the Minister of Justice

nomination day, in relation to any election, means the day appointed in the writ for that election as the latest day for the nomination of candidates

party, in Parts 6AA, 6A, and 6B,—

(a) means a political party registered under Part 4; and

(b) includes a political party that at any time during the regulated period has been registered under Part 4

party advertisement means an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to do either or both of the following:

(a) to vote for a party (whether or not the name of the party is stated):

(b) not to vote for a party (whether or not the name of the party is stated)

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

permanent resident of New Zealand has the meaning assigned thereto by section 73

personation has the meaning assigned to that term by section 215

polling day, in relation to any election, means the day appointed in the writ for that election for the polling to take place if a poll is required

polling place official means a person appointed, under section 158(1), as an official for a polling place

prescribed means prescribed by this Act or by regulations made thereunder or (for the purposes of Part 8) by rules of court

prison means a prison established or deemed to be established under the Corrections Act 2004

prison manager has the same meaning as in section 3(1) of the Corrections Act 2004

public inspection period means, in relation to a return filed under sections 205K, 206I, 206ZC, 209, 210, 210C, 214C, and 214F, the period—

(a) beginning 3 working days after the date of receipt by the Electoral Commission of the duly completed return; and

(b) ending with the close of polling day for the second general election that takes place after the date of receipt by the Electoral Commission of the duly completed return

public money has the same meaning as in the Public Finance Act 1989

public notice or **public notification** means a notice printed in some newspaper circulating in the district intended to be affected by the notice

public place has the same meaning as in section 2 of the Summary Offences Act 1981

public servant—

(a) means a person employed in the service of the Crown, not being honorary service; and

(b) includes a person employed in—

(i) the education service as defined in section 10(7) of the Education and Training Act 2020; or

(ii) the Cook Islands Public Service; or

(iii) the Western Samoan Public Service; and

(ba) includes an electoral official; but

(bb) does not include an electoral official who has been appointed as a Deputy Electoral Commissioner or Returning Officer; and

(c) does not include any person to whom subsection (2) or subsection (3) applies; and

(d) does not include—

(i) any person by reason of his or her holding an office for which salary is payable under the Members of Parliament (Remuneration and Services) Act 2013; or

(ii) any person by reason of his or her being employed in any of Her Majesty's forces except the Royal New Zealand Navy, the Regular Force of the New Zealand Army, or the Regular Air Force of the Royal New Zealand Air Force; or

(iii) any person remunerated by fees or commission and not by wages or salary

Registrar, in relation to any district, means the Registrar of Electors appointed for that district under section 22; and includes his or her deputy

Registrar of Births and Deaths means Registrar within the meaning of section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995

regulated period has the meaning given to it by section 3B

representative, in Part 5, means,—

(a) in relation to a person who is outside New Zealand, or who has a physical impairment,—

(i) a person who is a registered elector:

(ii) an attorney appointed under a power of attorney:

(b) in relation to a person who has a mental impairment,—

(i) a person who is a registered elector:

(ii) a welfare guardian appointed under section 12(1) of the Protection of Personal and Property Rights Act 1988:

(iii) an attorney appointed under an enduring power of attorney

residence and **to reside** have the meanings assigned thereto by section 72

Returning Officer means an electoral official designated under section 20B; and includes a person authorised to exercise or perform the powers, duties, or functions of a Returning Officer

roll means an electoral roll, a main roll, or a supplementary roll, as the case may be; and includes a composite roll printed under section 107

Speaker means—

(a) the Speaker of the House of Representatives; or

(b) if the Speaker of the House of Representatives is (for whatever reason) unable to act, the Deputy Speaker of the House of Representatives; or

(c) if neither the Speaker of the House of Representatives nor the Deputy Speaker of the House of Representatives is (for whatever reason) able to act, an Acting Speaker of the House of Representatives who is able to act

special voter, in relation to any election, means a person qualified under this Act to vote as a special voter at that election

statement includes not only words but also pictures, visual images, gestures, and other methods of signifying meaning

supplementary roll, in relation to any district, means a supplementary roll printed for the district and for the time being in force

treating has the meaning assigned to that term by section 217

undue influence has the meaning assigned to that term by section 218

working day means any day of the week other than—

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(b) a day in the period commencing with 25 December in any year and ending with 15 January in the following year

writ means a writ for an election issued under this Act

writ day, in relation to any election, means the day of the issue of the writ for that election.

A reference to a numbered form is a reference to the form so numbered in Schedule 2.

(2) Where any person—

(a) is appointed by the Crown, or the Government, or any department or agency of the Government to be a member of any commission, council, board, committee, or other body; or

(b) is a member of any commission, council, board, committee, or other body of which any members receive any payment out of public money,—

he or she shall not by reason of that membership be deemed to be a public servant, whether or not he or she receives any travelling allowances or travelling expenses.

(3) No person shall, by reason only of being a head of mission or head of post within the meaning of the Foreign Affairs Act 1988, be deemed to be a State servant within the meaning of section 52(1) or a public servant, whether or not that person receives any salary, allowances, or expenses.

Compare: 1956 No 107 s 2; 1975 No 28 s 6(2)(a), (b); 1979 No 12 s 3(a), (b); 1980 No 29 ss 2(1)–(4), 3(2), 5(2), (3); 1981 No 120 s 44(2); 1983 No 104 s 2(1); 1986 No 16 s 7(1); 1988 No 34 s 12; 1988 No 159 s 14(1); 1990 No 1 s 2(1), (3)–(6)

Section 3(1) **anonymous**: repealed, on 20 December 2007, by section 4(1) of the Electoral Amendment Act 2007 (2007 No 113).

Section 3(1) **approved electronic medium**: inserted, on 25 March 2014, by section 4 of the Electoral Amendment Act 2014 (2014 No 8).

Section 3(1) **candidate**: substituted, on 1 January 2011, by section 4(1) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 3(1) **candidate advertisement**: inserted, on 1 January 2011, by section 4(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 3(1) **Chief Registrar**: repealed, on 1 July 2012, by section 52(1) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 3(1) **Clerk of the Writs**: repealed, on 28 February 2002, by section 3(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **component party**: inserted, on 6 December 1995, by section 2(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 3(1) **corrupt practice**: substituted, on 20 December 2007, by section 4(2) of the Electoral Amendment Act 2007 (2007 No 113).

Section 3(1) **corrupt practice**: amended, on 1 March 2009, by section 4(3) of the Electoral Amendment Act 2009 (2009 No 1).

Section 3(1) **current financial member**: inserted, on 28 February 2002, by section 3(4) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **Deputy Returning Officer**: repealed, on 28 February 2002, by section 3(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **election advertisement**: inserted, on 1 January 2011, by section 4(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 3(1) **election expenses**: substituted, on 1 March 2009, by section 4(2) of the Electoral Amendment Act 2009 (2009 No 1).

Section 3(1) **election expenses** paragraph (a): amended, on 17 August 2011, by section 4(1) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 3(1) **election expenses** paragraph (b): amended, on 17 August 2011, by section 4(2) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 3(1) **Electoral Commission**: substituted, on 1 October 2010, by section 5(1) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **Electoral Commissioner** or **Commissioner**: substituted, on 1 October 2010, by section 5(2) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **electoral official**: substituted, on 1 October 2010, by section 5(3) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **electoral roll**: substituted, on 28 February 2002, by section 3(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **electoral roll**: amended, on 21 March 2017, by section 4(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 3(1) **electoral roll**: amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 3(1) **eligible political party**: substituted, on 6 December 1995, by section 2(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 3(1) **hospital**: substituted, on 1 October 2002, by section 58(1) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

Section 3(1) **illegal practice**: substituted, on 20 December 2007, by section 4(3) of the Electoral Amendment Act 2007 (2007 No 113).

Section 3(1) **illegal practice**: amended, on 1 March 2009, by section 4(4) of the Electoral Amendment Act 2009 (2009 No 1).

Section 3(1) **issuing officer**: inserted, on 28 February 2002, by section 3(4) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **list candidate**: inserted, on 1 March 2009, by section 4(2) of the Electoral Amendment Act 2009 (2009 No 1).

Section 3(1) **list candidate**: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **manager**: inserted, on 28 February 2002, by section 3(4) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **Maori electoral population** paragraph (a): substituted, on 28 February 2002, by section 3(5) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **medical practitioner**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 3(1) **mental impairment**: inserted, on 25 March 2014, by section 4 of the Electoral Amendment Act 2014 (2014 No 8).

Section 3(1) **mental institution**: repealed, on 1 September 2004, by section 51 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115).

Section 3(1) **New Zealand Post** or **New Zealand Post Limited**: repealed, on 1 July 2012, by section 49 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 3(1) **party**: substituted, on 1 January 2011, by section 4(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 3(1) **party**: amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 3(1) **party advertisement**: inserted, on 1 January 2011, by section 4(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 3(1) **party secretary** or **secretary**: replaced, on 1 April 2020, by section 15 of the Electoral Amendment Act 2019 (2019 No 72).

Section 3(1) **penal institution**: repealed, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 3(1) **polling place official**: inserted, on 28 February 2002, by section 3(4) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **prison**: inserted, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 3(1) **prison manager**: inserted, on 30 June 2020, by section 4 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Section 3(1) **public inspection period**: inserted, on 1 March 2009, by section 4(2) of the Electoral Amendment Act 2009 (2009 No 1).

Section 3(1) **public inspection period**: amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 3(1) **public inspection period**: amended, on 1 January 2011, by section 4(4) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 3(1) **public inspection period** paragraph (a): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **public inspection period** paragraph (b): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **public servant** paragraph (b)(i): substituted, on 3 May 1997, by section 5 of the State Sector Amendment Act 1997 (1997 No 8).

Section 3(1) **public servant** paragraph (b)(i): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 3(1) **public servant** paragraph (b)(iii): amended, on 1 October 2010, by section 5(4) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **public servant** paragraph (ba): inserted, on 1 October 2010, by section 5(5) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **public servant** paragraph (bb): inserted, on 1 October 2010, by section 5(5) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 3(1) **public servant** paragraph (d)(i): amended, on 16 December 2013, by section 66 of the Members of Parliament (Remuneration and Services) Act 2013 (2013 No 93).

Section 3(1) **Registrar of Births and Deaths**: inserted, on 28 July 1997, by section 7 of the Births, Deaths, and Marriages Registration Amendment Act 1997 (1997 No 35).

Section 3(1) **Registrar of Births and Deaths**: amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 3(1) **regulated period**: inserted, on 1 January 2011, by section 4(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 3(1) **representative**: inserted, on 25 March 2014, by section 4 of the Electoral Amendment Act 2014 (2014 No 8).

Section 3(1) **Returning Officer**: substituted, on 28 February 2002, by section 3(6) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **secretary**: repealed, on 1 March 2009, by section 4(5) of the Electoral Amendment Act 2009 (2009 No 1).

Section 3(1) **Speaker**: substituted, on 28 February 2002, by section 3(7) of the Electoral Amendment Act 2002 (2002 No 1).

Section 3(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

3AA Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 3AA: inserted, on 21 March 2017, by section 5 of the Electoral Amendment Act 2017 (2017 No 9).

3A Meaning of election advertisement

(1) In this Act, **election advertisement**—

(a) means an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to do either or both of the following:

(i) to vote, or not to vote, for a type of candidate described or indicated by reference to views or positions that are, or are not, held or taken (whether or not the name of the candidate is stated):

(ii) to vote, or not to vote, for a type of party described or indicated by reference to views or positions that are, or are not, held or taken (whether or not the name of the party is stated); and

(b) includes—

(i) a candidate advertisement; and

(ii) a party advertisement.

(2) None of the following are election advertisements:

(a) an advertisement that—

(i) is published, or caused or permitted to be published, by the Electoral Commission or any other agency charged with responsibilities in relation to the conduct of any official publicity or information campaign to be conducted on behalf of the Government of New Zealand; and

(ii) relates to electoral matters or the conduct of any general election or by-election; and

(iii) contains either—

(A) a statement indicating that the advertisement has been authorised by that officer or agency; or

(B) a symbol indicating that the advertisement has been authorised by that officer or agency:

(b) contact information (as defined in subsection (3)) published in any medium by a member of Parliament that satisfies all of the following requirements:

(i) the information was published by a member of Parliament in the course of performing his or her role and functions as a member of Parliament; and

(ii) the information was prepared for publication and published by the member of Parliament using funding received under Vote Parliamentary Service; and

(iii) the information was routinely published in that medium before the commencement of the regulated period and continues to be published in that medium during the regulated period; and

(iv) the information is published during the regulated period no more often and to no greater extent than before the commencement of the regulated period; and

(v) the information is published during the regulated period in the same form and style as before the commencement of the regulated period; and

(vi) the information is not included, combined, or associated with an election advertisement (as defined in subsection (1)), or with any other information so as to constitute an election advertisement, that is published by—

(A) the member of Parliament; or

(B) the secretary of the party to which the member of Parliament belongs; or

(C) any other person with the authority of the member of Parliament:

(c) the editorial content of—

(i) a periodical:

(ii) a radio or television programme:

(iii) a publication on a news media Internet site:

(d) any transmission (whether live or not) of proceedings in the House of Representatives:

(e) 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.

(2A) When determining whether signage is contact information,—

(a) all of the fixed signage on an out-of-Parliament office of a member of Parliament must be treated as a single sign; and

(b) all of the signage on a vehicle of a member of Parliament must be treated as a single sign.

(3) In this section,—

contact information, in relation to a member of Parliament, means information that—

(a) must include—

(i) the name of the member of Parliament; and

(ii) the contact details of the member of Parliament, being 1 or more of the following:

(A) telephone number:

(B) physical or postal address:

(C) email address; and

(iii) the name of the electoral district that the member of Parliament represents or, if the member has not been elected to represent an electoral district, the fact that the member has been elected from a party list; and

(b) may include 1 or more of the following:

(i) a photograph of the member of Parliament:

(ii) the website address of either or both—

(A) the member of Parliament:

(B) the party to which the member of Parliament belongs:

(iii) the name of the party to which the member of Parliament belongs:

(iv) the logo of the party to which the member of Parliament belongs:

(v) the times when the member of Parliament is available for consultation by the public

periodical means a newspaper, magazine, or trade or professional journal that—

(a) was established for purposes unrelated to the conduct of election campaigns; and

(b) since its establishment has been—

(i) published at regular intervals; and

(ii) generally available to members of the public

vehicle has the meaning given to it by section 2(1) of the Land Transport Act 1998.

Compare: 1993 No 87 ss 221(1), (6), 221A(2), (4) (pre-1 January 2011); 2007 No 111 ss 4, 5(2)

Section 3A: inserted, on 1 January 2011, by section 5 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 3A(2)(a)(i): amended, on 1 July 2012, by section 52(2) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 3A(2A): inserted, on 21 March 2017, by section 6(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 3A(3) **vehicle**: inserted, on 21 March 2017, by section 6(2) of the Electoral Amendment Act 2017 (2017 No 9).

3B Meaning of regulated period

(1) In this Act, **regulated period**, in relation to a general election, has the meaning given to it by subsections (2) and (3).

(2) If before the close of the default day the Prime Minister gives public notice of the day that is to be polling day for the election, the regulated period—

(a) commences on the later of the following days:

(i) the day after the date on which the Prime Minister gives that public notice:

(ii) the day that is 3 months before polling day; and

(b) ends with the close of the day before polling day.

(3) If at the close of the default day the Prime Minister has not given public notice of the day that is to be polling day for the election, the regulated period—

(a) commences on the close of the default day; and

(b) ends with the close of the day before polling day.

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

(a) commences on the day after 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.

(5) In this section,—

default day means the day that is 2 years and 9 months after the polling day for the preceding general election

give public notice means issue a media statement.

Section 3B: inserted, on 1 January 2011, by section 5 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

3C Electoral Commission to publish details relating to regulated period

The Electoral Commission must, as soon as practicable after the commencement of the regulated period for a general election, publish in the *Gazette* notice of—

(a) the date on which the regulated period commenced; and

(b) the date on which the regulated period will end.

Section 3C: inserted, on 1 January 2011, by section 5 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

3D Meaning of publish

In this Act, unless the context otherwise requires, **publish**, in relation to an election advertisement, means to bring to the notice of a person in any manner—

(a) including—

(i) displaying on any medium:

(ii) distributing by any means:

(iii) delivering to an address:

(iv) leaving at a place:

(v) sending by post or otherwise:

(vi) printing in a newspaper or other periodical:

(vii) broadcasting by any means:

(viii) disseminating by means of the Internet or any other electronic medium:

(ix) storing electronically in a way that is accessible to the public:

(x) incorporating in a device for use with a computer:

(xi) inserting in a film or video; but

(b) excluding addressing 1 or more persons face to face.

Section 3D: inserted, on 1 January 2011, by section 5 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

3E Meaning of advertising expenses

(1) In this Act, **advertising expenses**, in relation to an election advertisement—

(a) includes—

(i) the cost incurred in the preparation, design, composition, printing, postage, and publication of the advertisement; and

(ii) the reasonable market value of any material used for or applied towards the advertisement, including any such material that is provided free of charge or below reasonable market value; but

(b) excludes the cost of—

(i) the conduct of any survey or public opinion poll; and

(ii) any framework (other than a commercial framework) that supports a hoarding on which the advertisement is displayed; and

(iii) the labour of any person that is provided free of charge by that person; and

(iv) the replacement of any material used in respect of the advertisement if that advertisement has been destroyed or rendered unusable by—

(A) 1 or more persons, other than the person promoting the advertisement (**person A**):

(B) the occurrence of an event beyond the control of person A, or any person acting on behalf of person A.

(2) To avoid doubt, advertising expenses does not include the cost (including running costs) of any vehicle used to display an election advertisement if the use of the vehicle for that purpose is not the subject of a contract, arrangement, or understanding for the payment of money or money's worth.

(3) In this section, **vehicle** has the meaning given to it by section 2(1) of the Land Transport Act 1998.

Section 3E: inserted, on 1 January 2011, by section 5 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

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.

Section 3EA: inserted, on 1 April 2020, by section 16 of the Electoral Amendment Act 2019 (2019 No 72).

Extraterritorial application

Heading: inserted, on 1 January 2011, by section 5 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

3F Application of Act to conduct outside New Zealand

(1) The provisions of Part 6AA and 6A apply in respect of the publication of an election advertisement—

(a) in New Zealand, in any case where the promoter of the advertisement is outside New Zealand; and

(b) outside New Zealand, in any case where the promoter of the advertisement is in New Zealand.

(2) Subsection (1) does not affect the application of the provisions of this Act (other than those provisions in Parts 6AA and 6A that apply in respect of the publication of an election advertisement) in respect of an offence that under any provision of the Crimes Act 1961 is deemed to be committed in New Zealand.

Section 3F: inserted, on 1 January 2011, by section 5 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Part 1
Electoral Commission

4 Electoral Commission

[Repealed]

Section 4: repealed, on 1 October 2010, by section 6 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4A Crown Entities Act 2004 to apply

[Repealed]

Section 4A: repealed, on 1 October 2010, by section 6 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4B Electoral Commission

(1) This section establishes the Electoral Commission.

(2) The Electoral Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(3) The Crown Entities Act 2004 applies to the Electoral Commission except to the extent that this Act expressly provides otherwise.

(4) The Electoral Commission established by subsection (1) is not the same body as the Electoral Commission established by section 4.

Section 4B: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4C Objective

The objective of the Electoral Commission is to administer the electoral system impartially, efficiently, effectively, and in a way that—

(a) facilitates participation in parliamentary democracy; and

(b) promotes understanding of the electoral system and associated matters; and

(c) maintains confidence in the administration of the electoral system.

Section 4C: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4C: amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4D Membership of Electoral Commission

(1) The Governor-General, on the recommendation of the House of Representatives, must appoint 3 members of the Electoral Commission as follows:

(a) 1 member as the Chief Electoral Officer; and

(b) 1 member as the chairperson; and

(c) 1 member as the deputy chairperson.

(2) The member appointed as the Chief Electoral Officer under subsection (1)(a) is the chief executive of the Electoral Commission.

(3) The members of the Electoral Commission are the board for the purposes of the Crown Entities Act 2004.

(4) Subsection (1) applies despite—

(a) section 28(1)(b) of the Crown Entities Act 2004; and

(b) clause 1(2) of Schedule 5 of the Crown Entities Act 2004.

Section 4D: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4D(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4E Appointment of Judge as member not to affect tenure, etc

The appointment of a Judge as a member of the board of the Electoral Commission does not affect the Judge's tenure of his or her judicial office or the Judge's rank, title, status, precedence, salary, annual or other allowances, or other rights or privileges as a Judge (including those in relation to superannuation) and, for all purposes, the Judge's services as a member must be taken to be service as a Judge.

Section 4E: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4E: amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4F Resignation of member

(1) A member of the Electoral Commission may resign from office by written notice to the Governor-General (with a copy to the Electoral Commission) signed by the member.

(2) The resignation is effective when the Governor-General receives the notice or at any later time specified in the notice.

(3) This section applies despite section 44 of the Crown Entities Act 2004.

Compare: 1988 No 2 s 5C

Section 4F: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4F(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4G Power to remove or suspend members

(1) Section 42 of the Crown Entities Act 2004 applies to any member of the Electoral Commission who is a Judge.

(2) Section 39(1) of the Crown Entities Act 2004 does not apply to any member.

(3) Instead, any member who is not a Judge may be removed for just cause by the Governor-General acting upon an address from the House of Representatives.

(4) **Just cause** has the same meaning as in section 40 of the Crown Entities Act 2004.

Compare: 1988 No 2 s 6

Section 4G: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4G(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4H Filling of vacancy

(1) If a vacancy occurs in the membership of the Electoral Commission, the Governor-General, on the recommendation of the House of Representatives, may appoint a successor.

(2) Despite subsection (1), if the vacancy exists at the close of a session, or the vacancy occurs while Parliament is not in session, and the House of Representatives has not recommended an appointment to fill the vacancy, the Governor-General in Council may appoint a successor at any time before the commencement of the next session of Parliament.

(3) An appointment made under subsection (2) lapses, and the office again becomes vacant, unless the appointment is confirmed by the House of Representatives before the end of the 24th sitting day following the date of the appointment.

Compare: 1988 No 2 s 7

Section 4H: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4H(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4I Deputy Electoral Commissioners

(1) The Electoral Commission may, by written notice, appoint an electoral official to be the deputy for an Electoral Commissioner.

(2) The persons described in section 30(2) of the Crown Entities Act 2004 are disqualified from being appointed as Deputy Electoral Commissioners.

(3) The notice of appointment must—

(a) state the date on which the appointment takes effect, which must not be earlier than the date on which the notice is received; and

(b) state the term of the appointment; and

(c) be published by the Electoral Commission in the *Gazette* as soon as practicable after the appointment is made.

(4) If an Electoral Commissioner becomes incapable of performing his or her functions or duties or exercising his or her powers by reason of illness, absence, or other sufficient cause, the functions, duties, and powers of that Electoral Commissioner may be performed and exercised by his or her deputy.

(5) Despite subsection (4), a Deputy Electoral Commissioner—

(a) must not act as chairperson or deputy chairperson of the board of the Electoral Commission; and

(b) is not eligible to be appointed by the board of the Electoral Commission as a temporary deputy chairperson under clause 5 of Schedule 5 of the Crown Entities Act 2004.

(6) The Electoral Commission may, at any time, revoke the appointment of any deputy.

(7) A Deputy Electoral Commissioner is a public servant for the purposes of sections 28(2)(f) and 80(3)(a)(i).

(8) *[Repealed]*

Section 4I: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4I(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4I(8): repealed, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

4J Proceedings of Electoral Commission

The provisions of Schedule 1 apply to the Electoral Commission and to its proceedings.

Section 4J: inserted, on 22 May 2010, by section 4 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 4J: amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

5 Functions

The functions of the Electoral Commission are to—

(a) carry the provisions of this Act into effect:

(b) carry out duties in relation to electoral broadcasting that are prescribed by Part 6 of the Broadcasting Act 1989:

(c) promote public awareness of electoral matters by means of the conduct of education and information programmes or by other means:

(ca) administer the fund established by section 6 of the Election Access Fund Act 2020:

(d) consider and report to the Minister or to the House of Representatives on electoral matters referred to the Electoral Commission by the Minister or the House of Representatives:

(e) make available information to assist parties, candidates, and others to meet their statutory obligations in respect of electoral matters administered by the Electoral Commission:

(f) carry out any other functions or duties conferred on the Electoral Commission by or under any other enactment.

Section 5: substituted, on 1 October 2010, by section 7 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 5(a): amended, on 1 July 2012, by section 28 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 5(b): amended, on 21 March 2017, by section 6 of the Broadcasting (Election Programmes and Election Advertising) Amendment Act 2017 (2017 No 8).

Section 5(ca): inserted, on 1 July 2021, by section 12 of the Election Access Fund Act 2020 (2020 No 4).

6 Powers of Electoral Commission

(1) The Electoral Commission may, if it considers that it is necessary for the proper discharge of its functions,—

(a) initiate, sponsor, and carry out any studies or research:

(b) make any inquiries:

(c) consult with any persons or classes of persons:

(d) publicise, in any manner that it thinks fit, any parts of its work:

(e) provide information and advice on any matter—

(i) to the Minister for the Minister's consideration:

(ii) to the Minister for presentation to the House of Representatives:

(f) request advice, assistance, and information from any government department or any State enterprise as defined in section 2 of the State-Owned Enterprises Act 1986.

(2) Subsection (1) does not limit sections 16 and 17 of the Crown Entities Act 2004.

(3) If the Electoral Commission provides any information or advice to the Minister under subsection (1)(e)(ii), the Minister must present the information or advice to the House of Representatives within 5 working days after receiving it or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament.

Section 6: substituted, on 1 October 2010, by section 7 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 6(1)(e)(ii): amended, on 17 August 2011, by section 5 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

7 Independence

The Electoral Commission must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—

(a) this Act; and

(b) any other enactment that expressly provides for the functions, duties, or powers of the Electoral Commission (other than the Crown Entities Act 2004).

Section 7: substituted, on 1 October 2010, by section 7 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

8 Electoral Commission must report on general election

(1) The Electoral Commission must, within 6 months of the return of the writ after a general election, report in writing to the Minister on the administration of that election, including—

(a) the services provided to electors to facilitate voting; and

(b) enrolment and voting statistics; and

(c) any substantive issue arising during the course of the election; and

(d) any changes that are necessary or desirable in respect of—

(i) administration processes or practices; or

(ii) this Act or any other law; and

(da) the funding provided under the Election Access Fund Act 2020 to disabled persons standing as candidates, or seeking selection as candidates, to facilitate their participation in the election; and

(e) any matter that the Minister of Justice asks the Electoral Commission to address; and

(f) any other matter that the Electoral Commission considers relevant.

(2) The Minister must present any report received under subsection (1) to the House of Representatives within 5 working days after receiving it or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament.

(3) The Electoral Commission must publish any report made under subsection (1) as soon as practicable after it has been presented to the House of Representatives, but in any case not later than 10 working days after the report is received by the Minister.

Section 8: substituted, on 1 October 2010, by section 7 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 8(1)(da): inserted, on 1 July 2021, by section 13 of the Election Access Fund Act 2020 (2020 No 4).

9 Electoral Commission may delegate functions or powers to electoral officials engaged by Commission

(1) The Electoral Commission's board may under section 73 of the Crown Entities Act 2004 delegate any of the Commission's functions or powers, either generally or specifically, not only to any person or persons listed in section 73(1) of the Crown Entities Act 2004, but also to any electoral official who is engaged (rather than employed) by the Commission.

(2) The functions or powers delegated may (without limitation) be or include either or both of the following:

(a) the Commission's power under section 73 of the Crown Entities Act 2004 to delegate particular functions or powers of the Commission:

(b) all or any of the Commission's functions or powers that relate to registration of electors.

(3) The electoral official may (without limiting the definition of that term in section 3(1)) be a person of one of the following kinds that the Electoral Commission engages for the purpose of assisting with the performance of its functions:

(a) a body corporate:

(b) an individual who holds an office in, or is employed by, a body corporate.

(4) For the purposes of this section, the Commission's functions or powers that relate to registration of electors include, without limitation, its functions or powers under (or under any regulations under) Part 5 of this Act, and also its functions or powers under (or under any regulations under) the following Acts:

(a) Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001:

(b) Citizens Initiated Referenda Act 1993:

(c) Energy Companies Act 1992:

(d) Juries Act 1981:

(e) Local Electoral Act 2001:

(f) Referenda (Postal Voting) Act 2000.

(5) The provisions of the Crown Entities Act 2004, including in particular sections 74 (powers of delegate), 75 (effect of delegation), and 76 (revocations), apply in respect of a delegation by virtue of this section to any electoral official who is engaged (rather than employed) by the Electoral Commission as if it were a delegation under section 73 of the Crown Entities Act 2004 to any person or persons listed in section 73(1) of the Crown Entities Act 2004.

Section 9: replaced, on 1 July 2012, by section 29 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

9A Ownership of intellectual property developed by delegates of functions or powers

(1) Any intellectual property of any kind in, or in respect of, any matter or thing belongs to the Crown if it is devised or developed (entirely or mainly) after 30 June 2012 by or on behalf of an electoral official to whom or to which all or any of the Commission's functions or powers that relate to registration of electors have been delegated under section 73 of the Crown Entities Act 2004 (alone, or in conjunction with section 9 of this Act) and—

(a) in the exercise or performance by or on behalf of that official of those delegated functions or powers; or

(b) entirely or mainly by or through the use of public money appropriated by Parliament to facilitate the exercise or performance of those delegated functions or powers.

(2) However, the Crown acting by and through the Minister of Finance may grant to any person a licence in respect of, or transfer to any person all or any ownership of, all or any of that intellectual property.

(3) This section applies despite any contrary instrument or law.

Section 9A: inserted, on 1 July 2012, by section 29 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

10 Term of office

[Repealed]

Section 10: repealed, on 20 December 2007, by section 8 of the Electoral Amendment Act 2007 (2007 No 113).

11 Vacation of office of additional members who hold office for purposes of jurisdiction under Part 6 of Broadcasting Act 1989

[Repealed]

Section 11: repealed, on 20 December 2007, by section 9 of the Electoral Amendment Act 2007 (2007 No 113).

11A Appointment of deputies

[Repealed]

Section 11A: repealed, on 1 October 2010, by section 8 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

11B Status of deputies

[Repealed]

Section 11B: repealed, on 1 October 2010, by section 8 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

11C Protection from civil liability

[Repealed]

Section 11C: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

12 Delegation of Commission's powers

[Repealed]

Section 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

13 Procedure

[Repealed]

Section 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

14 Proceedings of Electoral Commission

[Repealed]

Section 14: repealed, on 1 October 2010, by section 8 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

15 Annual report

[Repealed]

Section 15: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Part 2
Officers

16 Clerk of the Writs

[Repealed]

Section 16: repealed, on 28 February 2002, by section 5 of the Electoral Amendment Act 2002 (2002 No 1).

17 Deputy Clerk of the Writs

[Repealed]

Section 17: repealed, on 28 February 2002, by section 5 of the Electoral Amendment Act 2002 (2002 No 1).

18 Chief Electoral Officer

[Repealed]

Section 18: repealed, on 1 October 2010, by section 8 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

19 Deputy Chief Electoral Officer

[Repealed]

Section 19: repealed, on 1 October 2010, by section 8 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

20 Electoral officials

[Repealed]

Section 20: repealed, on 1 October 2010, by section 8 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

20A Electoral officials under direction of Electoral Commission

(1) The Electoral Commission may give oral or written directions to all or any electoral officials.

(2) Every electoral official must exercise or perform his or her powers, duties, and functions in accordance with any directions given by the Electoral Commission.

Section 20A: substituted, on 28 February 2002, by section 6(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 20A heading: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 20A(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 20A(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

20B Designation of Returning Officers

(1) For every election to be held in a district, the Electoral Commission must, by notice in writing, designate an electoral official as the Returning Officer for the district.

(2) A Returning Officer is a public servant for the purposes of sections 28(2)(f) and 80(3)(a)(i).

Section 20B: inserted, on 28 February 2002, by section 6(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 20B(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 20B(2): added, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

20C Returning Officers may delegate functions, duties, or powers

A Returning Officer may delegate any of his or her functions, duties, or powers, except this power of delegation, to another electoral official.

Section 20C: substituted, on 1 October 2010, by section 9 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

20CA Powers of delegate

(1) An electoral official to whom any functions, duties, or powers of a Returning Officer are delegated may, unless the delegation provides otherwise, perform the function or duty or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the electoral official were the Returning Officer.

(2) An electoral official who purports to perform a function or duty or exercise a power under a delegation from a Returning Officer is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation.

Compare: 2004 No 115 s 74

Section 20CA: inserted, on 1 October 2010, by section 9 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

20CB Effect of delegation on Returning Officer

No delegation under section 20C—

(a) affects or prevents the performance of any function or duty or the exercise of any power by the Returning Officer; or

(b) affects the responsibility of the Returning Officer for the actions of any electoral official acting under the delegation; or

(c) is affected by any change in the person appointed as Returning Officer.

Compare: 2004 No 115 s 75

Section 20CB: inserted, on 1 October 2010, by section 9 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

20CC Revocation of delegations

A delegation under section 20C may be revoked at will by—

(a) the Returning Officer by written notice to the electoral official; or

(b) any other method provided for in the delegation.

Compare: 2004 No 115 s 76

Section 20CC: inserted, on 1 October 2010, by section 9 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

20D State sector agencies to assist with administration of elections

(1) The Electoral Commission may seek assistance from any State sector agency in order to facilitate the effective administration of elections.

(2) Any agency approached by the Electoral Commission for assistance must have regard to the public interest in a whole-of-government approach to support the effective administration of elections in considering the assistance it can provide.

(3) Any assistance that a State sector agency provides must be provided in a manner that is consistent with the statutory framework establishing that agency.

(4) For the purposes of this section, a **State sector agency** means any part of the State services as defined in section 5 of the Public Service Act 2020, any Crown entity within the meaning of section 7 of the Crown Entities Act 2004, and any State enterprise within the meaning of the State-Owned Enterprises Act 1986.

Section 20D: inserted, on 28 February 2002, by section 6(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 20D(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 20D(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 20D(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 20D(4): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

21 Chief Registrar of Electors

[Repealed]

Section 21: repealed, on 1 July 2012, by section 30 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

22 Registrar of Electors

(1) The Electoral Commission—

(a) must appoint a Registrar of Electors for each electoral district:

(b) may appoint a Deputy Registrar of Electors for any electoral district:

(c) may appoint a Registrar or a Deputy Registrar for a named electoral district that is not yet in existence.

(2) Every Registrar and every Deputy Registrar—

(a) must be an individual who is an electoral official; and

(b) may not hold any official position in any political organisation.

(3) The Deputy Registrar for an electoral district may, subject to the control of the Registrar for that electoral district, exercise or perform all of that Registrar's powers, duties, and functions.

Section 22: replaced, on 21 March 2017, by section 7 of the Electoral Amendment Act 2017 (2017 No 9).

23 Appropriation of expenses of New Zealand Post Limited

[Repealed]

Section 23: repealed, on 1 July 2012, by section 32 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

24 Employees appointed by Chief Electoral Officer

[Repealed]

Section 24: repealed, on 1 October 2010, by section 10 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

25 General provision as to Returning Officers

No Returning Officer shall hold any official position in any political organisation.

Compare: 1956 No 107 s 9(3); 1975 No 28 s 3(4)(d)

26 Returning Officer to make declaration

(1) Every Returning Officer must, before entering into the duties of office, declare that he or she will comply with section 203.

(2) The declaration must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

Section 26: replaced, on 21 March 2017, by section 8 of the Electoral Amendment Act 2017 (2017 No 9).

Part 3
The House of Representatives

27 Members of Parliament

The House of Representatives shall have as its members those persons who are elected from time to time in accordance with the provisions of the Electoral Act 1956 or this Act, and who shall be known as **members of Parliament**.

Section 27: amended, on 30 November 1995, by section 2 of the Electoral Amendment Act 1995 (1995 No 60).

Representation Commission

28 Representation Commission

(1) In order to provide for the periodical readjustment of the representation of the people of New Zealand in the House of Representatives, there shall be a commission to be known as the Representation Commission.

(2) The Commission shall consist of—

(a) the Surveyor-General:

(b) the Government Statistician:

(c) the Chief Electoral Officer:

(d) the Chairperson of the Local Government Commission:

(e) 2 persons (not being public servants directly concerned with the administration of this Act or members of the House of Representatives), who shall be appointed by the Governor-General by Order in Council, on the nomination of the House of Representatives, as members of the Commission, 1 of those members being nominated to represent the Government and 1 to represent the Opposition:

(f) 1 person (not being a public servant directly concerned with the administration of this Act or a member of the House of Representatives), who shall be appointed as a member of the Commission by the Governor-General by Order in Council, on the nomination of the members of the Commission who hold office under paragraph (a) or paragraph (b) or paragraph (c) or paragraph (e), or a majority of them, to be the Chairperson of the Commission.

(3) For the purposes of determining the boundaries of the Maori electoral districts, the Commission shall consist not only of the members specified in subsection (2) but also of—

(a) the chief executive of Te Puni Kokiri:

(b) 2 persons (not being public servants directly concerned with the administration of this Act or members of the House of Representatives), who shall be appointed by the Governor-General by Order in Council on the

nomination of the House of Representatives as members of the Commission, 1 of those members being nominated to represent the Government and 1 to represent the Opposition.

(4) Each of the persons appointed under subsection (3)(b) shall be a Maori.

(5) Notwithstanding subsection (2)(d), the Chairperson of the Local Government Commission shall not be entitled to vote on any matter before the Commission, and shall not be regarded as a member of the Commission for the purpose of forming part of a quorum pursuant to section 43(1).

Compare: 1956 No 107 s 15(1), (2), (5); 1991 No 68 s 2(1)

29 Term of office

The Chairperson and every member of the Commission who holds office under section 28(2)(e) or section 28(3)(b), unless he or she sooner ceases to be a member as provided in section 30, shall cease to be a member on the date on which the first periodical census of population is taken after the date of his or her appointment.

Compare: 1956 No 107 s 15(6); 1991 No 68 s 2(1)

30 Extraordinary vacancies

The Chairperson or any member of the Commission who holds office under section 28(2)(e) or section 28(3)(b) may resign his or her appointment by writing addressed to the Governor-General, in which case, or in case of any such member being convicted of an offence punishable by imprisonment for life or by 2 or more years' imprisonment, or of his or her refusing to act, or of his or her death or mental or physical incapacity, or of his or her absence from New Zealand when his or her services are required, the Governor-General may, by Order in Council, appoint another person in his or her stead on the same nomination as in the case of the original appointment:

provided that, if Parliament is not in session at the time, an appointment of a member to represent the Government or the Opposition may be made on the nomination of the Prime Minister or of the Leader of the Opposition, as the case may be.

Compare: 1956 No 107 s 15(7); 1991 No 68 s 2(1)

Section 30: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

31 Remuneration and travelling allowances

There shall be paid out of money appropriated by Parliament for the purpose to the Chairperson and each member of the Commission who holds office under section 28(2)(e) or section 28(3)(b) remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply

accordingly, and the Commission shall be a statutory board for the purposes of that Act.

Compare: 1956 No 107 s 15(8); 1991 No 68 s 2(1)

32 Deputies of appointed members

(1) In this section **appointed member** means a member of the Commission appointed under section 28(2)(e) or section 28(2)(f) or section 28(3)(b).

(2) Any appointed member may from time to time, by writing under his or her hand, appoint any person to be the deputy of that appointed member.

(3) No person other than a Maori shall be appointed under this section as the deputy of a member of the Commission appointed under section 28(3)(b).

(4) The deputy of any appointed member may exercise the powers conferred on that appointed member by this Act during any period when that appointed member is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.

(5) The deputy of the appointed member who holds office as the Chairperson of the Commission shall, in addition, have authority to act as Chairperson of the Commission during any period when the Chairperson of the Commission is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.

(6) Every deputy appointed under this section shall hold office during the pleasure of the appointed member by which that deputy was appointed.

(7) No act done by any deputy appointed under this section in that capacity, and no act done by the Commission while any such deputy is so acting, shall in any proceedings be questioned on the ground that the occasion for so acting had not arisen or had ceased.

Compare: 1956 No 107 s 15A; 1991 No 68 s 2(1)

33 Deputies of *ex officio* members

(1) Where the Chairperson of the Local Government Commission is unable or likely to be unable to perform his or her duties as a member of the Representation Commission because of illness, absence, or any other reason, and it appears to the Minister of Local Government that the inability to perform the duties is likely to continue for a period of more than 14 days, the Minister of Local Government may appoint a deputy (who shall be another member of the Local Government Commission) to perform all the functions, duties, and powers of the Chairperson of the Local Government Commission in his or her capacity as a member of the Representation Commission.

(2) The Deputy Surveyor-General appointed pursuant to section 8 of the Survey Act 1986 shall have and may exercise, subject to the control of the Surveyor-General, all the functions, duties, and powers of the Surveyor-General in his or her capacity as a member of the Commission.

(3) Any Deputy Government Statistician appointed pursuant to section 17 of the Statistics Act 1975 shall have and may exercise, subject to the control of the Government Statistician, all the functions, duties, and powers of the Government Statistician in his or her capacity as a member of the Commission.

(4) The Deputy Electoral Commissioner appointed under section 4I as the deputy for the Chief Electoral Officer has and may exercise, subject to the control of the Chief Electoral Officer, all the functions, duties, and powers of the Chief Electoral Officer in his or her capacity as a member of the Commission.

(5) Where the chief executive who holds office under section 28(3)(a) as a member of the Commission is unable or likely to be unable to perform his or her duties as such a member because of illness, absence, or any other reason, or where there is a vacancy in the position of that chief executive, that chief executive or any acting chief executive acting under clause 9(1) to (3) of Schedule 7 of the Public Service Act 2020 may appoint a deputy nominated by the chief executive to perform all the functions, duties, and powers of the chief executive in his or her capacity as a member of the Representation Commission.

(6) Every deputy appointed under subsection (1) or subsection (5) shall hold office during the pleasure of the person by which that deputy was appointed.

(7) No act done by any deputy to which this section applies and no act done by the Commission while any such deputy is so acting, shall in any proceedings be questioned on the ground that the occasion for so acting had not arisen or had ceased.

(8) Nothing in clause 2(1) and (2) of Schedule 6 of the Public Service Act 2020 authorises a chief executive or acting chief executive or deputy of a chief executive to delegate to any other person any of the functions, duties, or powers of the chief executive or acting chief executive or deputy of the chief executive in his or her capacity as a member of the Representation Commission.

Compare: 1956 No 107 s 15B; 1991 No 68 s 2(1)

Section 33(4): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 33(5): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 33(5): amended, on 25 January 2005, by section 19(1) of the State Sector Amendment Act (No 2) 2004 (2004 No 114).

Section 33(8): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

34 Submissions

Any political party to which a member of Parliament belongs and any independent member of Parliament and any political party whose candidates have, at the immediately preceding general election, obtained 5% or more of the valid votes cast by electors at that general election may make submissions to

the Commission in relation to the matters to be considered by the Commission under section 35(3) or section 45(6).

Compare: 1956 No 107 s 15C; 1991 No 68 s 2(1)

Section 34: amended, on 17 December 1993, by section 8(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

35 Division of New Zealand into General electoral districts

(1) It shall be the duty of the Commission to divide New Zealand into General electoral districts from time to time in accordance with this section and section 269.

(2) The Commission—

(a) shall effect the first division under subsection (1) as soon as practicable after the commencement of this section; and

(b) shall, in accordance with section 77(5), effect the second division under subsection (1) after the census taken in the year 1996; and

(c) shall effect such subsequent division under subsection (1) only after each subsequent periodical census and on no other occasion.

(3) Subject to section 269, each division effected under subsection (1) shall be effected on the following basis:

(a) the South Island shall be divided into 16 General electoral districts:

(b) the General electoral population of the South Island shall be divided by 16, and the quotient so obtained shall be the quota for the South Island:

(c) the General electoral population of the North Island shall be divided by the quota for the South Island, and the quotient so obtained shall be the number of General electoral districts in the North Island. Where that quotient includes a fraction, the fraction shall be disregarded unless it exceeds a half, in which case the number of such General electoral districts shall be the whole number next above that quotient:

(d) the quota for the North Island shall be ascertained by dividing the General electoral population of that Island by the number of General electoral districts in that Island, as ascertained under paragraph (c):

(e) the extent of each General electoral district in each Island shall be such that, at the time of making the division, the General electoral population of the General electoral district shall, subject to the provisions of paragraphs (f) and (g) and to the provisions of section 36 as to the allowance, be equal to the quota for that Island:

(f) in forming the several General electoral districts, due consideration shall be given to—

(i) the existing boundaries of General electoral districts; and

(ii) community of interest; and

(iii) facilities of communications; and

(iv) topographical features; and

(v) any projected variation in the General electoral population of those districts during their life:

(g) no General electoral district shall be situated partially in the North Island and partially in the South Island.

(4) As soon as possible after each periodical census, the Surveyor-General shall call a meeting of the members of the Commission who hold office under any of the provisions of paragraphs (a) to (e) of section 28(2) for the purpose of nominating a Chairperson of the Commission.

(5) As soon as possible after each periodical census and each period specified in a notice published under section 77(2), the Electoral Commission shall supply the Government Statistician with the information that the Electoral Commission is required to supply to the Government Statistician under section 77(6).

(6) When the Government Statistician—

(a) has the results of the census; and

(b) has been supplied by the Electoral Commission with the information that the Electoral Commission is required, under section 77(6), to supply to the Government Statistician as soon as practicable after the last day of the period specified in the notice published under section 77(2),—

the Government Statistician shall thereupon report the results of the census and his or her calculation of the Maori electoral population as at the close of the last day of that period to the Surveyor-General and to the other members of the Commission.

(7) Upon receipt of the report of the Government Statistician, the Surveyor-General shall prepare maps showing the distribution of the population and provisional boundaries for the electoral districts, and shall then call a meeting of the Commission.

(8) The report so made by the Government Statistician, and the maps so prepared by the Surveyor-General, shall be sufficient evidence as to the General electoral population of New Zealand or of the North Island or of the South Island or of any district.

Compare: 1956 No 107 s 16; 1965 No 17 s 3; 1980 No 29 s 6; 1981 No 120 s 4; 1985 No 149 s 3(2), (3); 1991 No 68 s 3(1)

Section 35(5): amended, on 1 July 2012, by section 52(3) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 35(5): amended, on 1 July 2012, by section 52(17)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 35(6)(b): amended, on 1 July 2012, by section 52(3) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 35(6)(b): amended, on 1 July 2012, by section 52(17)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

36 Allowance for adjustment of quota

Where, in the opinion of the Commission, General electoral districts cannot be formed consistently with the considerations provided for in section 35 so as to contain exactly the quota, the Commission may for any General electoral district make an allowance by way of addition or subtraction of General electoral population to an extent not exceeding 5%.

Compare: 1956 No 107 s 17; 1980 No 29 s 7

37 Classification of electoral districts for purposes of pay or allowances

The Representation Commission, if it is informed by the Remuneration Authority that it requires the districts to be classified for the purposes of determining salaries or allowances or both under the Remuneration Authority Act 1977, shall classify those districts in accordance with the categories given to it by the Remuneration Authority.

Compare: 1956 No 107 s 17A; 1981 No 120 s 5

Section 37: amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

38 Notice of proposed boundaries and classification

(1) When the Commission proposes to make a division under section 35 or section 45, it shall publish in the *Gazette* a notice—

(a) stating places at which the public may inspect, without charge,—

(i) the names, and a description of the boundaries, of the proposed districts; and

(ii) any classification of the proposed districts that is required for the purposes of the Remuneration Authority Act 1977; and

(iii) a summary, in respect of each proposed district, of the reasons why the boundaries described are being proposed; and

(b) stating the last date on which the Commission will receive written objections to the proposed boundaries or any of them and to the proposed names or any of them and to the proposed classification (if any) (which date shall be not less than 1 month after the date of the publication of the notice in the *Gazette*).

(1A) The boundaries fixed by the Commission in respect of the proposed districts shall be defined by the Commission by the use of such words, maps, and graphic means as are sufficient to define those proposed boundaries accurately.

(2) The places stated pursuant to subsection (1)(a) must include the offices of the Electoral Commission.

(3) Any failure to comply with subsection (1)(a)(iii) shall not of itself invalidate any decision or proceedings of the Commission.

(4) If any objections are received under subsection (1)(b), the Commission must publish,—

(a) on an Internet site administered by the Electoral Commission,—

(i) the objections received; and

(ii) an explanation of the process and deadline for making counter-objections; and

(b) in the *Gazette*, a notice—

(i) stating the address of the Internet site on which the objections and the counter-objection process are published; and

(ii) stating the last date on which the Commission will receive any written counter-objections to any of those objections (which must not be less than 2 weeks after the date of publication of the notice in the *Gazette*).

(4A) The Electoral Commission must facilitate the publication required under subsection (4)(a).

(5) The Commission shall, before coming to a final determination, duly consider any objections lodged under subsection (1)(b) and any counter-objections lodged under subsection (4).

Compare: 1956 No 107 s 18; 1991 No 68 s 4(1)

Section 38(1): substituted, on 17 December 1993, by section 9(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 38(1)(a)(ii): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 38(1A): inserted, on 17 December 1993, by section 9(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 38(2): amended, on 21 March 2017, by section 9(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 38(4): replaced, on 21 March 2017, by section 9(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 38(4A): inserted, on 21 March 2017, by section 9(2) of the Electoral Amendment Act 2017 (2017 No 9).

39 Communications to officials

(1) When, after the gazetting, pursuant to section 38, of a notice stating places (which must include the offices of the Electoral Commission) at which the public may inspect, without charge, a description of the boundaries of the proposed districts, the Commission makes a determination relating to the boundaries of any district, the Surveyor-General must communicate the details of that determination to the Electoral Commission and such other entities or persons directly concerned with the administration of this Act as have been specified by the Representation Commission by name or by position or by the functions they perform.

(2) Any entity or person to whom information is communicated pursuant to subsection (1) shall use that information only for the purposes of this Act.

Compare: 1956 No 107 s 18A; 1985 No 149 s 4; 1991 No 68 s 5

Section 39(1): amended, on 21 March 2017, by section 10 of the Electoral Amendment Act 2017 (2017 No 9).

Section 39(1): amended, on 1 July 2012, by section 52(4) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 39(1): amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 39(2): amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

40 Report of Commission

(1) The Commission shall, in every case within 6 months after the date of the meeting of the Commission called pursuant to section 35(7) or, in the case of the meeting called pursuant to section 269(4), within 8 months after the date of that meeting,—

(a) report to the Governor-General the names and boundaries of the electoral districts fixed by the Commission; and

(b) publish in the *Gazette* a notice—

(i) stating that the Commission has fixed the names and boundaries of the electoral districts; and

(ii) stating that the names and boundaries of the electoral districts fixed by the Commission are available for public inspection; and

(iii) stating places at which copies of the names and boundaries fixed by the Commission are available for public inspection without charge (which places must include the offices of the Electoral Commission).

(2) The boundaries of the electoral districts fixed by the Commission shall be defined by the Commission by the use of such words, maps, and graphic means as are sufficient to define those boundaries accurately.

(3) From the date of the gazetting of the notice required by subsection (1)(b), the electoral districts fixed by the report shall be the electoral districts of New Zealand for the purpose of the election of members of Parliament after the dissolution or expiration of the then existing Parliament, and shall so continue until the next report of the Commission takes effect as a result of the publication in the *Gazette* of the notice required by subsection (1)(b) in respect of that report.

Compare: 1956 No 107 s 19; 1991 No 68 s 6(1)

Section 40(1)(b)(iii): amended, on 21 March 2017, by section 11 of the Electoral Amendment Act 2017 (2017 No 9).

41 Report and maps to be laid before House of Representatives

(1) A copy of every report of the Commission, together with properly authenticated maps of the electoral districts fixed by the report, shall be presented by the Governor-General to the House of Representatives within 3 sitting days after the date of the receipt thereof if Parliament is then in session, and, if not, then

within 3 sitting days after the date of the commencement of the next ensuing session.

(2) The Minister shall, forthwith after every report of the Commission is presented to the Governor-General, cause to be deposited in the office of the Clerk of the House of Representatives properly authenticated maps of the electoral districts fixed by the report.

Compare: 1956 No 107 s 20; 1991 No 68 s 7

Section 41(1): amended, on 6 December 1995, by section 10 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

42 Indexes of streets and places

(1) The Surveyor-General—

(a) shall, as soon as practicable after the gazetting of a notice under section 40(1)(b), compile, in respect of each electoral district, an index of streets and places within that district; and

(b) shall compile from time to time, a comprehensive index which shall contain the names of all streets and places in New Zealand and which shall show the electoral district or electoral districts in which each street or place is to be found.

(2) At the offices of the Electoral Commission and at such other convenient places within each district as the Minister from time to time directs, there shall be kept, for inspection by the public,—

(a) a copy of the index compiled in respect of that district under subsection (1)(a); and

(b) a copy of the index compiled under subsection (1)(b).

(3) Copies of each index compiled under subsection (1)(a) shall be sold by the department within the meaning of section 2 of the Survey Act 1986.

(4) Copies of each index compiled under subsection (1)(b) in respect of an electoral district shall be sold at every office of the department within the meaning of section 2 of the Survey Act 1986 and at such other convenient places as the Electoral Commission from time to time directs.

Compare: 1956 No 107 s 20A; 1981 No 120 s 7(1); 1989 No 142 s 22(1); 1991 No 68 s 8

Section 42(2): amended, on 21 March 2017, by section 12 of the Electoral Amendment Act 2017 (2017 No 9).

Section 42(3): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

Section 42(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 42(4): amended, on 1 July 1996, by section 5 of the Survey Amendment Act 1996 (1996 No 55).

43 Proceedings of Commission

(1) Any 4 members of the Commission, of whom 2 are the members holding office under section 28(2)(e), shall be a quorum, and may exercise all functions vested in the Commission.

(2) The Commission may make such rules for the conduct of its business, not inconsistent with the provisions of this Act, as it thinks fit.

Compare: 1956 No 107 s 21; 1991 No 68 s 9

44 Commissioner not eligible as member of House of Representatives

No member of the Commission shall, within 2 years after he or she ceases to be a member, be capable of being elected to be a member of the House of Representatives.

Compare: 1956 No 107 s 22

Maori representation

45 Maori representation

(1) It shall be the duty of the Commission, for the purpose of the representation of the Maori people in the House of Representatives, to divide New Zealand into Maori electoral districts from time to time in accordance with this section and section 269.

(2) The Commission—

(a) shall effect the first division under subsection (1) as soon as practicable after the commencement of this section; and

(b) shall, in accordance with section 77(5), effect the second division under subsection (1) after the census taken in the year 1996; and

(c) shall effect each subsequent division under subsection (1) only after each subsequent periodical census and on no other occasion.

(3) Subject to section 269, each division effected under subsection (1) shall be effected on the following basis:

(a) the Maori electoral population of New Zealand shall be divided by the quota for General electoral districts in the South Island determined pursuant to section 35(3)(b), and the quotient so obtained shall be the number of Maori electoral districts:

(b) where the quotient includes a fraction, the fraction shall be disregarded unless it exceeds a half, in which case the number of Maori electoral districts shall be the next whole number above the quotient:

(c) subject to subsection (7), the Maori electoral districts shall each contain an equal number of members of the Maori electoral population.

(4) Upon receipt of the report of the Government Statistician under section 35(6), the Surveyor-General shall prepare maps showing the distribution of the Maori

electoral population and provisional boundaries for the Maori electoral districts.

(5) The report so made by the Government Statistician and the maps so prepared by the Surveyor-General shall be sufficient evidence as to the Maori electoral population.

(6) In dividing the Maori electoral population equally between the Maori electoral districts, due consideration shall be given to—

(a) the existing boundaries of the Maori electoral districts; and

(b) community of interest among the Maori people generally and members of Maori tribes; and

(c) facilities of communications; and

(d) topographical features; and

(e) any projected variation in the Maori electoral population of those districts during their life.

(7) Where, in the opinion of the Commission, the Maori electoral population cannot, consistently with the considerations provided for in subsection (6), be divided equally between the Maori electoral districts, the Commission may for any district make an allowance by way of addition or subtraction of Maori electoral population to an extent not exceeding 5%.

(8) Due notice of the issuing of the proposed names and boundaries of the Maori electoral districts shall be given in the *Gazette* and section 38, with all necessary modifications, shall apply accordingly.

(9) The Commission shall, in every case within 6 months after the date of the meeting of the Commission called pursuant to section 35(7) or, in the case of the meeting called pursuant to section 269(4), within 8 months after the date of that meeting,—

(a) report to the Governor-General the names and boundaries of the Maori electoral districts fixed by the Commission; and

(b) publish in the *Gazette* a notice—

(i) stating that the Commission has fixed the names and boundaries of the Maori electoral districts; and

(ii) stating that the names and boundaries of the Maori electoral districts fixed by the Commission are available for public inspection; and

(iii) stating places at which copies of the names and boundaries fixed by the Commission are available for public inspection without charge (which places must include the offices of the Electoral Commission).

(10) The boundaries fixed by the Commission in respect of the Maori electoral districts shall be defined by the Commission by the use of such words, maps, and graphic means as are sufficient to define those boundaries accurately.

(11) From the date of the gazetting of the notice required by subsection (9)(b), the boundaries of the Maori electoral districts as fixed by the report shall be the boundaries of the Maori electoral districts for the purpose of the election of members of Parliament for those districts after the dissolution or expiration of the then existing Parliament, and shall so continue until the next report of the Commission takes effect as a result of the publication in the *Gazette* of that notice required by subsection (9)(b) in respect of that report.

(12) Notwithstanding the foregoing provisions of this section or of any other provision of this Act,—

(a) if on the application of paragraphs (a) and (b) of subsection (3) a quotient is obtained that does not require the division of New Zealand into a Maori electoral district or districts, New Zealand shall not be divided into a Maori electoral district or districts and the other provisions of this Act shall, so far as they are applicable, apply with any necessary modifications; and

(b) if on the application of paragraphs (a) and (b) of subsection (3) a quotient is obtained that requires the division of New Zealand into 1 Maori electoral district, the foregoing provisions of this section and the other provisions of this Act shall, so far as they are applicable, apply with any necessary modifications.

Compare: 1956 No 107 s 23; 1981 No 120 s 8(1); 1991 No 68 s 10

Section 45(8): substituted, on 17 December 1993, by section 11(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 45(9): substituted, on 17 December 1993, by section 11(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 45(9)(b)(iii): amended, on 21 March 2017, by section 13 of the Electoral Amendment Act 2017 (2017 No 9).

Chatham Islands

46 Electoral districts for and polling in Chatham Islands

(1) The area comprised in the Chatham Islands shall be included in such General electoral district and Maori electoral district as the Representation Commission thinks fit, after giving due consideration to the matters contained in sections 35(3)(f) and 45(6).

(2) For the purposes of sections 35, 45, and 269, the General electoral population and Maori electoral population of the Chatham Islands shall be treated—

(a) as part of the General electoral population and Maori electoral population of New Zealand; and

(b) as part of the General electoral population or Maori electoral population, as the case may require, of the General electoral district or Maori electoral district within which the Chatham Islands are included; and

(c) in the case of the General electoral population, as part of the General electoral population of the South Island and, in the case of the Maori electoral population, as part of the Maori electoral population of the North Island.

(3) In any case where the Commission has determined the number of General electoral districts in both the North Island and the South Island, and has, in doing so, applied the provisions of subsection (2)(c),—

(a) the Commission shall not be precluded from including the Chatham Islands in a General electoral district or Maori electoral district, as the case may require, that is located, either in whole or in part, in a different Island to that in which the General electoral population or the Maori electoral population of the Chatham Islands has been included pursuant to subsection (2)(c); and

(b) the Commission shall not, by reason of the application of paragraph (a), reconsider its determination of the number of General electoral districts in either the North Island or the South Island.

Compare: 1956 No 107 s 24(1)

Qualifications of candidates and members

47 Registered electors may be members, unless disqualified

(1) Subject to the provisions of this Act, every person who is registered as an elector of an electoral district, but no other person, is qualified to be a candidate and to be elected a member of Parliament, whether for that electoral district, any other electoral district or as a consequence of the inclusion of that person's name in a party list submitted pursuant to section 127.

(2) Notwithstanding anything in subsection (1), if a person is disqualified for registration as an elector, that person shall not be qualified to be a candidate or to be elected.

(3) Regardless of anything in subsection (1), a person is not qualified to be a candidate or to be elected unless he or she is a New Zealand citizen.

Compare: 1956 No 107 s 25; 1981 No 120 s 9(1)

Section 47(3): substituted, on 1 February 2003, by section 8(1) of the Electoral Amendment Act 2002 (2002 No 1).

47A Certain persons disqualified from candidacy

The following persons are not qualified to be a candidate or to be elected as a member of Parliament:

(a) an Electoral Commissioner:

(b) a Deputy Electoral Commissioner:

(c) a Returning Officer:

(d) a Registrar of Electors:

(e) a Deputy Registrar of Electors.

Section 47A: inserted, on 1 October 2010, by section 11 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 47A(d): inserted, on 21 March 2017, by section 14 of the Electoral Amendment Act 2017 (2017 No 9).

Section 47A(e): inserted, on 21 March 2017, by section 14 of the Electoral Amendment Act 2017 (2017 No 9).

48 Offence for public servant or Returning Officer to sit

[Repealed]

Section 48: repealed, on 21 March 2017, by section 15 of the Electoral Amendment Act 2017 (2017 No 9).

49 Candidate not disqualified if name removed from roll without cause

(1) This section applies to a person—

(a) who is qualified to be registered as an elector of an electoral district; and

(b) whose name was entered on the electoral roll for that district; but

(c) whose name has been subsequently removed from that electoral roll through no fault or failure of that person.

(2) A person is not, by reason only of his or her name having been removed from an electoral roll, disqualified from becoming a candidate and being elected as a member of Parliament.

(3) However, a person who consents to his or her nomination as a candidate must make a statutory declaration declaring that—

(a) he or she is qualified to be registered as an elector of the electoral district in respect of which he or she was previously registered; and

(b) his or her name was removed from the electoral roll for that district through no fault or failure of his or her own.

(4) A person nominated as a candidate must, when giving his or her consent to the nomination, send the statutory declaration to—

(a) the Returning Officer, if the person was nominated as a constituency candidate by registered electors under section 143; or

(b) the party secretary, if the person is to be nominated as—

(i) a constituency candidate by the party secretary under section 146D; or

(ii) a list candidate.

Section 49: substituted, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

50 Effect of registration on wrong roll

The nomination of any person as a candidate for election, or his or her election as a member of Parliament, shall not be questioned on the ground that, though entitled to be registered as an elector of any district, that person was not in fact registered as an elector of that district but was registered as an elector of some other district.

Compare: 1956 No 107 s 28

51 Member ceasing to be elector

A member of Parliament ceasing to be registered as an elector shall not from that cause only be disqualified from sitting as a member.

Compare: 1956 No 107 s 29

52 Candidacy and election of State servants

(1) In this section, the term **State servant**—

(a) means—

(i) a public servant; and

(ii) any other person whose conditions of employment are prescribed under, or are required by any enactment to be prescribed in accordance with or having regard to provisions of, the Public Service Act 2020; and

(b) includes employees of the New Zealand Police.

(2) Any State servant who desires to become a candidate for election as a member of Parliament shall be placed on leave of absence for the purposes of his or her candidature.

(3) Subject to subsection (4), the period of leave shall commence on nomination day, and, in the event of his or her nomination as a constituency candidate or of the inclusion of his or her name in a list submitted under section 127, shall continue until the first working day after polling day, unless, in any case where he or she is a constituency candidate, he or she withdraws his or her nomination.

(4) Where the employer of any State servant is satisfied that the State servant desires to become a candidate and that the candidacy will materially affect the ability of that State servant—

(a) to carry out satisfactorily his or her duties as a State servant; or

(b) to be seen as independent in relation to particular duties,—

the period of leave shall, if the employer so determines after consultation with the State servant, commence before nomination day on a day appointed by the employer.

(5) During the period of his or her leave, the State servant shall not be required or permitted to carry out any of his or her official duties, nor shall he or she be entitled to receive any salary or other remuneration as a State servant in respect

of that period or any part thereof, except to the extent to which he or she takes during that period any leave with pay to which he or she is entitled:

provided that a candidate who, at the time of his or her nomination or of the inclusion of his or her name in a list submitted under section 127, is a member of the staff of an institution (as defined in the Education and Training Act 2020) may continue to teach or supervise the studies of students at that institution who are preparing for an examination and may engage in marking the examination papers of such students, and may receive remuneration in respect of such teaching, supervision, and marking.

(6) Except as provided in the foregoing provisions of this section, a candidate's rights as a State servant shall not be affected by his or her candidature.

Compare: 1956 No 107 s 30; 1981 No 120 s 10(1); 1988 No 20 s 90(a)

Section 52(1)(b): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 52(1)(a)(ii): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 52(5): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

53 Members disqualified from being State servants

(1) In this section, the term **State servant** has the meaning given to it by section 52(1).

(2) If any State servant is elected as a member of Parliament, he or she shall forthwith on being declared so elected, be deemed, subject to subsections (3) to (6), to have vacated his or her office as a State servant.

(3) Where a person who has been declared elected as the result of a poll is not the person declared elected on an amended declaration of the result of that poll or where, at the conclusion of the trial of an election petition, the High Court or Court of Appeal determines that the person whose election or return was complained of was not duly elected or returned or that the election at which that person was elected or returned was void, that person,—

(a) if he or she was a State servant when he or she was declared to be elected; and

(b) if by written election, given to his or her former employer within 1 month after the amended declaration or the determination of the High Court or Court of Appeal, he or she elects to be reinstated in his or her former office as a State servant,—

he or she shall, on the date on which his or her election is so given to his or her employer, be deemed, subject to subsections (4) to (6), to have been reinstated in his or her office as a State servant.

(4) Nothing in this section shall entitle any person who is reinstated in office as a State servant to receive any salary or other remuneration as a State servant in respect of the period or any part of the period beginning on the day after the

date on which he or she vacated office under subsection (2) and ending with the day before the date on which he or she resumed office under subsection (3).

(5) Where the position that the person held at the date on which he or she vacated office has been filled or where that position no longer exists, that person shall, on his or her reinstatement, be employed, where practicable and at the discretion of his or her employer, in a position that involves duties and responsibilities which are the same or substantially the same as those of the position held at the time of vacation of office.

(6) Subject to subsection (4), where a person is reinstated in office under this section,—

(a) his or her service, for the purpose of any rights and benefits that are conditional on unbroken service, shall not be broken by the period of vacation of office; and

(b) the period of vacation of office shall count—

(i) as time served under his or her contract of employment; and

(ii) subject to payment of his or her contributions, as service for the purpose of any superannuation scheme to which he or she belongs in his or her capacity as a State servant.

Compare: 1956 No 107 s 31; 1981 No 120 s 11(1)

Term of office of member of Parliament

54 Term of office of member of Parliament

(1) Where an election is held for any electoral district, the person whose name is endorsed on the writ issued for the election as the person declared to be elected shall, subject to this Act,—

(a) come into office as the member of Parliament for that electoral district on the day after the day of the return of that writ; and

(b) vacate that office at the close of polling day at the next general election.

(2) Where any person whose name is entered on a party list submitted pursuant to section 127 is declared by the Electoral Commission to be elected as a member of Parliament, the person shall, subject to this Act,—

(a) come into office on the date after the date of the return made by the Electoral Commission pursuant to section 193; and

(b) vacate that office at the close of polling day at the next general election.

Compare: 1956 No 107 s 31A; 1986 No 116 s 3

Section 54(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 54(2)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Vacancies

55 How vacancies created

(1) The seat of any member of Parliament shall become vacant—

(a) if, otherwise than by virtue of being a head of mission or head of post within the meaning of the Foreign Affairs Act 1988, for one whole session of Parliament he or she fails, without permission of the House of Representatives, to give his or her attendance in the House; or

(b) if he or she takes an oath or makes a declaration or acknowledgement of allegiance, obedience, or adherence to a foreign State, foreign Head of State, or foreign Power, whether required on appointment to an office or otherwise; or

(c) if he or she does or concurs in or adopts any act whereby he or she may become a subject or citizen of any foreign State or Power, or entitled to the rights, privileges, or immunities of a subject or citizen of any foreign State or Power; or

(ca) if he or she ceases to be a New Zealand citizen; or

(cb) if he or she accepts nomination as, or otherwise agrees to be, a candidate for election, or agrees to appointment as—

(i) a member of Parliament (or other governing body) of a country, State, territory, or municipality, in any country other than New Zealand; or

(ii) a member of any governing body of any association of countries, States, territories, or municipalities exercising governing powers, of which New Zealand is not a member (for example, the European Union); or

(d) if he or she is convicted of an offence punishable by imprisonment for life or by 2 or more years' imprisonment, or is convicted of a corrupt practice, or is reported by the High Court in its report on the trial of an election petition to have been proved guilty of a corrupt practice; or

(e) if he or she becomes a public servant; or

(ea) if he or she is appointed as a Returning Officer, a Registrar of Electors, or a Deputy Registrar of Electors; or

(f) if he or she resigns his or her seat by signing a written notice that is addressed and delivered to the Speaker; or

(fa) if, under section 55A, he or she ceases to be a parliamentary member of the political party for which he or she was elected; or

(g) if on an election petition the High Court or Court of Appeal declares his or her election void; or

(h) if he or she dies; or

(i) if he or she becomes mentally disordered, as provided in section 56.

(j) *[Repealed]*

(2) Notwithstanding anything in subsection (1)(c), where a member of Parliament marries a person who is a subject or citizen of a foreign State or Power and the laws of that foreign State or Power confer on that member of Parliament by reason of that marriage, citizenship of that foreign State or Power or the rights, privileges, or immunities of a subject or citizen of that foreign State or Power, the seat of a member of Parliament shall not become vacant by reason only of the marriage.

Compare: 1956 No 107 s 32; 1975 No 28 s 13(1); 1981 No 120 s 12; 1988 No 34 s 12(3); 1988 No 159 s 14(1)

Section 55(1)(b): substituted, on 18 September 2005, by section 5(1) of the Electoral Amendment Act 2004 (2004 No 99).

Section 55(1)(ca): inserted, on 18 September 2005, by section 5(2) of the Electoral Amendment Act 2004 (2004 No 99).

Section 55(1)(cb): inserted, on 18 September 2005, by section 5(2) of the Electoral Amendment Act 2004 (2004 No 99).

Section 55(1)(d): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 55(1)(ea): inserted, on 1 October 2010, by section 13 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 55(1)(ea): amended, on 21 March 2017, by section 16 of the Electoral Amendment Act 2017 (2017 No 9).

Section 55(1)(f): substituted, on 28 February 2002, by section 9(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 55(1)(fa): inserted, on 4 October 2018, by section 4 of the Electoral (Integrity) Amendment Act 2018 (2018 No 39).

Section 55(1)(j): repealed, on 28 February 2002, by section 9(2) of the Electoral Amendment Act 2002 (2002 No 1).

55AA Dual or multiple citizenship permissible in certain circumstances

Despite section 55(1)(b) and (c), the seat of a member of Parliament does not become vacant by reason only of the member—

(a) becoming a subject or citizen of any foreign State or Power, or entitled to the rights, privileges, or immunities of a subject or citizen of any foreign State or Power, by reason only of the member's—

(i) country or place of birth; or

(ii) descent; or

(b) renewing a passport or travel document that was issued to him or her by a foreign State or Power before the member took office.

Section 55AA: inserted, on 18 September 2005, by section 6 of the Electoral Amendment Act 2004 (2004 No 99).

55AAB Purpose of sections 55A to 55E

The purpose of sections 55A to 55E is to—

(a) enhance public confidence in the integrity of the electoral system; and

(b) enhance the maintenance of the proportionality of political party representation in Parliament as determined by electors.

Section 55AAB: inserted, on 4 October 2018, by section 5 of the Electoral (Integrity) Amendment Act 2018 (2018 No 39).

55A Member of Parliament ceasing to be parliamentary member of political party

(1) This section applies to every member of Parliament, except a member elected as an independent.

(2) The seat of a member of Parliament to whom this section applies becomes vacant if the member of Parliament ceases to be a parliamentary member of the political party for which the member of Parliament was elected.

(3) For the purposes of subsection (2), a member of Parliament ceases to be a parliamentary member of the political party for which the member of Parliament was elected only if—

(a) the member of Parliament delivers to the Speaker a written notice that complies with section 55B; or

(b) the parliamentary leader of the political party for which the member of Parliament was elected delivers to the Speaker a written notice that complies with section 55C.

Section 55A: inserted, on 4 October 2018, by section 5 of the Electoral (Integrity) Amendment Act 2018 (2018 No 39).

55B Notice from member of Parliament

A written notice under section 55A(3)(a) must—

(a) be signed by the member of Parliament by whom it is given; and

(b) be addressed to the Speaker; and

(c) notify the Speaker that the member of Parliament—

(i) has resigned from the parliamentary membership of the political party for which the member of Parliament was elected; or

(ii) wishes to be recognised for parliamentary purposes as either an independent member of Parliament or a member of another political party.

Section 55B: inserted, on 4 October 2018, by section 5 of the Electoral (Integrity) Amendment Act 2018 (2018 No 39).

55C Notice from parliamentary leader of political party

A written notice under section 55A(3)(b) must—

(a) be signed by the parliamentary leader of the political party for which the member of Parliament who is the subject of the notice was elected; and

(b) be addressed to the Speaker; and

(c) be accompanied by a statement that complies with section 55D.

Section 55C: inserted, on 4 October 2018, by section 5 of the Electoral (Integrity) Amendment Act 2018 (2018 No 39).

55D Form of statement to be made by parliamentary leader

The statement referred to in section 55C(c) must be in writing and signed by the parliamentary leader concerned, and must—

(a) state that the parliamentary leader reasonably believes that the member of Parliament concerned has acted in a way that has distorted, and is likely to continue to distort, the proportionality of political party representation in Parliament as determined at the last general election; and

(b) state that the parliamentary leader has delivered to the member of Parliament concerned written notice—

(i) informing the member that the parliamentary leader considers that paragraph (a) applies to the member and the reasons for that opinion; and

(ii) advising the member that he or she has 21 working days from the date of receiving the notice to respond to the matters raised in the notice by notice in writing addressed to the parliamentary leader; and

(c) state that, after consideration of the conduct of the member and his or her response (if any) by the parliamentary members of the political party for which the member was elected, the parliamentary leader of that party confirms that at least two-thirds of the parliamentary members of that party agree that written notice should be given by the parliamentary leader under section 55A(3)(b); and

(d) state either—

(i) that all other requirements imposed by the rules of the political party for which the member of Parliament was elected relating to the giving of a notice under section 55A(3)(b) have been satisfied; or

(ii) that there are no other requirements imposed by the rules of the political party for which the member of Parliament was elected relating to the giving of a notice under section 55A(3)(b) to be satisfied.

Section 55D: inserted, on 4 October 2018, by section 5 of the Electoral (Integrity) Amendment Act 2018 (2018 No 39).

55E Definitions

For the purposes of sections 55A to 55D, unless the context otherwise requires,—

parliamentary leader, in relation to a political party, means—

(a) the member of Parliament recognised for the time being as the parliamentary leader of the political party by the majority of parliamentary members of that party; or

(b) the member of Parliament for the time being acting as the parliamentary leader of that party

political party for which the member of Parliament was elected means,—

(a) in the case of a member elected to represent an electoral district, the political party that nominated the member as a constituency candidate; and

(b) in the case of a member of Parliament elected from a party list submitted under section 127, or declared to be elected under section 137(4) to supply a vacancy, the political party on whose list the member's name appeared.

Section 55E: inserted, on 4 October 2018, by section 5 of the Electoral (Integrity) Amendment Act 2018 (2018 No 39).

55A Member ceasing to be parliamentary member of political party

[Expired]

Section 55A: expired, on 18 September 2005, by section 3 of the Electoral (Integrity) Amendment Act 2001 (2001 No 105).

55B Notice from member

[Expired]

Section 55B: expired, on 18 September 2005, by section 3 of the Electoral (Integrity) Amendment Act 2001 (2001 No 105).

55C Notice from parliamentary leader of party

[Expired]

Section 55C: expired, on 18 September 2005, by section 3 of the Electoral (Integrity) Amendment Act 2001 (2001 No 105).

55D Form of statement to be made by parliamentary leader

[Expired]

Section 55D: expired, on 18 September 2005, by section 3 of the Electoral (Integrity) Amendment Act 2001 (2001 No 105).

55E Definitions

[Expired]

Section 55E: expired, on 18 September 2005, by section 3 of the Electoral (Integrity) Amendment Act 2001 (2001 No 105).

56 Member becoming mentally disordered

(1) Where a member of Parliament is, or is deemed to be, subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, the court by which the order is made shall, as soon as may be, give a notice to the Speaker of the making of the order.

(2) Where a member of Parliament is received or detained in a hospital in accordance with an inpatient order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, the person in charge of that hospital shall, as soon as may be, give notice to the Speaker of the reception or detention.

(3) Where the Speaker receives a notice under subsection (1) or subsection (2), the Speaker shall forthwith transmit the notice to the Director-General of Health, who, together with some medical practitioner named by the Speaker, shall without delay visit and examine the member to whom the notice relates, and shall report to the Speaker whether the member is mentally disordered.

(4) If the report is to the effect that the member is mentally disordered the Speaker shall, at the expiration of 6 months from the date of the report if Parliament is then in session, and, if not, then as soon as may be after the date of the commencement of the next ensuing session, require the said Director-General, together with the said medical practitioner or some other medical practitioner named by the Speaker, again to visit and examine the member; and, if they report that he or she is still mentally disordered, the Speaker shall forthwith lay both reports before the House of Representatives, and thereupon the seat of the member shall be vacant.

(5) Every person having charge of any hospital in which any member of Parliament is so received or detained, who wilfully commits a breach of subsection (2) shall be liable on conviction to a fine not exceeding $2,000.

Compare: 1956 No 107 s 33; 1990 No 1 s 4(1)

Section 56(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 56(4): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 56(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

57 Registrar of court to notify cause of vacancy in certain cases

(1) The Registrar of the court in which any member of Parliament has been convicted of an offence punishable by imprisonment for life or by 2 or more years' imprisonment, or has been convicted of a corrupt practice, shall, within 48 hours after the conviction, notify the fact to the Speaker.

(2) Every person commits an offence and shall be liable on conviction to a fine not exceeding $100 who, being the Registrar of a court, fails to send any notice required by subsection (1).

Compare: 1956 No 107 s 34; 1975 No 28 s 12(e); 1990 No 1 s 5(1)

Section 57(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57(1): amended, on 28 February 2002, by section 10 of the Electoral Amendment Act 2002 (2002 No 1).

Section 57(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

58 Registrar of Births and Deaths to notify Speaker of death of member

(1) The Registrar of Births and Deaths by whom the death of any member of Parliament is registered shall, within 12 hours of making the registration, notify the fact to the Speaker.

(2) Every person commits an offence and shall be liable on conviction to a fine not exceeding $100 who, being a Registrar of Births and Deaths, fails to send any notice required by subsection (1).

Compare: 1956 No 107 s 35; 1990 No 1 s 5(1)

Section 58(1): amended, on 28 February 2002, by section 11 of the Electoral Amendment Act 2002 (2002 No 1).

Section 58(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

59 No person to be candidate for more than 1 district or on more than 1 list

(1) No person shall at any general election be—

(a) a candidate for more than 1 electoral district; or

(b) a candidate whose name is included on more than 1 party list submitted pursuant to section 127.

(2) If 2 or more by-elections are held on the same polling day, no person shall be a candidate at more than 1 of those by-elections.

(3) At any general election, any person may be both—

(a) a candidate for any one electoral district; and

(b) a candidate whose name is included on any one party list submitted pursuant to section 127.

(4) If any person breaches subsection (1) or subsection (2), all nominations of that person as a candidate for those districts, party lists, or by-elections, as the case may be, shall be void, and any deposits made by him or her or on his or her behalf shall be forfeited and be paid into a Crown Bank Account.

Section 59: substituted, on 6 December 1995, by section 12 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 59(4): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 59(4): amended, on 28 February 2002, by section 12 of the Electoral Amendment Act 2002 (2002 No 1).

Persons qualified to vote

60 Who may vote

Subject to the provisions of this Act, the following persons, and no others, shall be qualified to vote at any election in any district, namely,—

(a) any person whose name lawfully appears on the main roll or any supplementary roll for the district and who is qualified to be registered as an elector of the district:

(b) any person—

(i) who is qualified to be registered as an elector of the district; and

(ii) who is registered as an elector of the district as a result of having applied for registration as an elector of the district before polling day:

(c) any person who is qualified to be registered as an elector of the district, and was at the time of the last preceding election duly registered as an elector of the district or, where a change of boundaries has intervened, of some other district in which his or her then place of residence within the first-mentioned district was then situated:

(d) any person—

(i) who is qualified to be registered as an elector of the district; and

(ii) who is registered as an elector of the district as a result of having applied, since the last preceding election and before polling day, for registration as an elector of the district or, where a change of boundaries has intervened, of some other district in which that person's then place of residence within the first-mentioned district was then situated:

(e) any person who is qualified to be registered as an elector of the district pursuant to section 74 and who resides on Campbell Island or Raoul Island or has resided on either of those Islands at any time in the 1 month before polling day:

(f) any member of the Defence Force who is outside New Zealand, if he or she is or will be of or over the age of 18 years on polling day, and his or her place of residence immediately before he or she last left New Zealand is within the district:

(g) any person present in New Zealand who—

(i) is qualified to be registered as an elector of the district; and

(ii) applies, on polling day, for registration as an elector of the district.

Compare: 1956 No 107 s 99; 1981 No 120 s 31; 1983 No 104 s 18; 1985 No 150 s 2(4); 1990 No 1 s 49(1), (2)

Section 60(a): substituted, on 6 December 1995, by section 13(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 60(b): substituted, on 6 December 1995, by section 13(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 60(c): substituted, on 6 December 1995, by section 13(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 60(d): substituted, on 6 December 1995, by section 13(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 60(f): amended, on 6 December 1995, by section 13(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 60(g): inserted, on 11 March 2020, by section 4 of the Electoral Amendment Act 2020 (2020 No 2).

61 Special voters

(1) A person who is qualified to vote at any election in any district may vote as a special voter if—

(a) that person's name does not appear on the main roll or any supplementary roll for the district or has been wrongly deleted from any such roll:

(b) the person intends to be absent or is absent from the district on polling day:

(c) the person intends to be outside New Zealand on polling day or is outside New Zealand on polling day:

(d) the person is, by reason of illness, infirmity, pregnancy, or recent childbirth, unable to attend to vote at any polling place in the district:

(e) the person is, by reason of a religious objection, unable to attend to vote on the day of the week on which polling day falls:

(f) the person satisfies the Returning Officer or issuing officer that on any other ground it will not be practicable for that person to vote at a polling place in the district without incurring hardship or serious inconvenience.

(2) A person who is registered as an elector of a Maori electoral district and who is qualified to vote at any election in that district may vote as a special voter not only on the grounds set out in subsection (1) but also on the ground that the person attends to vote on polling day at a polling place that is not a polling place for that district.

(3) A person whose name appears on the main roll or any supplementary roll for an electoral district and who is qualified to vote at an election in that district may vote as a special voter if the person—

(a) applies to vote in person before polling day; and

(b) does so within that district or at an office maintained by the Returning Officer of that district.

Compare: 1956 No 107 s 100; 1990 No 1 s 50(1)

Section 61(1)(f): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 61(3): added, on 1 January 2011, by section 6 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Part 4
Registration of political parties and party logos

Part 4 heading: amended, on 6 December 1995, by section 14 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Subpart 1—Registration of political parties

Subpart 1 heading: inserted, on 25 March 2014, by section 5 of the Electoral Amendment Act 2014 (2014 No 8).

62 Register of Political Parties

(1) Subject to this Part, an eligible political party may be registered for the purposes of this Act.

(2) The Electoral Commission shall establish and maintain a Register, to be known as the **Register of Political Parties**, containing a list of the political parties registered under this Part.

63 Application for registration

(1) An application for the registration of an eligible political party may be made to the Electoral Commission—

(a) by the secretary of the party; or

(b) by any member of Parliament who is a current financial member of that party.

(2) An application for the registration of an eligible political party—

(a) shall be in writing; and

(b) shall be signed by the applicant; and

(c) must—

(i) set out the name of the party; and

(ii) if the party wishes to be able to use for the purposes of this Act an abbreviation of its name, set out the name of that abbreviation; and

(iii) set out the name and address of the applicant and the capacity in which he or she makes the application; and

(iv) if the applicant is not the secretary of the party, set out the name and address of the secretary of the party; and

(v) set out the name and address of the person eligible under section 206K who is to be appointed as the auditor of the party, and be accompanied by that person's signed consent to the appointment; and

(vi) be accompanied by evidence, in a form approved by the Electoral Commission, that the party has at least 500 current financial members who are eligible to enrol as electors; and

(vii) be accompanied by a declaration, made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957 that the party has at least 500 current financial members who are eligible to enrol as electors; and

(viii) *[Repealed]*

(ca) must be accompanied by a declaration made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration must state that the party intends, at general elections,—

(i) to submit a list of candidates under section 127; or

(ii) to have 1 or more constituency candidates stand for the party or for a related political party; or

(iii) both; and

(d) shall be accompanied by a declaration made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration shall—

(i) state whether the party is a party in respect of which there are 1 or more component parties; and

(ii) where the party has 1 or more component parties, state the name of each component party; and

(e) must be accompanied by the application fee payable under section 63A.

(3) Upon receipt of an application for the registration of a political party, the Electoral Commission shall deal with the application in accordance with this Part and determine whether the party can be registered.

(4) Notwithstanding subsection (3), the Electoral Commission shall not be obliged to deal with any application for registration if it receives notice in writing withdrawing the application from a person entitled to apply for the registration of that party and the Electoral Commission is satisfied that the application is made by that person on behalf of the party.

(5) *[Repealed]*

Section 63(2)(c): substituted, on 28 February 2002, by section 13(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 63(2)(c)(v): amended, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 63(2)(c)(viii): repealed, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 63(2)(ca): inserted, on 28 February 2002, by section 13(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 63(2)(d): added, on 6 December 1995, by section 15(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 63(2)(d)(ii): amended, on 25 March 2014, by section 6(1) of the Electoral Amendment Act 2014 (2014 No 8).

Section 63(2)(e): inserted, on 25 March 2014, by section 6(2) of the Electoral Amendment Act 2014 (2014 No 8).

Section 63(4): added, on 6 December 1995, by section 15(3) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 63(5): repealed, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

63A Application fee

(1) The fee payable on making an application under section 63 is $500 (inclusive of goods and services tax).

(2) The fee must be paid by—

(a) direct credit to a bank account nominated by the Electoral Commission; or

(b) bank cheque.

Section 63A: replaced, on 25 March 2014, by section 7 of the Electoral Amendment Act 2014 (2014 No 8).

64 Times when registration prohibited

(1) At no time in the period that, in relation to a general election,—

(a) commences on the date beginning with the issue of the writ for the election of members of Parliament for all electoral districts within New Zealand; and

(b) ends with the day appointed as the latest day for the return of the writ containing the names of constituency candidates who are elected,—

shall action be taken in relation to any application for the registration of a political party.

(2) *[Repealed]*

Section 64: substituted, on 6 December 1995, by section 17 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 64(1): amended, on 25 March 2014, by section 8(1) of the Electoral Amendment Act 2014 (2014 No 8).

Section 64(1)(a): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 64(1)(b): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 64(2): repealed, on 25 March 2014, by section 8(2) of the Electoral Amendment Act 2014 (2014 No 8).

65 Parties with certain names not to be registered

The Electoral Commission shall refuse an application for the registration of a political party if, in its opinion, the name of the party or any proposed abbreviation—

(a) is indecent or offensive; or

(b) is excessively long; or

(c) is likely to cause confusion or mislead electors; or

(d) contains any reference to a title or honour or similar form of identification.

65A Certain logos not to be registered

[Repealed]

Section 65A: repealed, on 25 March 2014, by section 9 of the Electoral Amendment Act 2014 (2014 No 8).

66 Other grounds on which registration may be refused

(1) The Electoral Commission shall refuse an application for the registration of a political party if—

(a) the application does not comply with section 63; or

(b) if it is satisfied that the party does not have 500 current financial members who are eligible to enrol as electors.

(2) Unless section 65 or subsection (1) applies, the Electoral Commission shall, subject to section 64, register the political party that is the subject of the application.

(3) *[Repealed]*

Section 66(1)(b): substituted, on 6 December 1995, by section 19 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 66(3): repealed, on 28 February 2002, by section 15 of the Electoral Amendment Act 2002 (2002 No 1).

67 Registration

(1) Where the Electoral Commission determines that a political party should be registered, the Electoral Commission shall—

(a) register the party by entering in the Register—

(i) the name of the party; and

(ii) if an abbreviation of the name of the party was set out in the application, that abbreviation; and

(iii) the names of any separate political parties that are component parties of the party; and

(b) give written notice to the applicant that the Electoral Commission has registered the party; and

(c) cause notice of the registration of the party, including details of any component parties of the party, to be published in the *Gazette*.

(d) *[Repealed]*

(2) Where the Electoral Commission determines that an application for the registration of a political party should be refused, the Commission shall, as soon as reasonably practicable, and in any case not later than 10 working days after the date of the determination, give the applicant written notice that the Commission has refused the application, setting out the reasons for the refusal.

(3) It shall be the duty of the secretary of any political party registered under this Act—

(a) to supply the Electoral Commission with an address for service of all correspondence under this Part; and

(b) to notify the Electoral Commission of any changes in the address for service of correspondence; and

(c) to notify the Electoral Commission whenever a new secretary of the party is appointed; and

(d) to notify the Electoral Commission if the number of current financial members of the party who are eligible to enrol as electors falls below 500; and

(e) subject to subsection (4), to notify the Electoral Commission by way of a declaration in the manner provided by section 9 of the Oaths and Declarations Act 1957 whenever there is any change in the details recorded in the Register of Political Parties in respect of the party under subsection (1)(a)(iii).

(f) *[Repealed]*

(4) *[Repealed]*

Section 67: substituted, on 6 December 1995, by section 20 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 67(1)(c): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 67(1)(d): repealed, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 67(3)(e): amended, on 28 February 2002, by section 16 of the Electoral Amendment Act 2002 (2002 No 1).

Section 67(3)(f): repealed, on 20 December 2007, by section 13 of the Electoral Amendment Act 2007 (2007 No 113).

Section 67(4): repealed, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

67AA Vacancies in position of party secretary

(1) If, in a political party registered under this Act, a vacancy occurs in the position of party secretary, the remaining office holders of the party must ensure that, within 5 working days of the vacancy occurring,—

(a) a new secretary is appointed; or

(b) a person is appointed to act in the position of secretary until a new secretary can be appointed.

(2) A person appointed under subsection (1)(a) or (b) must immediately notify the Electoral Commission of that person's appointment.

Section 67AA: inserted, on 21 March 2017, by section 17 of the Electoral Amendment Act 2017 (2017 No 9).

67A Registration of party logos

[Repealed]

Section 67A: repealed, on 25 March 2014, by section 10 of the Electoral Amendment Act 2014 (2014 No 8).

68 Inspection of Register

Members of the public shall be entitled to inspect the Register of Political Parties without payment at any time between 9 am and 5 pm on any day on which the office of the Electoral Commission is open.

Section 68: amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

68A Inspection of party logos

[Repealed]

Section 68A: repealed, on 25 March 2014, by section 11 of the Electoral Amendment Act 2014 (2014 No 8).

69 Changes to Register of Political Parties

(1) A person described in section 63(1) may, on behalf of a political party, apply to the Electoral Commission to—

(a) change the name of the party:

(b) change the abbreviation of the name of the party.

(2) Section 63 (except subsection (2)(e)) and sections 64 to 67 apply to that application with any necessary modifications.

Section 69: replaced, on 25 March 2014, by section 12 of the Electoral Amendment Act 2014 (2014 No 8).

69A Changes to party logos

[Repealed]

Section 69A: repealed, on 25 March 2014, by section 13 of the Electoral Amendment Act 2014 (2014 No 8).

70 Cancellation of registration

(1) The Electoral Commission shall cancel the registration of a political party at the request of one of the persons specified in section 63(1) if satisfied that the request for cancellation is made by the applicant on behalf of the party.

(1A) The provisions of section 64, with any necessary modifications, apply to every request under subsection (1).

(2) The Electoral Commission shall cancel the registration of any political party on being satisfied that the number of current financial members of the party who are eligible to enrol as electors has fallen below 500.

(2A) For the purposes of exercising the powers conferred on it by subsection (2), the Electoral Commission may require a political party to supply to it a list of the party's current financial members within any reasonable time that the Electoral Commission specifies.

(2B) The Electoral Commission may cancel the registration of a political party if satisfied that the party has failed to comply with section 67AA.

(3) Where the Electoral Commission cancels the registration of any political party, it shall, as soon as reasonably practicable, and in any event not later than 10 working days after the date of the cancellation,—

(a) give, where the cancellation was effected under subsection (1), written notice of the cancellation to both the applicant for cancellation and the secretary of the political party:

(b) give, where the cancellation was effected under subsection (2) or (2B), written notice of the cancellation to the secretary or the last-known secretary of the political party, which written notice shall set out the reasons for the cancellation:

(c) cause notice of the cancellation to be published in the *Gazette*.

Section 70(1): substituted, on 6 December 1995, by section 24 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 70(1A): inserted, on 28 February 2002, by section 17(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 70(2): substituted, on 6 December 1995, by section 24 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 70(2A): inserted, on 28 February 2002, by section 17(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 70(2B): inserted, on 21 March 2017, by section 18(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 70(3)(b): amended, on 21 March 2017, by section 18(2) of the Electoral Amendment Act 2017 (2017 No 9).

70A Cancellation of registration of party logo

[Repealed]

Section 70A: repealed, on 25 March 2014, by section 14 of the Electoral Amendment Act 2014 (2014 No 8).

71 Requirement for registered parties to follow democratic procedures in candidate selection

Every political party that is for the time being registered under this Part shall ensure that provision is made for participation in the selection of candidates representing the party for election as members of Parliament by—

(a) current financial members of the party who are or would be entitled to vote for those candidates at any election; or

(b) delegates who have (whether directly or indirectly) in turn been elected or otherwise selected by current financial members of the party; or

(c) a combination of the persons or classes of persons referred to in paragraphs (a) and (b).

71A Obligation to provide annual declaration regarding party

The secretary of any political party registered under this Act must ensure that the Electoral Commission receives by 30 April in each year a declaration made by the secretary in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration must—

(a) state that the party intends, at general elections,—

(i) to submit a list of candidates under section 127; or

(ii) to have 1 or more constituency candidates stand for the party or for a related political party; or

(iii) both; and

(b) state whether the party has at least 500 current financial members who are eligible to enrol as electors.

Section 71A: inserted, on 28 February 2002, by section 19(1) of the Electoral Amendment Act 2002 (2002 No 1).

71B Obligation to provide copy of party membership rules and candidate selection rules

(1) The secretary of any political party registered under this Act must supply the Electoral Commission with the following:

(a) a copy of the rules governing membership of the party:

(b) a copy of the rules governing the selection of persons to represent that party as candidates for election as members of Parliament:

(c) a copy of any changes to the rules referred to in paragraph (a) or paragraph (b).

(2) The copies required by subsection (1)(a) and (b) must be supplied within 1 month after notice of the registration of the party is notified in the *Gazette* in accordance with section 67(1)(c).

(3) The copies required by subsection (1)(c) must be supplied within 1 month after the date on which the changes to the rules are adopted by the party.

(4) Members of the public are entitled to inspect the documents supplied to the Electoral Commission under this section. They may inspect them, without payment, at any time between 9 am and 5 pm on any day on which the office of the Electoral Commission is open.

Section 71B: inserted, on 28 February 2002, by section 19(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 71B(4): amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Subpart 2—Registration of party logos

Subpart 2: inserted, on 25 March 2014, by section 15 of the Electoral Amendment Act 2014 (2014 No 8).

71C Application for registration of party logo

(1) An application may be made to the Electoral Commission to register the logo of a political party if the political party—

(a) is registered under subpart 1; or

(b) is unregistered, but an application has been made under subpart 1 to register that party and that application has not been determined by the Electoral Commission.

(2) An application to register a party logo—

(a) may be made by—

(i) the secretary of the party; or

(ii) any member of Parliament who is a current financial member of the party; and

(b) must—

(i) be in writing; and

(ii) be signed by the applicant; and

(iii) be accompanied by—

(A) 2 identical representations of the party logo in a form satisfactory to the Electoral Commission that show the parts of the logo that are to be in colour and the PMS (Pantone Matching System) colours that are to be used for those parts when the logo is reproduced on the ballot paper; and

(B) a black and white reproduction of the party logo in a form satisfactory to the Electoral Commission; and

(iv) be accompanied by a declaration, made by the applicant in the manner provided for by section 9 of the Oaths and Declarations Act 1957, that the use of the logo by the political party will not be an infringement of an intellectual property right of any person, or a breach of any enactment; and

(v) set out—

(A) the name and address of the applicant, and the capacity in which he or she makes the application; and

(B) the name and address of the secretary of the political party, if the applicant is not the secretary of the political party.

(3) On receipt of an application to register a party logo, the Electoral Commission must deal with the application in accordance with this subpart and determine whether to register the party logo.

(4) Subsection (3) does not apply if, before determining whether to register a party logo, the Electoral Commission—

(a) receives from any person described in subsection (2)(a) written notice that the application to register the party logo is withdrawn; and

(b) is satisfied the written notice is given by that person on behalf of the party.

Section 71C: inserted, on 25 March 2014, by section 15 of the Electoral Amendment Act 2014 (2014 No 8).

71D Grounds on which registration refused

(1) The Electoral Commission must refuse an application to register the logo of a political party if—

(a) the Electoral Commission has determined that the political party's application for registration should be refused (in the case of an application made under section 71C(1)(b)); or

(b) the application does not comply with—

(i) section 71C(2)(b)(iii); or

(ii) section 71C(2)(b)(iv); or

(c) the Electoral Commission has reasonable cause to believe that the declaration accompanying the application under section 71C(2)(b)(iv) is not correct; or

(d) the Electoral Commission is of the opinion that the logo—

(i) is indecent; or

(ii) is offensive; or

(iii) is likely to cause confusion or mislead electors; or

(iv) contains any reference to a title or an honour or a similar form of identification.

(2) If the Electoral Commission refuses an application to register the logo of a political party, the Electoral Commission must, as soon as is reasonably practicable, and in any case not later than 10 working days after the date of refusal, give the applicant written notice of—

(a) the refusal; and

(b) the reasons for the refusal.

Section 71D: inserted, on 25 March 2014, by section 15 of the Electoral Amendment Act 2014 (2014 No 8).

71E Times when registration of party logos prohibited

No action may be taken in relation to any application made under section 71C during the period that,—

(a) in relation to a general election,—

(i) commences on the date beginning with the issue of the writ for the election of members of Parliament for all electoral districts within New Zealand; and

(ii) ends with the day appointed as the latest day for the return of the writ containing the names of constituency candidates who are elected; and

(b) in relation to a by-election,—

(i) commences on the date beginning with the issue of the writ for the by-election; and

(ii) ends with the day appointed as the latest day for the return of the writ for the by-election.

Section 71E: inserted, on 25 March 2014, by section 15 of the Electoral Amendment Act 2014 (2014 No 8).

71F Registration of party logos

If, on receipt of an application under section 71C, the Electoral Commission determines to register the logo of a political party, the Electoral Commission must—

(a) register the logo of the political party in the Register of Political Parties established under section 62(2); and

(b) give written notice of the registration to the applicant; and

(c) arrange for the registration to be published in the *Gazette*.

Section 71F: inserted, on 25 March 2014, by section 15 of the Electoral Amendment Act 2014 (2014 No 8).

71G Inspection of party logos

The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every party logo that is, or has been, registered in the Register of Political Parties.

Section 71G: inserted, on 25 March 2014, by section 15 of the Electoral Amendment Act 2014 (2014 No 8).

71H Changes to party logos

(1) A person described in section 71C(2)(a) may, on behalf of a party whose logo has been registered, apply to the Electoral Commission to—

(a) vary the form of the party logo; or

(b) substitute a new party logo; or

(c) amend the party logo to refer to the new name of the party in any case where there has been a change in the party name.

(2) Sections 71C to 71F apply, with any necessary modifications, to an application made under subsection (1).

Section 71H: inserted, on 25 March 2014, by section 15 of the Electoral Amendment Act 2014 (2014 No 8).

71I Cancellation of registration of party logo

(1) The Electoral Commission must cancel the registration of the logo of a political party if—

(a) a person described in section 71C(2)(a) applies to cancel the registration of the logo and the Electoral Commission is satisfied that the application is made on behalf of the political party; or

(b) the registration of the political party is cancelled under section 70; or

(c) the Electoral Commission is satisfied that the use of the logo by the political party constitutes an infringement of an intellectual property right or a breach of an enactment.

(2) Section 71E applies, with any necessary modifications, to an application made under subsection (1)(a).

(3) If the Electoral Commission cancels the registration of the logo of a political party, the Electoral Commission must, as soon as is reasonably practicable and in any case not later than 10 working days after the date of cancellation,—

(a) give written notice of the cancellation and the reasons for the cancellation to—

(i) the applicant, if the registration of the logo was cancelled under subsection (1)(a) on the application of a person described in section 71C(2)(a)(ii); and

(ii) the secretary of the political party; and

(b) arrange for the cancellation to be published in the *Gazette*.

Section 71I: inserted, on 25 March 2014, by section 15 of the Electoral Amendment Act 2014 (2014 No 8).

Part 5
Registration of electors

72 Rules for determining place of residence within New Zealand

(1) Subject to the provisions of this section, the place where a person resides within New Zealand at any material time or during any material period shall be determined for the purposes of this Act by reference to the facts of the case.

(2) For the purposes of this Act, a person can reside in one place only.

(3) A person resides at the place where that person chooses to make his or her home by reason of family or personal relations, or for other domestic or personal reasons.

(4) Where the property on which a person's home is located is divided between 2 or more electoral districts, that person shall,—

(a) if his or her dwelling is located wholly within one of those electoral districts, be deemed to reside in that electoral district; or

(b) in any other case, be deemed to reside in the electoral district in which is located—

(i) the front door or other main entrance of his or her dwelling; or

(ii) where his or her dwelling is an apartment, the front door or other main entrance of the building in which the apartment is situated.

(5) A person who is detained in any prison or hospital by virtue of any enactment shall not, by reason only of that detention, be treated for the purpose of subsection (3) as residing there.

(6) The place where, for the purposes of this Act, a person resides shall not change by reason only of the fact that the person—

(a) is occasionally or temporarily absent from that place; or

(b) is absent from that place for any period because of his or her service or that of his or her spouse, civil union partner, or de facto partner as a member of Parliament; or

(c) is absent from that place for any period because of his or her occupation or employment or that of his or her spouse, civil union partner, or de facto partner; or

(d) is absent from that place for any period because he or she, or his or her spouse, civil union partner, or de facto partner, is a student,—

even if such absence involves occasional or regular residence at another place or other places.

(7) Except as provided in subsection (8), a person who has permanently left his or her former home shall be deemed not to reside at that place, notwithstanding that his or her home for the time being is temporary only.

(8) A New Zealand citizen who is outside New Zealand shall be deemed to reside where he or she had his or her last home in New Zealand; but nothing in this subsection shall affect the application of section 80(1)(a) for the purpose of determining the qualification of any person for registration as an elector.

(9) Notwithstanding anything in this section, a person who is residing on, or has resided on, Campbell Island or Raoul Island and who, before residing on Campbell Island or Raoul Island resided in some other part of New Zealand, shall be deemed to reside, or to have resided, throughout that period of residence on Campbell Island or Raoul Island, in the place in New Zealand where that person had his or her last home before beginning residence on Campbell Island or Raoul Island.

(10) In the case of a person who is appointed to be a member of the Executive Council, or who is the spouse, civil union partner, or de facto partner of any person so appointed, the following provisions shall apply notwithstanding anything to the contrary in this section, namely,—

(a) so long as he or she holds that office he or she shall be deemed to continue to reside at the place of residence in respect of which he or she was registered as an elector of an electoral district (in this subsection referred to as the **original district**), notwithstanding his or her absence therefrom at the seat of Government or otherwise, unless and until he or she duly applies for registration as an elector of another electoral district of which he or she is, apart from the provisions of this paragraph, qualified to be an elector:

(b) upon being registered as an elector of the other district pursuant to an application as aforesaid, the applicant shall cease to be entitled to continue to be registered under this subsection as an elector of the original district.

(11) A person whose home is on any ship, boat, or vessel permanently located in any harbour shall be deemed to reside in the electoral district in which the wharf or landing place or the main wharf or landing place in the harbour is situated. If any question arises under this subsection as to the district in which the wharf or landing place or main wharf or landing place in any harbour is situated, it shall be determined by the Representation Commission.

Compare: 1956 No 107 s 37; 1989 No 31 s 2; 1990 No 1 s 7

Section 72(5): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 72(6)(b): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 72(6)(c): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 72(6)(d): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 72(10): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

73 Meaning of permanent resident of New Zealand

For the purposes of this Act, a person is a **permanent resident of New Zealand** if, and only if, that person—

(a) resides in New Zealand; and

(b) is not—

(i) a person to whom section 15 or 16 of the Immigration Act 2009 applies; or

(ii) a person obliged by or under that Act to leave New Zealand immediately or within a specified time; or

(iii) treated for the purposes of that Act as being unlawfully in New Zealand.

Compare: 1956 No 107 s 38; 1980 No 29 s 10(1); 1987 No 74 s 151(1)

Section 73(a): substituted, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 73(b): substituted, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Qualification of electors

74 Qualification of electors

(1) Subject to the provisions of this Act, every adult person is qualified to be registered as an elector of an electoral district if—

(a) that person is—

(i) a New Zealand citizen; or

(ii) a permanent resident of New Zealand; and

(b) that person has at some time resided continuously in New Zealand for a period of not less than 1 year; and

(c) that electoral district—

(i) is the last in which that person has continuously resided for a period equalling or exceeding 1 month; or

(ii) where that person has never resided continuously in any one electoral district for a period equalling or exceeding 1 month, is the electoral district in which that person resides or has last resided.

(2) Where a writ has been issued for an election, every person—

(a) who resides in an electoral district on the Monday before polling day; and

(b) who would, if he or she continued to reside in that electoral district until the close of polling day, have continuously resided in that electoral district for a period equalling or exceeding 1 month,—

shall (whether or not he or she does so continue to reside in that electoral district) be deemed, for the purposes of subsection (1)(c), to have completed on that Monday a period of 1 month's continuous residence in that electoral district.

Compare: 1956 No 107 s 39; 1983 No 104 s 3(1); 1985 No 150 s 2(1), (2)

75 Registration in respect of more than 1 electoral district

(1) Subject to subsection (2), a person shall not be entitled to be registered as an elector of more than 1 electoral district.

(2) Where an elector is qualified to be registered as an elector of an electoral district, his or her registration as an elector of that district shall not be invalid by reason only of the fact that at the time of that registration he or she was registered as an elector of a district for which he or she was not, or was no longer, qualified to be registered.

(3) Notwithstanding that the validity of the registration of an elector of an electoral district is preserved by subsection (2), for the purposes of section 60, such an elector is not qualified, by virtue of that registration, to vote at an election unless, when the elector votes, he or she is no longer registered as an elector of another electoral district.

Compare: 1956 No 107 s 40; 1983 No 104 s 4

76 Maori option

(1) Subject to this section and to sections 77 to 79, a Maori who possesses the qualifications prescribed in that behalf by this Act shall have the option of being registered either as an elector of a Maori electoral district or as an elector of a General electoral district.

(2) Every such option shall be exercised—

(a) at the time the Maori first qualifies and applies to be registered as an elector of any electoral district; or

(b) in the case of a Maori who was not registered as an elector of any electoral district on the first day of the period last specified in a notice published under section 77(2), on the first subsequent application for registration as an elector; or

(c) in any other case, in accordance with section 77 or section 78.

Compare: 1956 No 107 s 41; 1980 No 29 s 12(1); 1981 No 120 s 14(1)

77 Periodic exercise of Maori option and determination of Maori population

(1) Every elector who is a Maori may exercise periodically, in accordance with this section, the option given by section 76(1).

(2) The Minister shall, in accordance with this section, specify from time to time, by notice in the *Gazette*, a period of 4 months during which any Maori may exercise the option given by section 76(1).

(3) The Minister shall, as soon as practicable after the commencement of this section, and in accordance with section 269(2), publish the first notice under subsection (2).

(4) Subject to subsections (3) and (5) and to section 269(2), the Minister shall, in every year that a quinquennial census of population is taken, but in no other year, publish a notice under subsection (2).

(5) Notwithstanding subsection (4), where a Parliament is due to expire in a year in which a quinquennial census of population is to be taken, the Minister shall not, in that year, publish a notice under subsection (2), but shall instead, in the year following the year in which the quinquennial census of population is taken, publish such a notice.

(6) For the purpose of enabling the Government Statistician to calculate the Maori electoral population, the Electoral Commission shall, as soon as practicable after the last day of each period specified in a notice published under subsection (2), supply to the Government Statistician—

(a) the total number of persons registered as electors of the Maori electoral districts as at the close of that last day; and

(b) the total number of persons registered as electors of the General electoral districts, who, as at the close of that last day, are recorded as having given written notice to the Electoral Commission that they are persons of New Zealand Maori descent; and

(c) the total number of persons whose names are shown on the dormant rolls maintained under section 109 for the Maori electoral districts; and

(d) the total number of persons whose names are shown on the dormant rolls maintained under section 109 for General electoral districts who are recorded as having given written notice that they are persons of New Zealand Maori descent.

Compare: 1956 No 107 s 41A; 1980 No 29 s 12(1); 1981 No 120 s 15; 1990 No 1 s 8

Section 77(2): amended, on 2 September 1996, by section 2 of the Electoral Amendment Act (No 3) 1996 (1996 No 154).

Section 77(6): amended, on 1 July 2012, by section 52(17)(b) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 77(6)(b): amended, on 21 March 2017, by section 19 of the Electoral Amendment Act 2017 (2017 No 9).

Section 77(6)(b): amended, on 18 March 2002, by section 20 of the Electoral Amendment Act 2002 (2002 No 1).

Section 77(6)(c): inserted, on 18 March 2002, by section 20 of the Electoral Amendment Act 2002 (2002 No 1).

Section 77(6)(d): added, on 18 March 2002, by section 20 of the Electoral Amendment Act 2002 (2002 No 1).

78 Exercise of Maori option

(1) A Maori who is registered as an elector on the first day of an option period may exercise once in that period the Maori option.

(2) The Electoral Commission must send on the first day of an option period a notice in a form that the Electoral Commission has approved to—

(a) every person registered as an elector of a Maori electoral district; and

(b) every person registered as an elector of a General electoral district who has,—

(i) in his or her application for registration as an elector, specified that he or she is a Maori; or

(ii) in response to an inquiry under section 89D, notified the Electoral Commission that he or she is a Maori.

(3) Subsection (4) applies to every Maori—

(a) who receives a notice sent under subsection (2); and

(b) who,—

(i) being registered as an elector of a Maori electoral district, wishes to be registered as an elector of a General electoral district; or

(ii) being registered as an elector of a General electoral district, wishes to be registered as an elector of a Maori electoral district.

(4) A Maori to whom this subsection applies may exercise the Maori option by advising whether he or she wishes to be registered as an elector of—

(a) a General electoral district; or

(b) a Maori electoral district.

(5) A Maori who wishes to exercise the Maori option under subsection (4) must advise the Electoral Commission as to which option he or she has chosen by—

(a) indicating his or her choice on the notice received under subsection (2), adding his or her signature and the date, and then returning the notice to the Electoral Commission:

(b) indicating his or her choice using an approved electronic medium:

(c) completing an application for registration as an elector in accordance with section 83.

(6) A Maori who is outside New Zealand, or who has a physical or mental impairment may exercise the Maori option through a representative, and section 86 applies with any necessary modifications.

(7) *[Repealed]*

(8) Advice received under subsection (5) is deemed to be an application for registration as an elector for the purposes of—

(a) the definition of electoral roll in section 3(1); and

(b) sections 89A, 98, and 103.

(9) A Maori who receives a notice sent under subsection (2) but who does not exercise the option given by section 76(1) in the option period continues to be registered on the roll as an elector of the electoral district in which he or she is currently registered.

(10) If a notice returned to the Electoral Commission under subsection (5)(a) is received by the Electoral Commission by post after the end of the option period but not later than noon on the day after the last day of that period, the notice is deemed to have been received in that option period, and the elector must, if the notice is otherwise in order, be deemed to have exercised the option given by section 76(1) in that option period.

(11) If a notice returned to the Electoral Commission under subsection (5)(a) is received by the Electoral Commission within the option period but that notice does not comply with the requirements for signing and dating, the Electoral Commission may treat the notice as being in accordance with those requirements before the end of that option period if the non-compliance is remedied within 6 days after the end of that option period.

(12) For the purposes of this section,—

Maori option means the option provided by section 76(1)

option period means the period specified in a notice published under section 77(2)

person registered as an elector includes a person of or over the age of 17 years who has had an application under section 82(2) to register as an elector accepted by the Electoral Commission.

Section 78: replaced, on 25 March 2014, by section 16 of the Electoral Amendment Act 2014 (2014 No 8).

Section 78(2): amended, on 21 March 2017, by section 20(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(2): amended, on 21 March 2017, by section 20(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(2): amended, on 21 March 2017, by section 20(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(2)(b)(ii): amended, on 21 March 2017, by section 20(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(5): amended, on 21 March 2017, by section 20(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(5)(a): amended, on 21 March 2017, by section 20(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(7): repealed, on 21 March 2017, by section 20(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(10): amended, on 21 March 2017, by section 20(5)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(10): amended, on 21 March 2017, by section 20(5)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(11): amended, on 21 March 2017, by section 20(6)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(11): amended, on 21 March 2017, by section 20(6)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 78(12) **person registered as an elector**: amended, on 21 March 2017, by section 20(7) of the Electoral Amendment Act 2017 (2017 No 9).

79 Restriction on transfer between General and Maori electoral rolls

Except as provided in sections 76 to 78,—

(a) no Maori may transfer from a General electoral roll to a Maori electoral roll or vice versa:

(b) no Maori whose name has been removed from an electoral roll or who ceases to be qualified as an elector of an electoral district may be registered as an elector for a different type of electoral district.

Compare: 1956 No 107 s 41C; 1981 No 120 s 17

80 Disqualifications for registration

(1) The following persons are disqualified for registration as electors:

(a) a New Zealand citizen who (subject to subsection (3)) is outside New Zealand and has not been in New Zealand within the last 3 years:

(b) a permanent resident of New Zealand (not being a New Zealand citizen) who (subject to subsection (3)) is outside New Zealand and has not been in New Zealand within the last 12 months:

(c) a person who is detained in a hospital under the Mental Health (Compulsory Assessment and Treatment) Act 1992 or in a secure facility under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, and to whom one of the following applies:

(i) the person has been found by a court or a Judge to be unfit to stand trial within the meaning of the Criminal Procedure (Mentally Impaired Persons) Act 2003, or has been acquitted on account of his or her insanity, and (in either case) is detained under an order or direction under section 24 or section 31 or section 33 of that Act or under the corresponding provisions of the Criminal Justice Act 1985 and has been so detained for a period exceeding 3 years:

(ii) the person has been found by a court, on conviction of any offence, to be mentally impaired, and is detained under an order made under section 34 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 or section 118 of the Criminal Justice Act 1985, and has been so detained for a period exceeding 3 years:

(iii) the person is subject to, and has for a period exceeding 3 years been subject to, a compulsory treatment order made following an

application under section 45(2) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or a compulsory care order made following an application under section 29(1) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003:

(iv) the person is detained under section 46 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, and is a person to whom paragraph (d) would otherwise apply:

(d) a person who is detained in prison under—

(i) a sentence of imprisonment for life; or

(ii) a sentence of preventive detention; or

(iii) a sentence of imprisonment for a term of 3 years or more:

(e) a person whose name is on the Corrupt Practices List made out for any district.

(1A) For the purposes of subsection (1)(d)(iii) and sections 86A, 86AB, and 86B, 2 or more sentences of imprisonment for a fixed term that are at any time directed to be served cumulatively are to be treated as a single sentence of imprisonment for a term equal to the sum of the term of imprisonment of each sentence.

(2) The Registrar of the court in which a compulsory treatment order or any order under section 24 or 34 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 is made or in which any person is convicted of a corrupt practice must, not later than the fifth day of the month following the date of the order or conviction, forward to the Electoral Commission a certificate showing—

(a) the name, date of birth, place of abode, and description of the patient or offender; and

(b) the particulars of the order or conviction.

(3) Nothing in subsection (1)(a) or (b) applies to—

(a) a person, being—

(i) a public servant or a member of the Defence Force; or

(ii) a head of mission or head of post within the meaning of the Foreign Affairs Act 1988, who is outside New Zealand in the course of that person's duties; or

(iii) an officer or employee of New Zealand Trade and Enterprise established by the New Zealand Trade and Enterprise Act 2003; or

(b) a person who—

(i) is accompanying a person described in subparagraph (i) or subparagraph (ii) or subparagraph (iii) of paragraph (a) who is outside New Zealand in the course of that person's duties; and

(ii) is the spouse, civil union partner, de facto partner, or child of the person referred to in subparagraph (i), or the child of the spouse, civil union partner, or de facto partner of that person.

Compare: 1956 No 107 s 42; 1980 No 29 s 13(1); 1985 No 120 s 150(1); 1988 No 34 s 12(4); 1988 No 159 s 14(1); 1988 No 160 s 12(2)

Section 80(1)(c): substituted, on 1 September 2004, by section 51 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115).

Section 80(1)(d): replaced, on 30 June 2020, by section 5(1) of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Section 80(1A): inserted, on 30 June 2020, by section 5(2) of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Section 80(1A): amended, on 2 July 2020, by section 4 of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

Section 80(2): replaced, on 21 March 2017, by section 21 of the Electoral Amendment Act 2017 (2017 No 9).

Section 80(3)(a)(iii): amended, on 1 July 2003, by section 84 of the New Zealand Trade and Enterprise Act 2003 (2003 No 27).

Section 80(3)(b)(ii): substituted, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

81 Prison manager to forward to Electoral Commission details of prisoners disqualified for registration

Not later than 7 days after a person described in section 80(1)(d) is received into a prison to serve the whole or part of their sentence, the prison manager must forward to the Electoral Commission a notice stating—

(a) the name, previous residential address, and date of birth of the person; and

(b) the name and address of the prison.

Section 81: replaced, on 30 June 2020, by section 6 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Registration

82 Compulsory registration of electors

(1) A person who is qualified to be registered as an elector of any electoral district and who is in New Zealand must apply to the Electoral Commission for registration as an elector—

(a) within 1 month after the date on which he or she first becomes qualified to be registered as an elector:

(b) within 1 month after the date on which he or she ceases to be registered as an elector by reason of the inclusion of his or her name on the dormant roll under section 89G.

(2) Any person aged 17 years or older, but under 18 years, may apply to the Electoral Commission for registration as an elector, and that person is not then required to apply for registration as an elector on attaining the age of 18 years.

(3) A person who is qualified to be registered as an elector of any electoral district and who is outside New Zealand may apply at any time to the Electoral Commission for registration as an elector.

(4) Where a Maori is qualified to be registered as an elector of both a Maori electoral district and a General electoral district, that person may apply for registration as an elector of only one of those districts, being the district in respect of which that person has exercised his or her option under section 76.

(5) A person commits an offence against this section who, being required by this section to apply for registration as an elector during any period, knowingly and wilfully fails to apply.

(6) A person who applies for registration as an elector is not liable to prosecution for his or her earlier failure to apply for registration as an elector.

(7) A person who commits an offence against this section is liable on conviction to a fine not exceeding—

(a) $100 on a first conviction; and

(b) $200 on a second or subsequent conviction.

Section 82: replaced, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

Section 82(1): amended, on 21 March 2017, by section 23 of the Electoral Amendment Act 2017 (2017 No 9).

Section 82(2): amended, on 21 March 2017, by section 23 of the Electoral Amendment Act 2017 (2017 No 9).

Section 82(3): amended, on 21 March 2017, by section 23 of the Electoral Amendment Act 2017 (2017 No 9).

83 Application for registration

(1) An application for registration as an elector may be made to the Electoral Commission—

(a) in writing, by completing and signing a form that the Electoral Commission has approved and returning it to the Electoral Commission; or

(b) in an approved electronic medium, by providing the information necessary to complete the form.

(2) An application for registration as an elector must state, in respect of the person making the application,—

(a) the person's full name; and

(b) the person's date of birth; and

(c) the place of residence in respect of which registration is claimed, specified in a manner that enables it to be clearly identified; and

(d) the person's postal address, if different from the address given under paragraph (c); and

(e) the person's occupation, if any; and

(f) the honorific (if any) by which the person wishes to be addressed; and

(g) whether or not the person is a Maori; and

(h) any other particulars that are prescribed in regulations.

(3) The Electoral Commission may reject an application for registration as an elector if—

(a) the application is made under subsection (1)(a) and the form is not—

(i) signed; or

(ii) completed with the details specified in subsection (2)(a), (b), (c), and (h); or

(b) the application is made under subsection (1)(b) and the information provided does not include the details specified in subsection (2)(a), (b), (c), and (h).

(3A) The Electoral Commission may treat a special vote declaration as an application for registration as an elector if the declaration—

(a) is in a form approved by the Electoral Commission for use as an application for registration as an elector; and

(b) is completed by the declarant with the details specified in subsection (2)(a), (b), (c), and (h), and signed.

(4) If a person does not specify in his or her application whether he or she is a Maori, this Act applies as if the person had specified in his or her application that he or she is not a Maori.

(5) An application for registration as an elector that is rejected by the Electoral Commission is treated as not having been made.

(6) *[Repealed]*

Section 83: replaced, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

Section 83(1): amended, on 21 March 2017, by section 24(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 83(1)(a): amended, on 21 March 2017, by section 24(2)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 83(1)(a): amended, on 21 March 2017, by section 24(2)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 83(1)(b): amended, on 21 March 2017, by section 24(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 83(3): amended, on 21 March 2017, by section 24(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 83(3)(a): amended, on 21 March 2017, by section 24(5) of the Electoral Amendment Act 2017 (2017 No 9).

Section 83(3A): inserted, on 11 March 2020, by section 5 of the Electoral Amendment Act 2020 (2020 No 2).

Section 83(5): amended, on 21 March 2017, by section 24(6) of the Electoral Amendment Act 2017 (2017 No 9).

Section 83(6): repealed, on 21 March 2017, by section 24(7) of the Electoral Amendment Act 2017 (2017 No 9).

83A Procedure following inquiry under section 83

[Repealed]

Section 83A: repealed, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

83B No form of inquiry required if application for registration as elector received

[Repealed]

Section 83B: repealed, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

83C Elector who cannot be contacted to be included in dormant roll

[Repealed]

Section 83C: repealed, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

83D Transfer of electors between electorates

[Repealed]

Section 83D: repealed, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

84 Registration of persons outside New Zealand

A person who is outside New Zealand may apply for registration as an elector under section 83 through a representative, and section 86 applies with any necessary modifications.

Section 84: replaced, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

85 Registration of persons who have physical or mental impairment

A person who has a physical or mental impairment may apply for registration as an elector under section 83 through a representative, and section 86 applies with any necessary modifications.

Section 85: replaced, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

86 Representatives

(1) A representative acting on behalf of a person must, when making any application or giving any notification, provide a statement that—

(a) sets out the capacity in which he or she is acting; and

(b) confirms that he or she is duly authorised to act in making that application or providing that information.

(2) A statement under subsection (1) must be provided—

(a) in writing, by completing and signing a form approved for the purpose by the Electoral Commission; or

(b) in an approved electronic medium, by providing the information necessary to complete the form.

Section 86: replaced, on 25 March 2014, by section 17 of the Electoral Amendment Act 2014 (2014 No 8).

86A Registration of prisoners serving sentence of imprisonment of less than 3 years

(1) This section applies when—

(a) a prisoner who is 18 years or older—

(i) is received into a prison to serve a sentence of imprisonment for a term of less than 3 years; or

(ii) has their sentence of imprisonment reduced or altered on appeal, or following a retrial, to a term of less than 3 years; or

(b) a prisoner turns 18 years while serving a sentence of imprisonment for a term of less than 3 years.

(2) If this section applies, the prison manager must, as soon as is reasonably practicable,—

(a) advise the prisoner that if they are a New Zealand citizen or a permanent resident of New Zealand (as defined in section 73) and have at some time resided continuously in New Zealand for a period of not less than 1 year they are qualified to be registered as an elector of an electoral district, and are required by section 82 to apply to the Electoral Commission for registration; and

(b) ask the prisoner whether they want their enrolment details sent to the Electoral Commission to facilitate their registration as an elector.

(3) If the prisoner wants their enrolment details sent to the Electoral Commission to facilitate their registration as an elector, section 86B applies.

Section 86A: inserted, on 30 June 2020, by section 7 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Section 86A(1): replaced, on 2 July 2020, by section 5 of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

86AB Registration of prisoners released after serving sentence of imprisonment of 3 years or more

(1) Before a prisoner who is serving a sentence of imprisonment for a term of 3 years or more is released on parole or after serving the full sentence, the prison manager must, if the prisoner is 18 years or older,—

(a) advise the prisoner that if they are a New Zealand citizen or a permanent resident of New Zealand (as defined in section 73) they will, on release, be qualified to be registered as an elector of an electoral district, and are required by section 82 to apply to the Electoral Commission, within 1 month after their release, for registration; and

(b) ask the prisoner whether they want their enrolment details sent to the Electoral Commission to facilitate their registration as an elector.

(2) If the prisoner wants their enrolment details sent to the Electoral Commission to facilitate their registration as an elector, section 86B applies.

Section 86AB: inserted, on 2 July 2020, by section 6 of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

86B Prison manager to collect and send enrolment information to Electoral Commission

(1) If a prisoner referred to in section 86A or 86AB wants their enrolment details sent to the Electoral Commission to facilitate their registration as an elector, the prisoner must provide to the prison manager the following information for that purpose:

(a) the prisoner's details specified in section 83(2)(a), (b), (c), (d), (g), and (h); and

(b) if the prisoner is of Maori descent and at the time of providing their enrolment details is, in accordance with section 76(2), eligible to exercise the option referred to in section 76(1), whether the prisoner's preference is to be enrolled on the Maori electoral roll or General electoral roll.

(2) The prison manager must collect the enrolment information provided by a prisoner and send that information to the Electoral Commission as soon as is reasonably practicable—

(a) after collecting the information, if the information is collected from a prisoner referred to in section 86A; or

(b) after the prisoner's release from prison, if the information is collected from a prisoner referred to in section 86AB.

(3) If a prisoner wishes to apply for a direction under section 115 (unpublished names), the prison manager must—

(a) assist the prisoner to prepare an application accompanied by supporting information; and

(b) send the application and supporting information to the Electoral Commission with the prisoner's enrolment information.

(4) A prison manager may not use or disclose the information collected from a prisoner other than in accordance with subsection (2) or (3).

(5) If, at any time after a prison manager sends a prisoner's information to the Electoral Commission, the overall length of a prisoner's sentence or sentences of imprisonment changes in a way that results in the prisoner becoming disqualified for registration as an elector under section 80(1)(d), the prison manager must advise the Electoral Commission.

Section 86B: inserted, on 30 June 2020, by section 7 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Section 86B(1): amended, on 2 July 2020, by section 7(1) of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

Section 86B(2): replaced, on 2 July 2020, by section 7(2) of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

Section 86B(5): inserted, on 2 July 2020, by section 7(3) of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

86C Enrolment information received from prison manager treated as application for registration

(1) The Electoral Commission must, for the purposes of this Act, treat—

(a) the receipt of a person's details referred to in section 86B(1)(a) as an application by the person to register as an elector of an electoral district; and

(b) the receipt of a person's preference referred to in section 86B(1)(b) to be enrolled on the Maori electoral roll as a request by the person to be registered as an elector of a Maori electoral district.

(2) This section overrides section 83(1) to (4).

Section 86C: inserted, on 30 June 2020, by section 7 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

86D Delegation of prison manager's functions under sections 86A, 86AB, and 86B

(1) A prison manager may delegate to 1 or more prison officers the prison manager's functions under sections 86A, 86AB, and 86B.

(2) Subject to any directions or conditions imposed by the prison manager, a prison officer to whom the prison manager's functions are delegated under this section may carry out those functions in the same manner and with the same effect as if they had been conferred on the prison officer directly by sections 86A, 86AB, and 86B.

(3) A delegation must be in writing and may be revoked at any time.

(4) In this section, **prison officer** means an officer within the meaning of paragraph (a)(ii) of the definition of that term in section 3(1) of the Corrections Act 2004.

Section 86D: inserted, on 30 June 2020, by section 7 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Section 86D heading: amended, on 2 July 2020, by section 8(1) of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

Section 86D(1): amended, on 2 July 2020, by section 8(2) of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

Section 86D(2): amended, on 2 July 2020, by section 8(2) of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

86E Prison manager to communicate with prisoner in way prisoner can understand

When carrying out their duties under sections 86A, 86AB, and 86B, a prison manager must communicate with a prisoner in a way that the prisoner can reasonably be expected to understand.

Section 86E: inserted, on 30 June 2020, by section 7 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Section 86E: amended, on 2 July 2020, by section 9 of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

87 Procedure if immigration status means applicant apparently not qualified to be registered

(1) This section applies if, as a result of a comparison carried out under section 263A, the Electoral Commission believes that a person who has applied to be (but is not yet) registered as an elector of an electoral district is—

(a) unlawfully in New Zealand; or

(b) lawfully in New Zealand but only by virtue of being the holder of a temporary entry class visa of whatever type.

(2) If this section applies, the Electoral Commission must comply with subsections (3) to (5) before determining whether the applicant is qualified to be registered.

(3) The Electoral Commission must, as soon as practicable, deliver to the applicant (personally or by post) a written notice that specifies—

(a) that it believes that the person is—

(i) unlawfully in New Zealand; or

(ii) lawfully in New Zealand but only by virtue of being the holder of a temporary entry class visa of whatever type; and

(b) that it may determine that the applicant's immigration status means that the applicant is not qualified to be registered as an elector if information to the contrary is not made available to it by or on behalf of the applicant within 10 working days after the applicant receives the notice.

(4) If the Electoral Commission receives no response within the time required, it must, as soon as practicable, deliver to the applicant (personally or by post) a further written notice that specifies—

(a) the advice that it received under section 263A(5) in respect of the applicant; and

(b) the date on which the initial notice was delivered to the applicant; and

(c) that it may determine that the applicant's immigration status means that the applicant is not qualified to be registered as an elector if information to the contrary is not made available to it by or on behalf of the applicant within 10 working days after the applicant receives the further notice.

(5) The Electoral Commission may determine whether the applicant is qualified to be registered if—

(a) it has not received any response within the time specified in subsection (4)(c); or

(b) it has considered any response that was received within that time.

(6) If the Electoral Commission determines that the applicant is not qualified to be registered, it must deliver to the applicant (personally or by post) a written notice of the determination.

(7) For the purposes of this section, a notice sent to the applicant by post—

(a) is, in the absence of proof to the contrary, to be treated as having been delivered to and received by the applicant by post on the fourth working day after the date on which it is sent by post; and

(b) is to be treated as sent by post to the applicant on a particular day if it is proved to have been—

(i) properly addressed to the applicant; and

(ii) submitted on that day to a person registered as a postal operator under the Postal Services Act 1998 for posting.

Section 87: replaced, on 21 March 2017, by section 25 of the Electoral Amendment Act 2017 (2017 No 9).

88 Applications received after issue of writ

(1) If a writ has been issued requiring the conduct of an election in a district, then the Electoral Commission may not, at any time in the period beginning on the day after polling day and ending on the day of the return of the writ, register an application for registration as an elector that the Electoral Commission receives—

(a) on polling day from a person outside New Zealand; or

(b) after polling day from any person.

(1A) Subsection (1) is subject to subsections (2) to (4).

(2) For the purposes of subsection (1), an application for registration is to be treated as having been received before or on polling day if—

(a) the application or the envelope in which it is contained bears a postmark or date stamp impressed before or on polling day at a place that the Electoral Commission has designated; or

(b) the applicant for registration produces a receipt that—

(i) relates to the application; and

(ii) was issued before or on polling day at a place that the Electoral Commission has designated; and

(iii) was lodged at a polling place or with an electoral officer issuing special votes.

(3) If a person applies for registration after the issue of a writ requiring the conduct of an election in a district and before polling day,—

(a) the Electoral Commission must, if satisfied that the person is qualified to be registered, enter the name of the person on the electoral roll; and

(b) the Electoral Commission is not required to enter the name of the person on the main roll or any supplementary roll or composite roll used at that election; and

(c) the person may, at that election,—

(i) be issued with a ballot paper in accordance with section 167, if the rolls can be marked (either manually or by electronic means) to indicate the person has applied to vote; or

(ii) be issued with a special vote ballot paper in any other case.

(4) If a person who is present in New Zealand applies on polling day for registration as an elector of a district in which an election is being conducted, the Electoral Commission—

(a) may issue the person with a special vote ballot paper; and

(b) must, if the Electoral Commission subsequently determines that the person is qualified to be registered as an elector, enter the name of the person on the electoral roll.

Section 88: replaced, on 21 March 2017, by section 26 of the Electoral Amendment Act 2017 (2017 No 9).

Section 88(1): replaced, on 11 March 2020, by section 6(1) of the Electoral Amendment Act 2020 (2020 No 2).

Section 88(1A): inserted, on 11 March 2020, by section 6(1) of the Electoral Amendment Act 2020 (2020 No 2).

Section 88(2): amended, on 11 March 2020, by section 6(2) of the Electoral Amendment Act 2020 (2020 No 2).

Section 88(2)(a): amended, on 11 March 2020, by section 6(2) of the Electoral Amendment Act 2020 (2020 No 2).

Section 88(2)(b)(ii): amended, on 11 March 2020, by section 6(2) of the Electoral Amendment Act 2020 (2020 No 2).

Section 88(3)(c): replaced, on 11 March 2020, by section 6(3) of the Electoral Amendment Act 2020 (2020 No 2).

Section 88(4): inserted, on 11 March 2020, by section 6(4) of the Electoral Amendment Act 2020 (2020 No 2).

89 Procedure following application for registration

(1) If the Electoral Commission is satisfied that any applicant for registration as an elector (whether by transfer from another district, or otherwise) is qualified to

be registered, the Electoral Commission must enter the name of the applicant on the roll.

(2) If the Electoral Commission believes that a Māori applicant is prevented, by the manner in which the applicant last exercised the option given by section 76, from being registered as an elector of the district to which the application relates, the Electoral Commission must notify the applicant of its reasons for refusing the application.

(3) Where an application for registration as an elector has been received before the issue of a writ and it has not been possible for the Electoral Commission to ascertain, at the time of the issue of the writ, whether the applicant is currently registered as an elector of another electoral district, the Electoral Commission must, subject to subsection (4), include the name of the applicant on any main, supplementary, or composite roll printed as at writ day.

(4) Notwithstanding anything in this Act, where the Electoral Commission has, under subsection (3), included the name of any person on any main, supplementary, or composite roll printed as at writ day, the Electoral Commission must, within 6 days after writ day determine, either—

(a) to enter the name of the applicant on the electoral roll; or

(b) to delete the name of the applicant from that main, supplementary, or composite roll.

Compare: 1956 No 107 s 49(1), (4), (5); 1980 No 29 s 17(1); 1981 No 120 s 21

Section 89 (former section 87): renumbered, on 25 March 2014, by section 18 of the Electoral Amendment Act 2014 (2014 No 8).

Former section 89: repealed, on 25 March 2014, by section 21 of the Electoral Amendment Act 2014 (2014 No 8).

Section 89(1): amended, on 21 March 2017, by section 27(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89(1): amended, on 21 March 2017, by section 27(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89(2): replaced, on 21 March 2017, by section 27(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89(3): amended, on 21 March 2017, by section 27(4)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89(3): amended, on 21 March 2017, by section 27(4)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89(4): amended, on 21 March 2017, by section 27(5)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89(4): amended, on 21 March 2017, by section 27(5)(b) of the Electoral Amendment Act 2017 (2017 No 9).

89A Notice of registration

The Electoral Commission must, not later than 14 days after the registration of a person as an elector, deliver to that person personally, or send to that person by post, written notice of the registration.

Section 89A: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

Section 89A: amended, on 21 March 2017, by section 28 of the Electoral Amendment Act 2017 (2017 No 9).

Change of address

Heading: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

89B Elector must give notice of change of place of residence within electoral district

(1) This section applies to an elector who, being registered as an elector of an electoral district, changes his or her place of residence within that district.

(2) The elector must, within 2 months after the date on which he or she changed his or her place of residence, give notice of—

(a) the change of his or her place of residence; and

(b) the address of the new place of residence.

(3) Notice under subsection (2) must be given—

(a) in writing to the Electoral Commission; or

(b) in an approved electronic medium.

(4) An elector who has a physical or mental impairment may give notice under subsection (2) through a representative, and section 86 applies with any necessary modifications.

(5) On receiving a notice under subsection (2), the Electoral Commission must—

(a) amend the roll to record the change in the elector's place of residence; and

(b) give confirmation to the elector, in accordance with section 94A, of that amendment.

(6) An elector who knowingly and wilfully fails to comply with subsection (2)—

(a) commits an offence and is liable on conviction to a fine—

(i) not exceeding $50 on a first conviction; and

(ii) not exceeding $100 on any subsequent conviction; but

(b) is not, by reason only of that failure, disqualified from voting at an election in the electoral district in which he or she is registered.

(7) Despite subsection (6), an elector who gives notice of the matters specified in subsection (2) after the expiry of the period referred to in that subsection but before the commencement of a prosecution is not liable for prosecution for his or her earlier failure to give notice.

Section 89B: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

Section 89B(3)(a): amended, on 21 March 2017, by section 29(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89B(5): amended, on 21 March 2017, by section 29(2) of the Electoral Amendment Act 2017 (2017 No 9).

89C Elector must give notice of change of place of residence to different electoral district

(1) This section applies to an elector who, being registered as an elector of an electoral district, changes his or her place of residence to a different electoral district (the **new electoral district**).

(2) The elector must, within 2 months after the date on which he or she changed his or her place of residence, give notice of—

(a) the change in his or her place of residence; and

(b) the date on which the change occurred; and

(c) the address of the new place of residence.

(3) Notice under subsection (2) must be given—

(a) in an approved electronic medium; or

(b) in writing to the Electoral Commission in a form that the Electoral Commission has approved; or

(c) by applying, under section 83, to the Electoral Commission for registration as an elector.

(4) An elector who has a physical or mental impairment may give notice under subsection (2) through a representative, and section 86 applies with any necessary modifications.

(5) For the purposes of section 89(1), an elector who gives notice under subsection (2) (by any method specified in subsection (3)) is an applicant for registration as an elector.

(6) *[Repealed]*

(7) *[Repealed]*

(8) *[Repealed]*

(9) *[Repealed]*

(10) *[Repealed]*

(11) *[Repealed]*

(12) *[Repealed]*

(13) *[Repealed]*

(14) An elector who knowingly or wilfully fails to comply with subsection (2) commits an offence and is liable on conviction to a fine—

(a) not exceeding $100 on a first conviction; and

(b) not exceeding $200 on any subsequent conviction.

(15) Despite subsection (14), an elector who gives notice of the matters specified in subsection (2) after the expiry of the period referred to in that subsection but before the commencement of a prosecution is not liable for prosecution for his or her earlier failure to give notice.

(16) *[Repealed]*

Section 89C: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

Section 89C(2): replaced, on 1 May 2017, by section 30(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(3)(b): replaced, on 1 May 2017, by section 30(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(3)(c): replaced, on 1 May 2017, by section 30(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(5): replaced, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(6): repealed, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(7): repealed, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(8): repealed, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(9): repealed, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(10): repealed, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(11): repealed, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(12): repealed, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(13): repealed, on 1 May 2017, by section 30(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89C(16): repealed, on 1 May 2017, by section 30(4) of the Electoral Amendment Act 2017 (2017 No 9).

Updating of electoral rolls

Heading: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

89D Inquiry to be made to update electoral rolls

(1) The Electoral Commission must, at the times required by or under this section, direct an inquiry to be made in relation to the particulars on the roll for every person registered as an elector of a district.

(2) An inquiry must be made,—

(a) where practicable, within the period of 12 months ending with the day on which a Parliament is due to expire; and

(b) at any other time determined by the Electoral Commission.

(3) In any year in which a triennial general election of members of any local authority must be held under the Local Electoral Act 2001, the Electoral Commission must direct an inquiry to be made concerning the particulars on the roll of every person who—

(a) is registered as an elector of a district; and

(b) appears from those particulars to reside within a particular local government area.

(4) If a roll that is not yet in force has been compiled under section 101(1), the inquiry directed to be made under this section must be in respect of that roll.

(5) An inquiry made under subsection (1)—

(a) must—

(i) contain the particulars on the roll for the elector to whom it is addressed; or

(ii) contain information about how the elector can access his or her particulars electronically; and

(b) must require the elector, if any of those particulars have changed or are incorrect, to notify the Electoral Commission by—

(i) sending the corrected particulars to the Electoral Commission in a form that the Electoral Commission has approved; or

(ii) using an approved electronic medium to make any change or correction required to the particulars.

(6) An elector who has a physical or mental impairment may give a notification required by subsection (5) through a representative, and section 86 applies with any necessary modifications.

(7) For the purposes of this section,—

(a) a **person registered as an elector** includes any person of or over the age of 17 years who has had an application to register as an elector accepted by the Electoral Commission; and

(b) the particulars contained in the application to register are the particulars on the roll for that person.

Section 89D: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

Section 89D(1): amended, on 21 March 2017, by section 31(1)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89D(1): amended, on 21 March 2017, by section 31(1)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89D(2)(b): amended, on 21 March 2017, by section 31(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89D(3): amended, on 21 March 2017, by section 31(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89D(3)(a): amended, on 21 March 2017, by section 31(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89D(3)(b): amended, on 21 March 2017, by section 31(5) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89D(5): replaced, on 21 March 2017, by section 31(6) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89D(7)(a): amended, on 21 March 2017, by section 31(7) of the Electoral Amendment Act 2017 (2017 No 9).

89E No inquiry required if application for registration as elector received

If the Electoral Commission receives, during an inquiry under section 89D(1), or within 28 days before the commencement of an inquiry under that section, a duly completed application for registration as an elector,—

(a) that application is deemed to be a completed form for the purposes of section 89D; and

(b) the Electoral Commission must notify that elector that he or she will not receive an inquiry under section 89D.

Section 89E: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

Section 89E: amended, on 21 March 2017, by section 32(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89E(b): amended, on 21 March 2017, by section 32(2) of the Electoral Amendment Act 2017 (2017 No 9).

89F Procedure following inquiry under section 89D

(1) If, following an inquiry under section 89D, the Electoral Commission receives notice under section 89D(5)(b) that an elector has changed his or her place of residence and now resides in another electoral district, the Electoral Commission—

(a) must, in accordance with section 98(1)(a), remove the elector's name from the roll for the district in which the elector previously resided; and

(b) must, in accordance with section 89, register that elector on the roll for the district in which the elector resides.

(2) If, following an inquiry under section 89D, the Electoral Commission receives notice under section 89D(5)(c) of any change or correction to an elector's particulars, other than a change of place of residence referred to in subsection (1), the Electoral Commission must amend the elector's particulars on the roll in accordance with that notification.

(3) An elector remains on the roll and his or her particulars on the roll remain unchanged if—

(a) the Electoral Commission does not receive from the elector a form or information under section 89D(5)(c); or

(b) the Electoral Commission receives from the elector a form or information under section 89D(5)(c) with no changes.

(4) A form that a person intends to return, or returns, under section 89D(5)(c)(i) must be signed and may be rejected for incompleteness, in accordance with subsections (1)(a), (2), and (3) of section 83 (which apply with all necessary modifications), as if the form were an application in respect of registration as an elector.

(5) Information that an elector intends to supply, or supplies, electronically under section 89D(5)(c)(ii)—

(a) is not an application in respect of registration as an elector required by section 83(1)(a) to be signed; but

(b) may be rejected for incompleteness under section 83(3) (which applies with all necessary modifications) if it does not include all the details specified in section 83(2)(a), (b), (c), and (h).

Section 89F: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

Section 89F(1): replaced, on 21 March 2017, by section 33(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89F(2): amended, on 21 March 2017, by section 33(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89F(3)(a): amended, on 21 March 2017, by section 33(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89F(3)(b): amended, on 21 March 2017, by section 33(2) of the Electoral Amendment Act 2017 (2017 No 9).

89G Elector who cannot be contacted to be included in dormant roll

(1) This section applies if—

(a) the Electoral Commission is notified that an inquiry made under section 89D(1) or a notice sent under section 78(2) cannot be delivered to the elector to whom it is addressed because the whereabouts of the elector are not known; or

(b) at any other time, the elector cannot be contacted at the elector's address on the roll.

(2) If this section applies, the Electoral Commission must—

(a) make any inquiry as to the whereabouts of the elector that the Electoral Commission thinks fit; and

(b) if the Electoral Commission is unable to contact the elector, remove the name of the elector from the roll and include the name in the dormant roll maintained under section 109.

Section 89G: inserted, on 25 March 2014, by section 22 of the Electoral Amendment Act 2014 (2014 No 8).

Section 89G(1)(a): amended, on 21 March 2017, by section 34(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89G(2): amended, on 21 March 2017, by section 34(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89G(2)(a): amended, on 21 March 2017, by section 34(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 89G(2)(b): amended, on 21 March 2017, by section 34(4) of the Electoral Amendment Act 2017 (2017 No 9).

Changes of address

[Repealed]

Heading: repealed, on 25 March 2014, by section 23 of the Electoral Amendment Act 2014 (2014 No 8).

90 Changes of address to be notified

[Repealed]

Section 90: repealed, on 25 March 2014, by section 23 of the Electoral Amendment Act 2014 (2014 No 8).

91 Effect of failure to notify change of address

[Repealed]

Section 91: repealed, on 25 March 2014, by section 23 of the Electoral Amendment Act 2014 (2014 No 8).

Death of registered elector

92 Notification of death of registered elector

(1) The Registrar-General appointed under section 79(1) of the Births, Deaths, Marriages, and Relationships Registration Act 1995 must, as soon as is reasonably practicable after the registration of the death of any person of or over the age of 17 years, notify the information described in subsection (2) to the Electoral Commission.

(2) The information referred to in subsection (1) is the fact of the death, together with any particulars known to the Registrar-General appointed under section 79(1) of the Births, Deaths, Marriages, and Relationships Registration Act 1995 that may be required to enable the Electoral Commission—

(a) to determine the electoral district in which the deceased person resided; and

(b) to take appropriate steps in relation to the roll and other records.

Section 92: substituted, on 18 March 2002, by section 28(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 92(1): amended, on 1 July 2012, by section 52(16)(b) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 92(1): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 92(2): amended, on 1 July 2012, by section 52(5) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 92(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 92(2): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Marriage or civil union of registered elector

Heading: substituted, on 18 March 2002, by section 28(1) of the Electoral Amendment Act 2002 (2002 No 1).

Heading: amended, on 26 April 2005, by section 46 of the Civil Union Act 2004 (2004 No 102).

93 Notification of marriages and civil unions

(1) In this section, **Registrar-General** means the Registrar-General appointed under section 79(1) of the Births, Deaths, Marriages, and Relationships Registration Act 1995.

(2) As soon as is reasonably practicable after the registration of a marriage under Part 7 of the Births, Deaths, Marriages, and Relationships Registration Act 1995, or the registration of a civil union under Part 7A of that Act, the Registrar-General must provide to the Electoral Commission the following information in respect of each of the parties to the marriage or civil union:

(a) full name:

(b) date of birth:

(c) usual residential address:

(d) date of marriage or civil union.

(3) Subsection (4) applies if a party to the marriage or civil union is—

(a) registered as an elector of any district; or

(b) a person who has applied under section 82(2) for registration as an elector.

(4) The Electoral Commission must—

(a) send to the party to the marriage or civil union a notice asking for details of any changes resulting from the marriage or civil union that may be required to the name, address, and occupation under which he or she is registered on the roll; and

(b) if a change is required, amend the roll in accordance with the details supplied.

(5) If an amendment to the roll is required under subsection (4) and the amendment does not appear on the main or supplementary roll printed for any election, the person is, if otherwise qualified, entitled to vote at the election under his or her former name as it appears on the roll.

Section 93: substituted, on 7 July 2010, by section 4 of the Electoral Amendment Act 2010 (2010 No 63).

Section 93(2): amended, on 1 July 2012, by section 52(17)(i) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 93(4): amended, on 1 July 2012, by section 52(17)(i) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Change of name of registered elector

Heading: substituted, on 18 March 2002, by section 28(1) of the Electoral Amendment Act 2002 (2002 No 1).

94 Notification of change of name

(1) This section applies if a person registers a change of his or her name under section 21B of the Births, Deaths, Marriages, and Relationships Registration Act 1995.

(2) The Registrar-General appointed under section 79(1) of the Births, Deaths, Marriages, and Relationships Registration Act 1995 must provide to the Electoral Commission the following information for the purposes of determining whether any change is required to the name and address under which that person is registered on the roll:

(a) the old name and the new name of the person; and

(b) the person's date of birth; and

(c) the person's full residential address.

Section 94: substituted, on 18 March 2002, by section 28(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 94(1): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 94(2): amended, on 1 July 2012, by section 52(17)(j) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 94(2): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Confirmation of change of name, address, or other particulars

Heading: inserted, on 18 March 2002, by section 28(1) of the Electoral Amendment Act 2002 (2002 No 1).

94A Confirmation of change of name, address, or other particulars

(1) This section applies if the Electoral Commission, in accordance with this Act, amends, in relation to any person whose name appears on the roll, any of the following particulars:

(a) the place of residence of the person, following a change of residence within an electoral district; or

(b) the name of the person; or

(c) any other particulars of a kind specified in section 83(2)(d), (g), or (h).

(2) The Electoral Commission must, not later than 14 days after the roll is amended, deliver to that person personally, or send to that person by post, notice in writing of the amendment of the particulars on the roll.

Section 94A: inserted, on 18 March 2002, by section 28(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 94A(1): amended, on 21 March 2017, by section 35 of the Electoral Amendment Act 2017 (2017 No 9).

Section 94A(1)(c): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 94A(2): amended, on 21 March 2017, by section 35 of the Electoral Amendment Act 2017 (2017 No 9).

Objections to registration

95 Elector's objection

(1) Any elector may at any time object to the name of any person being on the roll for any district on the ground that that person is not qualified to be registered as an elector of that district.

(2) Every such objection—

(a) shall be made in writing to the Electoral Commission; and

(b) shall specify—

(i) the name of the objector; and

(ii) sufficient particulars to inform the person objected to of the ground for the objection and the reason or reasons supporting the ground for objection.

(3) Where the Electoral Commission considers that the particulars included in an objection are insufficient to inform the person objected to of the ground for the objection or the reason or reasons supporting that ground, the Electoral Commission must by written notice require the objector to provide within 14 days of the giving of the notice such further particulars as the Electoral Commission thinks fit.

(4) Where any objector fails to comply with a notice given under subsection (3), the Electoral Commission must give a second such notice to the objector and, if the objector fails to comply with the second such notice, the Electoral Commission must take no further action in relation to the objection and shall notify the objector accordingly.

Section 95: substituted, on 6 December 1995, by section 28 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 95(2)(a): amended, on 21 March 2017, by section 36(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95(3): amended, on 21 March 2017, by section 36(2)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95(3): amended, on 21 March 2017, by section 36(2)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95(3): amended, on 21 March 2017, by section 36(2)(c) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95(4): amended, on 21 March 2017, by section 36(3) of the Electoral Amendment Act 2017 (2017 No 9).

95A Notice of elector's objection

(1) Subject to subsections (3) and (4) of section 95, the Electoral Commission must, on receipt of an objection under section 95, forthwith serve on—

(a) the person objected to; or

(b) the person who, under section 12(1) of the Protection of Personal and Property Rights Act 1988, is the welfare guardian for the person objected to; or

(c) the attorney appointed by the person objected to under an enduring power of attorney,—

notice in writing of the objection, which notice must include both the name of the objector and the particulars specified by the objector (being particulars sufficient to inform the person objected to of the ground for the objection and the reason or reasons supporting the ground for objection).

(2) Any notice issued under subsection (1) shall be served personally in accordance with the rules governing personal service contained in District Court Rules 2014.

(3) The notice issued by the Electoral Commission under subsection (1) must also inform the person objected to—

(a) that he or she may forward to the Electoral Commission a statement signed by him or her giving reasons why his or her name should be retained on the roll; and

(b) that his or her name will be retained on the roll if he or she provides the Electoral Commission with evidence that satisfies the Electoral Commission that the name of the person objected to should be retained on the roll; and

(c) that if he or she fails to forward a statement to the Electoral Commission within 14 days after the day on which that notice is served on the person objected to, the Electoral Commission will, under section 95B, remove from the roll the name of the person objected to.

(4) If, after making the inquiries it thinks fit, the Electoral Commission is unable to serve the notice of objection on a person personally after making at least 2 attempts, the Electoral Commission must—

(a) remove the name of the person from the roll; and

(b) include the name in the dormant roll maintained under section 109.

Section 95A: inserted, on 6 December 1995, by section 28 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 95A(1): amended, on 21 March 2017, by section 37(1)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95A(1): amended, on 21 March 2017, by section 37(1)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95A(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 95A(3): amended, on 21 March 2017, by section 37(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95A(3)(a): amended, on 21 March 2017, by section 37(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95A(3)(b): amended, on 21 March 2017, by section 37(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95A(3)(c): amended, on 21 March 2017, by section 37(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95A(4): replaced, on 21 March 2017, by section 37(4) of the Electoral Amendment Act 2017 (2017 No 9).

95B Power to remove name from roll

Where, within 14 days after the day on which a notice under section 95A(1) or section 96(2) is served on the person objected to,—

(a) the person objected to; or

(b) the person who, under section 12(1) of the Protection of Personal and Property Rights Act 1988, is the welfare guardian for the person objected to; or

(c) the attorney appointed by the person objected to under an enduring power of attorney,—

either fails to provide evidence of eligibility to be on the roll or notifies the Electoral Commission that he or she consents to the removal from the roll of the name of the person objected to, the Electoral Commission must, unless the objection has been withdrawn by the objector, remove from the roll the name of the person objected to and must notify the parties accordingly.

Section 95B: inserted, on 6 December 1995, by section 28 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 95B: amended, on 21 March 2017, by section 38(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95B: amended, on 21 March 2017, by section 38(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95B: amended, on 21 March 2017, by section 38(c) of the Electoral Amendment Act 2017 (2017 No 9).

95C Power to retain name on roll

Where, within 14 days after the day on which a notice under section 95A(1) or section 96(2) is served on the person objected to,—

(a) the person objected to; or

(b) the person who, under section 12(1) of the Protection of Personal and Property Rights Act 1988, is the welfare guardian for the person objected to; or

(c) the attorney appointed by the person objected to under an enduring power of attorney,—

provides the Electoral Commission with evidence that satisfies the Electoral Commission that the person objected to is qualified to be on the roll, the name of the person objected to shall be retained on the roll and the Electoral Commission must notify the parties accordingly.

Section 95C: inserted, on 6 December 1995, by section 28 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 95C: amended, on 21 March 2017, by section 39(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95C: amended, on 21 March 2017, by section 39(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95C: amended, on 21 March 2017, by section 39(c) of the Electoral Amendment Act 2017 (2017 No 9).

95D Reference of elector's objection to District Court

(1) Unless,—

(a) within 14 days after the day on which a notice under section 95A(1) or section 96(2) is served on the person objected to, the objection is withdrawn; or

(b) the name of the person who is objected to is removed from the roll under section 95B or retained on the roll under section 95C,—

the Electoral Commission must refer the objection to the District Court, and must notify the parties of the time and place appointed for the hearing.

(2) Subject to subsection (3), where any party notifies the Electoral Commission that the party is dissatisfied with a decision of the Electoral Commission made under section 95B or section 95C, the Electoral Commission must refer the objection to the District Court, and must notify the parties of the time and place appointed for the hearing.

(3) Any notification given by a party under subsection (2) shall be in writing and shall be given within 14 days after the day on which the party is notified by the Electoral Commission under section 95B or section 95C, as the case may be.

Section 95D: inserted, on 6 December 1995, by section 28 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 95D(1): amended, on 21 March 2017, by section 40(1)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95D(1): amended, on 21 March 2017, by section 40(1)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95D(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 95D(2): amended, on 21 March 2017, by section 40(2)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95D(2): amended, on 21 March 2017, by section 40(2)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95D(2): amended, on 21 March 2017, by section 40(2)(c) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95D(2): amended, on 21 March 2017, by section 40(2)(d) of the Electoral Amendment Act 2017 (2017 No 9).

Section 95D(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 95D(3): amended, on 21 March 2017, by section 40(3) of the Electoral Amendment Act 2017 (2017 No 9).

96 Electoral Commission's objection

(1) The Electoral Commission may at any time object to the name of any person being on the roll for a district on the ground that the person is not qualified to be registered as an elector of the district.

(2) If the Electoral Commission objects, it must give notice in writing of the objection to—

- (a) the person objected to; or
- (b) a representative of the person objected to.

(3) The notice must—

- (a) inform the person objected to—
  - (i) of the grounds for the objection; and
  - (ii) of the reasons supporting the grounds for objection; and
  - (iii) that the person may forward to the Electoral Commission a statement signed by the person giving reasons why the person's name should be retained on the roll; and
  - (iv) that the person's name will be retained on the roll if the person provides the Electoral Commission with evidence that satisfies the Electoral Commission that the person's name should be retained on the roll; and
  - (v) that, if the person fails to forward a statement to the Electoral Commission within 14 days after the date on which the notice is served on the person, the Electoral Commission will remove the person's name from the roll under section 95B; and
- (b) be served personally in accordance with the rules governing personal service contained in the District Courts Rules 2014.

(4) If the Electoral Commission is unable, after making any inquiries it thinks fit, to serve notice of objection on the person objected to personally, after making at least 2 attempts, the Electoral Commission must—

(a) remove the person's name from the roll; and

(b) include the person's name in the dormant roll maintained under section 109.

(5) Nothing in this section affects any other provision of this Act that relates to the removal of names from the roll by the Electoral Commission.

Section 96: replaced, on 21 March 2017, by section 41 of the Electoral Amendment Act 2017 (2017 No 9).

97 Procedure on reference of application or objection to District Court

(1) The following provisions of this section shall apply with respect to proceedings on the reference to the District Court of an objection under section 95 or section 96.

(2) The Electoral Commission, any objector, and the person objected to may appear before the court either in person or by some person appointed by it or him or her in writing or by a barrister or solicitor.

(3) In the case of an objection, the person objected to may forward to the Registrar of the court a statement signed by him or her giving reasons why his or her name should be retained on the roll, and the court shall take any such statement into account in determining the objection.

(3A) If a person objected to has a physical or mental impairment, that person's representative may sign and forward to a Registrar of the court a statement giving reasons why the person's name should not be removed from the roll.

(4) If any person objected to does not either appear or forward a statement as aforesaid, the court shall make an order that his or her name be removed from the roll.

(5) Except as otherwise provided in this section, the name of any person objected to shall not be removed from the roll until the objection has been determined.

(6) At the hearing of an objection no grounds of objection shall be taken into account except those specified in the particulars of the objection.

(7) In any proceedings to which this section applies the court may make such order as to costs as the court thinks fit.

(8) Subject to the provisions of this section, the ordinary rules of procedure of the court shall apply.

(9) The Electoral Commission must make any additions, deletions, and alterations to the roll that may be necessary to give effect to the order of the court.

Compare: 1956 No 107 s 55; 1975 No 28 s 24(2)(b); 1980 No 29 s 5(8)

Section 97(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 97(2): amended, on 21 March 2017, by section 42(1)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 97(2): amended, on 21 March 2017, by section 42(1)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 97(3A): inserted, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 97(3A): amended, on 21 March 2017, by section 42(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 97(9): amended, on 21 March 2017, by section 42(3) of the Electoral Amendment Act 2017 (2017 No 9).

Removal of names from roll and alterations to roll

98 Removal of names from roll by Electoral Commission

(1) Subject to subsection (6), the Electoral Commission must remove from the roll—

(a) the name of every person who, consequent on a change in his or her place of residence,—

(i) is not qualified to be registered as an elector of the district; and

(ii) resides in, and is registered as an elector of, another district:

(b) the name of every person of whose identity the Electoral Commission is satisfied and whose death has been notified to the Electoral Commission—

(i) by any Registrar of Births and Deaths; or

(ii) by the father, mother, or spouse, civil union partner, or de facto partner of that person or by a sister or brother of that person:

(c) *[Repealed]*

(d) the name of every person who, as a result of an inquiry made at that person's address on the roll, the Electoral Commission has reason to believe has ceased for 1 month or upwards to reside in the district:

(e) the name of every person whose name is entered on the Corrupt Practices List made out for any district:

(f) the name of every person whose disqualification under section 80—

(i) is duly certified to the Electoral Commission; or

(ii) is notified to the Electoral Commission under section 81:

(ii) *[Repealed]*

(g) the name of every person who, being a Maori,—

(i) has indicated his or her choice, pursuant to section 78, to be registered as an elector for a different type of electoral district; or

(ii) is registered in contravention of section 79:

(h) where the roll is for a Maori electoral district, the name of every person who is not a Maori:

(i) the name of every person who has been registered for the district—

(i) by mistake; or

(ii) by clerical error; or

(iii) as a result of false information.

(2) Notwithstanding anything in this Act, the Electoral Commission, on being satisfied that the name of any person has been omitted or removed from the roll—

(a) by mistake; or

(b) by clerical error; or

(c) as a result of false information,—

may place the name of that person on the roll at any time or restore the name of that person to the roll at any time.

(3) In addition to other powers of alterations conferred by this Act, the Electoral Commission may at any time, subject to subsection (6), alter the roll—

(a) by correcting any mistake or omission in the particulars of the enrolment of a person:

(b) by striking out the superfluous entry when the name of a person appears more than once on the roll.

(4) The Electoral Commission may, subject to subsection (6), place a person's name on the roll if—

(a) the person has been registered as an elector of a district other than the district in which the person should have been registered; and

(b) the person's name has, under subsection (1)(h) or (i), been removed from the roll of the district for which the person was correctly registered.

(5) Where, pursuant to this section, the name of a person is removed from the roll in the period commencing on the day after writ day and ending on polling day, the Electoral Commission must, on removing that name, enter it on a list to be known as the **list of post-writ day deletions**.

(6) No alteration pursuant to this section shall be made to the roll for a district in the period beginning on the day after polling day and ending on the day after the day of the return of the writ.

Compare: 1956 No 107 s 57; 1983 No 104 s 10(1); 1985 No 149 s 11; 1985 No 150 s 2(3); 1990 No 1 s 24(2)

Section 98 heading: amended, on 21 March 2017, by section 43(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(1): amended, on 21 March 2017, by section 43(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(1)(b): amended, on 21 March 2017, by section 43(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(1)(b)(ii): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 98(1)(c): repealed, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 98(1)(d): substituted, on 18 March 2002, by section 31(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 98(1)(d): amended, on 21 March 2017, by section 43(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(1)(f)(i): amended, on 2 July 2020, by section 10(1) of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

Section 98(1)(f)(i): amended, on 21 March 2017, by section 43(5) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(1)(f)(ii): inserted, on 2 July 2020, by section 10(2) of the Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34).

Section 98(1)(f)(ii): repealed, on 30 June 2020, by section 8 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Section 98(2): amended, on 21 March 2017, by section 43(5) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(3): amended, on 21 March 2017, by section 43(5) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(4): replaced, on 21 March 2017, by section 43(6) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(5): amended, on 11 March 2020, by section 7(1) of the Electoral Amendment Act 2020 (2020 No 2).

Section 98(5): amended, on 21 March 2017, by section 43(7) of the Electoral Amendment Act 2017 (2017 No 9).

Section 98(6): amended, on 11 March 2020, by section 7(2) of the Electoral Amendment Act 2020 (2020 No 2).

99 Notice of alterations to roll

(1) Where, pursuant to any of the provisions of paragraphs (c) to (i) of section 98(1), the name of a person is removed from the roll, the Electoral Commission must, in accordance with subsection (3) or subsection (4), deliver or send to that person, notice in writing of the removal of that person's name from the roll.

(2) Where the name of a person (being a name which, pursuant to section 98(1)(h) or section 98(1)(i), has been removed from a roll) is entered, pursuant to section 98(4), on another roll, the Electoral Commission must, in accordance with subsection (3) or subsection (4), deliver or send to that person notice in writing of the entry of that person's name on that other roll.

(3) Subject to subsection (4), the notice required by subsection (1) or subsection (2)—

(a) shall be delivered to the person personally or sent to the person by post; and

(b) shall be so delivered or sent not later than 14 days after the date on which,—

(i) where the notice is required by subsection (1), the person's name is removed; or

(ii) where the notice is required by subsection (2), the person's name is entered.

(4) Where the name of a person is removed or entered, as the case may be, in the period beginning on the day after writ day and ending on polling day, the notice required by subsection (1) or (2) must immediately be delivered to the person personally or sent to the person by post.

Compare: 1956 No 107 s 57A; 1983 No 104 s 10(1)

Section 99(1): amended, on 21 March 2017, by section 44(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 99(2): amended, on 21 March 2017, by section 44(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 99(2): amended, on 6 December 1995, by section 31 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 99(4): replaced, on 11 March 2020, by section 8 of the Electoral Amendment Act 2020 (2020 No 2).

100 Corrupt Practices List

(1) Where it is proved before the Electoral Commission that any person who is registered or who applies for registration as an elector of a district has, within the immediately preceding period of 3 years,—

(a) been convicted of a corrupt practice; or

(b) been reported by the High Court in its report on the trial of an election petition to have been proved guilty of a corrupt practice,—

the Electoral Commission must enter the name, residence, and description of that person and particulars of the conviction or report on a list to be called the **Corrupt Practices List**.

(2) The Electoral Commission must remove the name of every person from the Corrupt Practices List at the expiration of 3 years from the date of the conviction or report in respect of which his or her name is entered on the list, or sooner if so ordered by the High Court.

(3) Whenever a main roll is printed for a district, a copy of the Corrupt Practices List for the district shall be appended to it and printed and published with it.

(4) Whenever a supplementary roll is printed for a district, a copy of so much of the Corrupt Practices List as has not been printed with the main roll or any existing supplementary roll for the district shall be appended to the supplementary roll and printed and published with it.

Compare: 1956 No 107 s 59; 1980 No 29 s 5(7)

Section 100(1): amended, on 21 March 2017, by section 45(1)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 100(1): amended, on 21 March 2017, by section 45(1)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 100(1): amended, on 21 March 2017, by section 45(1)(c) of the Electoral Amendment Act 2017 (2017 No 9).

Section 100(2): amended, on 21 March 2017, by section 45(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 100(3): amended, on 21 March 2017, by section 45(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 100(4): amended, on 21 March 2017, by section 45(4) of the Electoral Amendment Act 2017 (2017 No 9).

Electoral rolls

101 Electoral rolls

(1) Where a notice is gazetted under section 40(1)(b) or section 45(9)(b), the Electoral Commission shall—

(a) decide, on the basis of the then existing rolls, which of the electors are entitled to be registered as electors of each electoral district whose boundaries are fixed by the report to which the notice relates; and

(b) compile for each electoral district whose boundaries are fixed by the report to which the notice relates a list of persons appearing to be entitled to be registered as electors of that electoral district (in this section called the **compiled list**).

(2) For the purposes of any inquiry under section 89D which is considered before the dissolution or expiration of the Parliament in existence when any list is compiled pursuant to subsection (1)(b), the compiled list shall be the electoral roll for the district to which it relates.

(3) For the purposes of the printing of the main rolls and the supplementary rolls, each compiled list shall, if the Electoral Commission so directs, be the electoral roll for the district to which it relates.

(4) Where a compiled list is, under subsection (2) or subsection (3), the electoral roll for the district to which it relates, that electoral roll shall come into force on the dissolution or expiry of the then existing Parliament.

(5) The compiled lists shall be compiled immediately before—

(a) the next succeeding inquiry under section 89D; or

(b) the printing of the main rolls (where the Electoral Commission directs that, for the purposes of the printing of the main rolls and the supplementary rolls, each compiled list shall be the electoral roll for the district to which it relates),—

whichever is the earlier.

(6) Every roll to which subsection (4) applies, as it may be updated from time to time following an inquiry under section 89D, continues in force until a new roll for the district is compiled and comes into force.

(7) The Electoral Commission must keep every roll to which subsection (4) applies up to date by making all such additions, alterations, and deletions as become necessary.

Compare: 1956 No 107 s 60; 1980 No 29 s 23(1); 1985 No 149 s 12; 1991 No 68 s 11

Section 101(1): amended, on 1 July 2012, by section 52(17)(m) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 101(2): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 101(2): amended, on 18 March 2002, by section 32(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 101(3): amended, on 1 July 2012, by section 52(17)(m) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 101(5)(a): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 101(5)(a): amended, on 18 March 2002, by section 32(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 101(5)(b): amended, on 1 July 2012, by section 52(17)(m) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 101(6): substituted, on 18 March 2002, by section 32(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 101(6): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 101(7): amended, on 21 March 2017, by section 46 of the Electoral Amendment Act 2017 (2017 No 9).

102 Maintenance of rolls being replaced

(1) If the Electoral Commission has compiled the lists referred to in section 101(1)(b), it is not obliged to keep the rolls up to date for the districts that were in existence immediately before the gazetting, under section 40(1)(b) or 45(9)(b), of the notice that immediately preceded the compilation of those lists.

(2) Despite subsection (1), the Electoral Commission must ensure that it has available to it, until the roll for a district ceases to be in force, all information (which may include or consist of photocopies of original documents) necessary to enable it to bring the roll up to date in the event of a by-election in that district.

(3) If a by-election is to take place in a district to which subsection (1) applies, the Electoral Commission must ensure that an up-to-date composite roll for the district is closed and printed as at writ day for the by-election.

Section 102: replaced, on 21 March 2017, by section 47 of the Electoral Amendment Act 2017 (2017 No 9).

103 Rolls where Parliament dissolved after change of boundaries and before new rolls completed

(1) If a Parliament is dissolved in the period between the gazetting of a notice under section 40(1)(b) or 45(9)(b) and the completion of the compilation of the rolls under section 101, the Electoral Commission must comply with section 101(1)(a) and (b).

(2) Each list compiled under section 101(1)(b) (as applied by subsection (1)) must—

(a) be the electoral roll for the district to which it relates; and

(b) come into force as soon as it is compiled.

(3) The Electoral Commission must—

(a) keep every electoral roll to which subsection (2) applies up to date by making all the additions, alterations, and deletions that become necessary; and

(b) incorporate the additions, alterations, and deletions made to an electoral roll into the electoral roll that supersedes it.

Section 103: replaced, on 21 March 2017, by section 48 of the Electoral Amendment Act 2017 (2017 No 9).

104 Main roll to be printed

(1) The Electoral Commission must, at least once in each year, print a main roll for each district that contains a list of all persons whose names are lawfully on the electoral roll for the relevant district on a date to be fixed for the closing of the main rolls.

(2) The date to be fixed for the purposes of subsection (1) shall,—

(a) in the case of a year in which Parliament is due to expire, be fixed by the Governor-General by Order in Council published in the *Gazette*; and

(b) in the case of any other year, be fixed by the Electoral Commission by notice in the *Gazette*.

(3) Every main roll printed for any district under this section shall be the main roll for the district until a new main roll is printed for the district.

Compare: 1956 No 107 s 61; 1980 No 29 s 25(1)

Section 104(1): replaced, on 21 March 2017, by section 49 of the Electoral Amendment Act 2017 (2017 No 9).

Section 104(2)(a): amended, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Section 104(2)(b): amended, on 1 July 2012, by section 52(17)(p) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

105 Supplementary rolls to be printed

(1) The Electoral Commission must, from time to time, print a supplementary roll for a district that contains a list of all persons whose names do not appear on

the main roll or any existing supplementary roll for the district but are lawfully on the electoral roll for the district on a date to be fixed for the closing of that supplementary roll by the Electoral Commission.

(2) However, a supplementary roll must be printed as soon as practicable after the issue of a writ for an election in the relevant district, and the date for the closing of that roll is writ day.

(3) Every supplementary roll printed for a district under this section is a supplementary roll for the district until a new main roll is printed for the district.

Section 105: replaced, on 21 March 2017, by section 50 of the Electoral Amendment Act 2017 (2017 No 9).

106 Form of main roll and supplementary rolls

(1) Every main roll or supplementary roll printed for any district shall show the names, residences, and occupations (if any) of the persons included therein, arranged alphabetically in order of surnames.

(2) The names on each page of the main roll and of every supplementary roll printed for any district shall be numbered consecutively, beginning with the number 1 in the case of the first name on each page.

(3) The pages of every main roll or supplementary roll printed for any district shall be numbered consecutively, beginning with the number 1 in the case of the first page of the main roll and, in the case of a supplementary roll, with the number immediately following the number of the last page of the last printed roll of the district, whether main or supplementary.

(4) The number appearing on the main roll or, as the case may be, on any supplementary roll printed for any district against the name of any elector, preceded by the number of the page on which his or her name appears, shall be deemed to be his or her number on the roll.

(5) With the consent of the Government Statistician, the Electoral Commission may divide the main electoral roll and every supplementary roll into such statistical subdivisions, as the Government Statistician approves.

Compare: 1956 No 107 s 63(1)–(5); 1960 No 4 s 2(1); 1975 No 28 s 28; 1980 No 29 s 5(7)

Section 106(5): amended, on 21 March 2017, by section 51 of the Electoral Amendment Act 2017 (2017 No 9).

107 Composite rolls

(1) The Electoral Commission may, from time to time, print a composite roll for each district, which roll—

(a) shall, subject to any additions, alterations, and deletions made to the electoral roll for the district, contain a list of—

(i) all persons whose names appear on the main roll for the district; and

(ii) all persons whose names appear on any existing supplementary roll for the district; and

(iii) all persons whose names do not appear on the main roll for the district or any existing supplementary roll for the district but are lawfully on the electoral roll for the district on a date to be fixed for the closing of that composite roll by the Electoral Commission; and

(b) shall, subject to paragraph (a), be printed in the manner prescribed by section 106 in respect of a main roll.

(2) Notwithstanding anything in subsection (1), in the case of a by-election in any district, the Electoral Commission must cause a composite roll for the district to be closed and printed as at writ day for the by-election.

(3) Where the date for the closing of a composite roll for a district is writ day in relation to an election in that district, the Electoral Commission—

(a) shall cause the composite roll to be printed as soon as may be after the issue of the writ for the election; and

(b) shall not be obliged to issue a supplementary roll for the district under the proviso to section 105(1) in relation to that election.

(4) Where a composite roll for a district is printed under this section,—

(a) the composite roll shall, notwithstanding section 104(3), be the main roll for the district until a new main roll is printed for the district under section 104(1) or a new composite roll is printed for the district under this section; and

(b) the main roll and any supplementary rolls that were in force for the district immediately before the date of the closing of the composite roll shall cease to be in force.

(5) Nothing in this section—

(a) limits the provisions of section 104(1); or

(b) prevents any main roll or supplementary roll that is no longer in force from being examined for the purpose of determining—

(i) whether any person's name should appear on the main roll or any supplementary roll for the time being in force for any district; or

(ii) whether any person is qualified to vote in any district as a special voter.

Compare: 1956 No 107 ss 63A, 63B; 1979 No 12 s 2; 1980 No 29 ss 5(8), 28

Section 107(1): amended, on 21 March 2017, by section 52(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 107(1)(a)(iii): amended, on 1 July 2012, by section 52(16)(d) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 107(2): amended, on 21 March 2017, by section 52(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 107(3): amended, on 21 March 2017, by section 52(3) of the Electoral Amendment Act 2017 (2017 No 9).

108 Habitation indexes

The Electoral Commission—

(a) may from time to time compile in respect of any electoral district a habitation index—

(i) listing, in accordance with their residential addresses, the electors who reside in that electoral district; and

(ii) showing, against the name of each elector, the number of the elector on the main roll, or, as the case may be, on any supplementary roll for that electoral district; and

(b) shall, as soon as practicable after the printing of a main roll for an electoral district, compile a habitation index under paragraph (a) in respect of that district.

Compare: 1956 No 107 s 60C(1); 1980 No 29 s 24; 1983 No 104 s 11

Section 108: amended, on 1 July 2012, by section 52(17)(q) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

109 Dormant roll

(1) The Electoral Commission must maintain a dormant roll that shows for each district the particulars of those persons whose names have been removed from the roll for the relevant district—

(a) under section 89G; or

(b) as a result of the removal of the name of that person from the roll under section 95A(4) or 96(5).

(2) The Electoral Commission must remove the name of a person from the dormant roll on the first occurrence of any of the following events:

(a) in the case of a person whose name has been removed from the electoral roll under section 89G, when the person registers as an elector of any district; or

(b) in the case of a person whose name has been removed from the electoral roll under section 95A(4) or section 96(5), when the person registers as an elector of any district; or

(c) in the case of a person who dies, when the Electoral Commission is satisfied of the identity of the person and the death has been notified to the Electoral Commission—

(i) by any Registrar of Births and Deaths; or

(ii) by the father, mother, spouse, civil union partner, de facto partner, sister, or brother of the person; or

(iii) by the administrator of the estate of the person; or

(d) the expiration of the period of 3 years beginning with the date on which the person's name was placed on the dormant roll.

(3) The Electoral Commission must keep, for the purposes of the next election to be held in the district to which the dormant roll relates, a copy of the dormant roll as it exists on polling day.

(4) The Electoral Commission must from time to time cause to be printed a computer-compiled list showing, in relation to each person whose name appears on the dormant roll, the person's name and place of residence last shown on the roll.

(5) The dormant roll as it exists on polling day may be used for the purpose of determining whether any person is qualified, under section 60(c) or (d), to vote at any election held in the district to which the roll relates.

Section 109: substituted, on 18 March 2002, by section 34 of the Electoral Amendment Act 2002 (2002 No 1).

Section 109(1): replaced, on 21 March 2017, by section 53(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 109(2): amended, on 21 March 2017, by section 53(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 109(2)(a): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 109(2)(c): amended, on 21 March 2017, by section 53(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 109(2)(c)(ii): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 109(3): amended, on 11 March 2020, by section 9(1) of the Electoral Amendment Act 2020 (2020 No 2).

Section 109(3): amended, on 21 March 2017, by section 53(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 109(4): amended, on 11 March 2020, by section 9(2) of the Electoral Amendment Act 2020 (2020 No 2).

Section 109(4): amended, on 21 March 2017, by section 53(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 109(5): amended, on 11 March 2020, by section 9(1) of the Electoral Amendment Act 2020 (2020 No 2).

110 Public inspection of rolls, etc

(1) A copy or copies of—

(a) the main roll and of the supplementary rolls for any district; and

(b) the latest index compiled under section 108 in respect of the electoral district; and

(c) the most recent computer-compiled list printed pursuant to section 109(5) for the electoral district—

shall be kept for inspection by the public at the office of the Electoral Commission for the district, and at such other places within the district as the Electoral Commission directs.

(2) Any direction given by the Electoral Commission may be given in respect of any or all of the categories of documents specified in subsection (1).

(3) Any person may inspect at the offices of the Electoral Commission, without payment, at any time between 9 am and 4 pm on any day on which the office is open for the transaction of business,—

(a) the documents specified in subsection (1):

(b) the most recent computer-compiled list which is held by the Electoral Commission and which shows the names and particulars of the persons who are on the roll for the district:

(c) the names and particulars of any person whose name is on the electoral roll but not on the main roll or any supplementary roll or the most recent computer-compiled list to which paragraph (b) applies:

(d) the application of any person who has applied to be registered as an elector of the district but who is prevented, by section 88, from being registered as an elector of the district:

(e) his or her own application for registration as an elector:

(f) the application for registration of any person whose name is on the electoral roll if—

(i) that person consents to his or her application being inspected; or

(ii) the Electoral Commission is satisfied that the inspection of the application is justified by a genuine and proper interest:

(g) the list of post-writ day deletions referred to in section 98(5).

(4) In the case of—

(a) the computer-compiled list printed pursuant to section 109(5); and

(b) the computer-compiled list referred to in subsection (3)(b)—

neither the power of inspection conferred by subsection (3) nor the power to inspect the list when it is made available for public inspection under section 111 includes the power to copy the list.

(5) Any person may, on paying the prescribed fee, obtain a copy of—

(a) the main or supplementary roll for a district:

(b) an index compiled under section 108.

(6) Regulations made under section 267—

(a) may prescribe a scale of fees for the purposes of subsection (5); and

(b) shall provide for any fee payable under subsection (5) to be reduced wherever the copy of the roll or index is required for any purpose relating to an election or poll.

(7) Where any person is entitled, pursuant to any provision of paragraphs (d) to (f) of subsection (3), to inspect any application, the Electoral Commission must produce that application for inspection not later than 2 working days after a request has been made.

(8) If land in a General electoral district is included within the boundaries of a Maori electoral district, a copy of the most recent computer-compiled list printed under section 109(5) for the Maori electoral district must be kept open for inspection by the public at the offices of the Electoral Commission for those districts.

Compare: 1956 No 107 ss 60C(2)–(4), 63(6), 64(1), (2), (3)–(5), (7), 65AD(1), (3)–(6); 1960 No 4 s 2(1); 1975 No 28 s 28(2); 1980 No 29 ss 5(7), 24, 29(1); 1983 No 104 s 12(1); 1985 No 150 ss 3(2), 4(1); 1986 No 124 s 32(1); 1990 No 1 ss 25, 26(1)

Section 110(1): amended, on 21 March 2017, by section 54(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 110(1): amended, on 1 July 2012, by section 52(6) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 110(2): amended, on 1 July 2012, by section 52(7) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 110(3): amended, on 21 March 2017, by section 54(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 110(3)(b): amended, on 21 March 2017, by section 54(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 110(3)(f)(ii): amended, on 21 March 2017, by section 54(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 110(7): amended, on 21 March 2017, by section 54(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 110(8): replaced, on 21 March 2017, by section 54(5) of the Electoral Amendment Act 2017 (2017 No 9).

111 Inspection of rolls at hui

(1) Subject to subsection (2), the Electoral Commission shall, at the request of any person, make available for public inspection, under the supervision of the Electoral Commission or person nominated by the Electoral Commission, at any meeting or hui—

(a) the main roll and the supplementary rolls kept for any district:

(b) the most recent computer-compiled list which is held by the Electoral Commission for any district and which shows the names and particulars of the persons who are on the roll for the district:

(c) any computer-compiled list printed pursuant to section 109(5).

(2) A request made under subsection (1) shall not be granted unless the Electoral Commission is satisfied that a large number of persons are likely to attend the meeting or hui in respect of which the request is made.

(3) Where a roll or list is made available for public inspection under subsection (1), the roll or list shall be made available at such times and places as the Electoral Commission thinks fit.

Compare: 1956 No 107 s 64(2A), (2B), (2C); 1985 No 150 s 3(1)

Section 111(1): amended, on 21 March 2017, by section 55(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 111(1): amended, on 1 July 2012, by section 52(8) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111(1): amended, on 1 July 2012, by section 52(16)(e) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111(1)(b): amended, on 21 March 2017, by section 55(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 111(2): amended, on 1 July 2012, by section 52(16)(e) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111(3): amended, on 1 July 2012, by section 52(16)(e) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

111A Objectives of sections 111B to 111F

The objectives of sections 111B to 111F are—

(a) to enable specified electoral information in relation to any Maori elector, with the consent of that Maori elector, to be used to facilitate the establishment and maintenance of accurate and comprehensive registers of iwi affiliations; and

(b) to ensure that registers of iwi affiliations are established and maintained by a body which—

(i) is accountable to the organisations to which it is authorised to supply information; and

(ii) is financially viable and well managed; and

(iii) manages information in compliance with the requirements of this Act and the Privacy Act 2020; and

(iv) makes iwi affiliation information available to iwi organisations and other Maori organisations at a reasonable cost; and

(v) except as required for the purpose of establishing and maintaining the register or registers of iwi affiliations, does not create or maintain information on whakapapa; and

(c) to enable information from a register of iwi affiliations to be supplied to iwi organisations and other Maori organisations for the purposes of those organisations; and

(d) to leave unaffected—

(i) any right of an iwi organisation or other Maori organisation or court to determine whether any person claiming affiliation with the organisation is so affiliated; or

(ii) any right of a person to claim an affiliation with a particular iwi organisation or other Maori organisation or to approach the iwi organisation or other Maori organisation with which that person claims affiliation.

Section 111A: inserted, on 10 November 2003, by section 35 of the Electoral Amendment Act 2002 (2002 No 1).

Section 111A(b)(iii): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

111B Interpretation of terms in sections 111C to 111F

For the purposes of sections 111C to 111F,—

designated body means the person or body of persons from time to time designated under section 111E

Maori elector means a person registered as an elector who has given written notice to the Electoral Commission that the person is of Maori descent

register of iwi affiliations means a list or lists of persons of Maori descent and their iwi affiliations, together with the information described in section 111C(2) in respect of those persons.

Section 111B: inserted, on 10 November 2003, by section 35 of the Electoral Amendment Act 2002 (2002 No 1).

Section 111B **Maori elector**: amended, on 21 March 2017, by section 56 of the Electoral Amendment Act 2017 (2017 No 9).

111C Electoral Commission may seek consent of Maori electors to supply of information to designated body

(1) The Electoral Commission may seek the consent of any Maori elector to the supply by the Electoral Commission from time to time of the particulars described in subsection (2) to the designated body for the purpose of establishing and maintaining a register or registers of iwi affiliations.

(2) The particulars referred to in subsection (1) are—

(a) the elector's name, including first names, surname, and preferred honorific (if any):

(b) the elector's postal address, email address (if any), and contact telephone numbers (if any):

(c) the elector's date of birth:

(d) any randomly generated number assigned to that elector by the Electoral Commission.

(3) The Electoral Commission may ask a Maori elector—

(a) whether the Maori elector consents to the supply of his or her iwi affiliation information to the designated body for the purpose of establishing and maintaining a register or registers of iwi affiliations; and

(b) if the answer under paragraph (a) is in the affirmative,—

(i) to give his or her iwi affiliation information; and

(ii) if the elector wishes, to specify the iwi organisation or organisations or other Maori organisation or organisations to which the elector's iwi affiliation information may be supplied by the designated body.

(4) Despite subsections (1) and (3), the Electoral Commission must not seek the consent under this section of a person in respect of whom the Electoral Commission has given a direction under section 115.

(5) If the Electoral Commission seeks the consent of a person under this section, the Electoral Commission must advise the person of the provisions of section 111D(4) and section 111F(1) to (4).

(6) If the Electoral Commission seeks the consent of a person under subsection (1), the Electoral Commission must advise the person that a consent given under that subsection may be withdrawn at any time.

(7) The Electoral Commission—

(a) may hold iwi affiliation information obtained in response to a request under subsection (3) only for such time as is reasonable for the purpose of forwarding that information to the designated body; and

(b) must not retain any of that iwi affiliation information.

Section 111C: inserted, on 10 November 2003, by section 35 of the Electoral Amendment Act 2002 (2002 No 1).

Section 111C heading: amended, on 1 July 2012, by section 52(9) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111C(1): amended, on 1 July 2012, by section 52(18)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111C(2)(b): amended, on 17 August 2011, by section 12 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111C(2)(d): amended, on 1 July 2012, by section 52(18)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111C(3): amended, on 1 July 2012, by section 52(18)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111C(4): amended, on 1 July 2012, by section 52(18)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111C(5): amended, on 1 July 2012, by section 52(18)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111C(6): amended, on 1 July 2012, by section 52(18)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111C(7): amended, on 1 July 2012, by section 52(18)(a) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

111D Electoral Commission may supply information to designated body

(1) The Electoral Commission may supply the information described in subsection (2) to the designated body if—

(a) the Electoral Commission has obtained the consent of a Maori elector under section 111C(1) (and that consent has not been withdrawn); and

(b) the Electoral Commission has under section 111C(3) obtained the consent of a Maori elector to the supply of the iwi affiliation information of that elector.

(2) The information referred to in subsection (1) is—

(a) the particulars of the elector described in section 111C(2); and

(b) the elector's iwi affiliation information; and

(c) if, under section 111C(3)(b)(ii), the elector specified a particular organisation or organisations to which the iwi affiliation information may be supplied, the name of that organisation or those organisations.

(3) The Electoral Commission may charge a reasonable fee for the supply of information to the designated body under this section.

(4) Information supplied under this section is supplied for the purpose of enabling the designated body to—

(a) establish and maintain a register or registers of iwi affiliations; and

(b) supply the information on that register or registers to any organisation to which it is authorised to supply that information under section 111F.

(5) Except as required for the purpose described in subsection (4), the designated body must not use the information supplied to it under this section to create or maintain information on the whakapapa of any Maori elector.

Section 111D: inserted, on 10 November 2003, by section 35 of the Electoral Amendment Act 2002 (2002 No 1).

Section 111D heading: amended, on 1 July 2012, by section 52(9) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111D(1): amended, on 1 July 2012, by section 52(18)(b) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111D(1)(a): amended, on 1 July 2012, by section 52(18)(b) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111D(1)(b): amended, on 1 July 2012, by section 52(18)(b) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 111D(3): amended, on 1 July 2012, by section 52(18)(b) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

111E Ministers of Justice and Maori Affairs may designate body to receive information

(1) The Minister of Justice and the Minister of Maori Affairs may, by notice in the *Gazette*, designate any person or body of persons (whether corporate or unincorporate) as suitable to receive the information described in subsection (2) for

the purpose of establishing and maintaining a register or registers of iwi affiliations.

(2) The information referred to in subsection (1) is—

(a) information described in section 111C(2); and

(b) information described in section 111C(3)(b).

(3) The Minister of Justice and the Minister of Maori Affairs must not designate a person or body of persons under subsection (1) unless the Ministers are satisfied that—

(a) the person or body of persons has adequate procedures in place to ensure that it is accountable to the organisations to which it is authorised to supply information under section 111F; and

(b) the person or body of persons is financially viable and can demonstrate prudent and adequate management policies and practices, including in matters of financial management; and

(c) the person's or body of persons' information management policies and practices are adequate to ensure compliance with this Act and the Privacy Act 2020; and

(d) the person or body of persons has the ability to fund the establishment and maintenance of the register of iwi affiliations; and

(e) the person or body of persons meets any other criteria that may be specified in regulations made under section 267(c).

(4) The Minister of Justice and the Minister of Maori Affairs may, at any time, by notice in the *Gazette*, revoke a designation made under subsection (1).

Section 111E: inserted, on 10 November 2003, by section 35 of the Electoral Amendment Act 2002 (2002 No 1).

Section 111E(3)(c): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

111F Designated body may supply information from register of iwi affiliations to iwi organisation and other Maori organisation

(1) The designated body may supply the information in relation to a particular Maori elector that is held on a register of iwi affiliations—

(a) if the Maori elector has specified a particular organisation or organisations under section 111C(3)(b)(ii), to that organisation or organisations; or

(b) in any other case, to any iwi organisation or organisations or other Maori organisation or organisations that the designated body is satisfied represents the iwi to which the Maori elector claims an affiliation.

(2) If the designated body is satisfied that iwi affiliation information given by a Maori elector under section 111C(3)(b)(i) contains a spelling error or other obvious mistake, but the designated body is satisfied that it is clear to which

iwi the Maori elector was referring, the designated body may apply subsection (1) as if the elector had specified that iwi.

(3) If the designated body is satisfied that the name of an organisation or organisations specified by a Maori elector under section 111C(3)(b)(ii) contains a spelling error or other obvious mistake, but the designated body is satisfied that it is clear to which organisation or organisations the elector was referring, the designated body may apply subsection (1) as if the elector had specified that organisation or organisations.

(4) Information supplied under this section is supplied for the purposes of the iwi organisation or other Maori organisation to which it is supplied.

(5) Any fee charged by the designated body for the supply of information under this section must be a reasonable fee.

Section 111F: inserted, on 10 November 2003, by section 35 of the Electoral Amendment Act 2002 (2002 No 1).

112 Supply of information on age and Maori descent

(1) Any person may, in the manner specified in subsection (3), request the Electoral Commission to provide to that person,—

(a) for the purposes of research conducted by that person on a topic that relates to a scientific matter,—

(i) a list of electors in a particular age group as defined in section 114(9); or

(ii) a list of electors of Maori descent; or

(b) for the purposes of research being conducted by that person on a topic that relates to human health,—

(i) a list of electors whose birthdays fall within a period of 12 months; or

(ii) a list of electors of Maori descent; or

(c) without limiting paragraph (a), for the purposes of research by that person that relates to elector participation in an election, a by-election, or a poll conducted under this Act or the Local Electoral Act 2001,—

(i) a list of electors in a particular age group as defined in section 114(9); or

(ii) a list of electors of Māori descent.

(2) Every list supplied pursuant to a request under subsection (1) shall specify, in relation to each elector on that list, his or her name, postal address, residential address, occupation (if any), preferred honorific (if any), and meshblock.

(3) Any request made under subsection (1) may seek information about electors appearing to be entitled to vote in—

(a) 1 or more named electoral districts; or

(b) all electoral districts; or

(c) 1 or more named regions or constituencies of a region; or

(d) 1 or more named territorial authority districts; or

(e) 1 or more named wards; or

(f) 1 or more named community board areas; or

(g) 1 or more named local board areas;—

but shall not include any request for a random sample of electors.

(4) Every list supplied following a request under subsection (1) may be supplied in the form of a computer-compiled list or in electronic form.

(5) The Electoral Commission shall comply with a request under subsection (1) if—

(a) the person requesting the list pays the prescribed fee; and

(b) the person requesting the list supplies a statement that the list is required for research being conducted by that person on a topic which is specified in the statement and which relates to a scientific matter or to human health; and

(c) the statement supplied under paragraph (b) is signed by the chief executive of any department, organisation, or local authority to which the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987 applies; and

(d) the person requesting the list states in a form to be provided by the Electoral Commission that the list is required for the purpose of that person's research and will not be used for any other purpose; and

(e) the Electoral Commission is satisfied that the list should be provided; and

(f) if the person requesting the list requires the list to be supplied in electronic form, that person supplies to the Electoral Commission a storage medium for that electronic information that complies with the prescribed requirements.

Compare: 1956 No 107 s 64BA; 1990 No 1 s 28(1)

Section 112(1): amended, on 1 July 2012, by section 52(18)(c) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 112(1)(a)(i): amended, on 17 August 2011, by section 13 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 112(1)(b)(ii): amended, on 9 April 2019, by section 16(1) of the Local Electoral Matters Act 2019 (2019 No 7).

Section 112(1)(c): inserted, on 9 April 2019, by section 16(2) of the Local Electoral Matters Act 2019 (2019 No 7).

Section 112(2): amended, on 6 December 1995, by section 32 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 112(3)(f): amended, on 9 April 2019, by section 16(3) of the Local Electoral Matters Act 2019 (2019 No 7).

Section 112(3)(g): inserted, on 9 April 2019, by section 16(4) of the Local Electoral Matters Act 2019 (2019 No 7).

Section 112(4): substituted, on 18 March 2002, by section 36(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 112(5): amended, on 1 July 2012, by section 52(18)(c) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 112(5)(d): amended, on 1 July 2012, by section 52(18)(c) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 112(5)(e): amended, on 1 July 2012, by section 52(18)(c) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 112(5)(f): substituted, on 18 March 2002, by section 36(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 112(5)(f): amended, on 1 July 2012, by section 52(18)(c) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

113 Supply of computer-compiled lists and electronic storage media to local authorities

(1) Subject to this section, if an electoral official of a local authority (as defined in section 5 of the Local Electoral Act 2001) wishes to obtain specified information for the purposes of any election, by-election, or poll that is required by or under any Act, the electoral official is entitled to obtain from the Electoral Commission a computer-compiled list or electronic storage medium containing that information.

(2) For the avoidance of doubt, it is hereby declared that subsection (1) shall not apply where the list or information is required for the purpose of determining whether or not there has been a valid demand for a poll or a survey of electors.

(3) The specified information, which shall be provided free of charge, shall be provided in accordance with any regulations made pursuant to section 267.

(4) Any electronic storage medium supplied by the Electoral Commission must be returned to the Electoral Commission as soon as practicable after use.

(5) Where the specified information is requested for a by-election or poll to be conducted at some time other than a triennial general election, the Electoral Commission may supply only such of the specified information as is relevant to the conduct of the by-election or poll.

(6) If an electoral official requires specified information for any purpose other than a purpose specified in subsection (1), and the latest information already available to the electoral official is not suitable for the purpose, the electoral official may make a special request to the Electoral Commission for the information, which must be supplied subject to, and in accordance with, any regulations made under section 267.

(7) *[Repealed]*

(8) Regulations made under section 267 may prescribe—

(a) fees for the supply of an electronic storage medium by the Electoral Commission in any case; and

(b) fees for providing information under this section on an electronic storage medium in any case to which subsection (1) does not apply.

(9) If an electoral official of a local authority (as defined in section 5 of the Local Electoral Act 2001) wishes to obtain, for the purposes of compiling a roll of electors for the local authority and for no other purpose, any specified information, the Electoral Commission may, in accordance with regulations made under this Act, give that electoral official, on payment of the prescribed fee, a computer-compiled list or electronic storage medium containing that information.

(9A) Any electoral official of a local authority (as defined in section 5 of the Local Electoral Act 2001) may, on payment of the prescribed fee, and in accordance with regulations made under this Act, obtain from the Electoral Commission a computer-compiled list or electronic storage medium containing specified information, for the purpose of conducting an election for any body, where the Electoral Commission is satisfied that—

(a) the body is established by statute or is a corporate or unincorporate body established by a local authority or local authorities or is a body contracted by a local authority or local authorities to provide services to some or all local residents or is a body that provides health services or disability support services or electricity supply or is a trust that owns shares in a body or bodies involved in electricity supply to some or all local residents; and

(b) the body has in place procedures for the democratic conduct of its elections; and

(c) it is in the public interest that the election be conducted by a local authority.

(9B) Nothing in subsection (9A) or subsection (9D) requires a local authority to conduct an election on behalf of any other body but, where a local authority conducts an election for another body, the local authority may impose a charge in respect of the conduct of the election.

(9C) Where any officer of a body designated by notice in writing pursuant to subsection (9D) wishes to obtain, for the purpose of compiling a roll of electors for an election and for no other purpose, any specified information, the Electoral Commission may, in accordance with regulations made under this Act, give that officer, on payment of the prescribed fee, a computer-compiled list or electronic storage medium containing that information.

(9D) The Minister may, by notice in writing, designate bodies for the purposes of subsection (9C) if the Minister is satisfied that—

(a) the body has in place procedures for the democratic conduct of its elections; and

(b) it is in the public interest that the elections are conducted using the specified information.

(10) For the purposes of this section, the term **specified information** means, in respect of each elector appearing to reside in the appropriate area and entitled to vote in the election, by-election, or poll, so much of the following information as is requested by an electoral officer or electoral official or designated body:

(a) the elector's name, including first names, surname, and preferred honorific (if any):

(b) the elector's residential address and postal address (if different):

(c) the elector's occupation (if any):

(d) the elector's electoral district (whether Maori or General):

(e) statistical meshblock details:

(f) a description of each—

(i) region or constituency of a region; or

(ii) territorial authority district; or

(iii) ward; or

(iv) community board area; or

(iva) local board area; or

(v) other local authority and, where appropriate, local authority subdivision,—

in respect of which the elector appears to be entitled to vote.

(11) However, if a local authority has resolved to adopt, for an election, a by-election, or a poll, a voting method to which section 141(3) of the Local Electoral Act 2001 applies,—

(a) the electoral official of the local authority is also entitled to obtain the elector's date of birth under subsection (1); and

(b) for that purpose, subsections (1) to (5) apply as if the date of birth of an elector described in subsection (10) were also specified information.

Compare: 1956 No 107 s 64A; 1989 No 31 s 4(1); 1990 No 1 s 27

Section 113 heading: substituted, on 18 March 2002, by section 37(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 113(1): substituted, on 25 December 2002, by section 52 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 113(1): amended, on 1 July 2012, by section 52(18)(d) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(4): substituted, on 18 March 2002, by section 37(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 113(4): amended, on 1 July 2012, by section 52(18)(d) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(5): amended, on 1 July 2012, by section 52(18)(d) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(6): substituted, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Section 113(6): amended, on 1 July 2012, by section 52(18)(d) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(6): amended, on 25 December 2002, by section 52 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 113(7): repealed, on 18 March 2002, by section 37(4) of the Electoral Amendment Act 2002 (2002 No 1).

Section 113(8): substituted, on 18 March 2002, by section 37(5) of the Electoral Amendment Act 2002 (2002 No 1).

Section 113(8)(a): amended, on 1 July 2012, by section 52(18)(d) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(9): substituted, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Section 113(9): amended, on 1 July 2012, by section 52(18)(d) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(9): amended, on 25 December 2002, by section 52 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 113(9A): inserted, on 6 December 1995, by section 33(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 113(9A): amended, on 1 July 2012, by section 52(10) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(9A): amended, on 1 July 2012, by section 52(16)(f) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(9A): amended, on 25 December 2002, by section 52 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 113(9A): amended, on 18 March 2002, by section 37(6) of the Electoral Amendment Act 2002 (2002 No 1).

Section 113(9A): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Section 113(9A)(a): amended, on 1 January 2001, by section 111(1) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

Section 113(9B): inserted, on 6 December 1995, by section 33(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 113(9C): inserted, on 6 December 1995, by section 33(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 113(9C): amended, on 1 July 2012, by section 52(18)(d) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 113(9C): amended, on 18 March 2002, by section 37(6) of the Electoral Amendment Act 2002 (2002 No 1).

Section 113(9D): inserted, on 6 December 1995, by section 33(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 113(10): substituted, on 6 December 1995, by section 33(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 113(10): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Section 113(10)(f)(iva): inserted, on 9 April 2019, by section 17(1) of the Local Electoral Matters Act 2019 (2019 No 7).

Section 113(11): inserted, on 9 April 2019, by section 17(2) of the Local Electoral Matters Act 2019 (2019 No 7).

114 Supply of electoral information to candidates, political parties, and members of Parliament

(1) The Electoral Commission must supply to a person specified in subsection (2), on a request made in accordance with this section by that person,—

(a) the information described in subsection (3); and

(b) if the person so requests, the information described in subsection (4).

(2) The persons referred to in subsection (1) are—

(a) any candidate or any person acting on behalf of a political party who wishes to obtain the information for the purposes of the candidate or the political party:

(b) any candidate or any person acting on behalf of a political party who wishes to obtain the information for the purposes of the candidate or the political party in connection with any local authority elections:

(c) a member of Parliament or person acting on behalf of a member of Parliament who wishes to obtain the information for the purposes of the member of Parliament:

(d) *[Repealed]*

(e) any other person charged with responsibilities in relation to the conduct of any official publicity or information campaign to be conducted on behalf of the Government of New Zealand and relating to electoral matters or the conduct of any general election or by-election.

(3) The information referred to in subsection (1)(a) is—

(a) the names, residential addresses, occupations (if any), preferred honorifics (if any), meshblock, and postal addresses of, and any randomly generated number assigned by the Electoral Commission to, any or all of the following persons:

(i) the electors of an electoral district:

(ii) the persons whose names are on the dormant roll for an electoral district:

(iii) the electors of an electoral district who were registered as electors for that district on or after the date fixed for the closing of the main roll for the district pursuant to section 104, or on or after a date nominated by the applicant, that date being not earlier than the date on which the roll was last closed for printing:

(iv) the electors of an electoral district whose names have been removed from the electoral roll for that district on or after a date

nominated by the applicant, that date being not earlier than the date on which the roll was last closed for printing; and

(b) if the person to whom the information is being supplied is one described in subsection (2)(b), the electors of a local authority district or subdivision of a local authority district.

(4) The information referred to in subsection (1)(b) is,—

(a) whether the elector is of Maori descent; or

(b) a list of electors of Maori descent; or

(c) the age group within which the elector appears; or

(d) a list of electors in a particular age group; or

(e) any or all of the above.

(5) Information supplied by the Electoral Commission under this section may be supplied—

(a) in the form of a computer-compiled list; or

(b) in electronic form, including by the giving of remote access to the information by electronic means.

(6) A request for information from a person described in subsection (2)(a), (b), or (c) must,—

(a) if the information is sought in electronic form supplied on an electronic storage medium, be accompanied by a storage medium for that electronic information; and

(b) be accompanied by the prescribed fee; and

(c) be accompanied by a statement, on a form to be provided by the Electoral Commission, by the person seeking the information that the information is required for purposes permitted by this section and will not be used for any purpose other than those for which it is supplied.

(7) A request for information from a person described in subsection (2)(d) or (e) must, if the information is sought in electronic form supplied on an electronic storage medium, be accompanied by a storage medium for that electronic information.

(8) Regulations made under section 267 may prescribe fees, or a scale of fees, for the supply of computer-compiled lists and electronic storage media by the Electoral Commission to any person under this section, and for the giving of remote access to the information by electronic means.

(9) For the purposes of this section and section 112(1)(a),—

age group means, in relation to electors, those whose birthdays fall within a period of 5 years (being the first half or the second half of a decade)

decade means a period of 10 years that begins with a year that is divisible, without remainder, by 10.

Section 114: substituted, on 18 March 2002, by section 38 of the Electoral Amendment Act 2002 (2002 No 1).

Section 114(1): amended, on 1 July 2012, by section 52(17)(r) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 114(2)(d): repealed, on 1 July 2012, by section 52(11) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 114(3)(a): amended, on 1 July 2012, by section 52(17)(r) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 114(5): amended, on 1 July 2012, by section 52(17)(r) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 114(6)(c): amended, on 1 July 2012, by section 52(17)(r) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 114(8): amended, on 1 July 2012, by section 52(17)(r) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

114A General provision concerning supply of information by Electoral Commission in electronic form

If the Electoral Commission is required in accordance with this Act to supply information in electronic form, the Electoral Commission is only required to supply that information in a form, or using a medium, that is compatible with computer systems being used by the Electoral Commission at the time.

Section 114A: inserted, on 18 March 2002, by section 39 of the Electoral Amendment Act 2002 (2002 No 1).

Section 114A heading: amended, on 1 July 2012, by section 52(12) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 114A: amended, on 1 July 2012, by section 52(18)(e) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

115 Unpublished names

(1) Notwithstanding sections 101, 104, 105, 107, 108, and 110(3)(c) and (d), where the Electoral Commission is satisfied, on the application of any person, that the publication of that person's name would be prejudicial to the personal safety of that person or his or her family, the Electoral Commission may direct that—

(a) the name, residence, and occupation of that person shall not be published in any main or supplementary roll or in any list or index that may be available for inspection by the public; and

(b) the name and particulars of that person shall not be available for inspection under section 110(3)(c); and

(c) the application for registration of that person shall not be available for inspection under section 110(3)(d).

(2) Without limiting the discretion conferred on the Electoral Commission by subsection (1), the Electoral Commission may on the production of—

(a) a protection order that is in force under the Family Violence Act 2018 in respect of any person; or

(aa) a restraining order that is in force under the Harassment Act 1997 in respect of any person; or

(b) a statutory declaration from a constable to the effect that he or she believes that the personal safety of a person or of a person's family could be prejudiced by the publication of that person's name,—

exercise in respect of that person's name, and without further evidence or inquiry, the power conferred on the Electoral Commission by that subsection.

Compare: 1956 No 107 s 62A; 1980 No 29 s 27

Section 115(1): amended, on 1 July 2012, by section 52(18)(f) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 115(2): amended, on 1 July 2012, by section 52(13) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 115(2): amended, on 1 July 2012, by section 52(18)(f) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 115(2)(a): substituted, on 1 July 1996, by section 132 of the Domestic Violence Act 1995 (1995 No 86).

Section 115(2)(a): amended, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section 115(2)(aa): inserted, on 1 January 1998, by section 45 of the Harassment Act 1997 (1997 No 92).

Section 115(2)(b): substituted, on 17 August 2011, by section 15 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Offences

116 Offences relating to use of electoral information

(1) Every person commits an offence who knowingly and wilfully supplies, receives, or uses information supplied in electronic form, or derived from information supplied in electronic form, under section 112, 113, or 114 for a purpose other than a purpose authorised by those sections.

(2) Every person who commits an offence against this section is liable on conviction,—

(a) in the case of information supplied, received, or used for a commercial purpose, to a fine not exceeding $50,000; or

(b) in any other case, to a fine not exceeding $10,000.

Compare: 1956 No 107 s 64BB; 1990 No 1 s 28(1)

Section 116(1): substituted, on 18 March 2002, by section 40 of the Electoral Amendment Act 2002 (2002 No 1).

Section 116(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

117 Offences in respect of manipulating or processing electoral information

(1) Every person commits an offence who processes, manipulates, or otherwise changes by optical scanning or other electronic or mechanical means, any

information obtained pursuant to section 112 or section 113 or section 114 or contained in any habitation index or any printed roll, in such a way as to produce that information or part of that information in a different form from that in which it was supplied under this Act.

(2) It shall not be an offence against subsection (1) to process, manipulate, or otherwise change information obtained pursuant to any of the provisions of sections 112 to 114 into a different form if—

(a) the processing or manipulation is done, or the change is effected, by or on behalf of the person by whom the information was obtained; and

(b) the information, in its different form, is used only for purposes authorised by the provision under which it was obtained.

(3) It shall not be an offence against subsection (1) to process, manipulate, or otherwise change information obtained pursuant to any of the provisions of sections 112 to 114 or contained in any habitation index or any printed roll into a different form if the information was obtained under this Act more than 10 years before the date on which the processing or manipulation is done or the change is effected.

(4) Every person who commits a breach of subsection (1) is liable on conviction to a fine not exceeding $50,000.

(5) Every person commits an offence who—

(a) uses for any purpose; or

(b) supplies to any person—

any information the production of which contravenes subsection (1).

(6) Every person who commits a breach of subsection (5) is liable on conviction,—

(a) where the use or supply was for a commercial purpose, to a fine not exceeding $50,000; or

(b) where the use or supply was for any other purpose, to a fine not exceeding $10,000.

Compare: 1956 No 107 s 64BC; 1990 No 1 s 28(1)

Section 117(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 17(6): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

117A Offence relating to misuse of electoral information supplied under section 111D

(1) Every person commits an offence who knowingly and wilfully supplies, receives, or uses information of a kind described in section 111C(2) that is provided by, or derived from information provided by, the Electoral Commission

under section 111D, for any purpose other than a purpose authorised by section 111D(4) or section 111F(4).

(2) Every person who commits an offence against this section is liable on conviction,—

(a) in the case of information supplied, received, or used for a commercial purpose, to a fine not exceeding $50,000; or

(b) in any other case, to a fine not exceeding $10,000.

Section 117A: inserted, on 10 November 2003, by section 41 of the Electoral Amendment Act 2002 (2002 No 1).

Section 117A(1): amended, on 1 July 2012, by section 52(17)(s) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 117A(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

118 False statements

Every person who knowingly and wilfully makes a false statement in any application, certificate, or information supplied for the purposes of this Part is liable on conviction to—

(a) a term of imprisonment not exceeding 3 months; or

(b) a fine not exceeding $2,000.

Section 118: replaced, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

119 Wilfully misleading Electoral Commission

Every person shall for each offence be liable on conviction to a fine not exceeding $2,000 who—

(a) wilfully misleads the Electoral Commission in the compilation of any roll or list, or wilfully enters or causes to be entered thereon any false or fictitious name or qualification or the name of any person whom he or she knows to be dead:

(b) signs the name of any person, whether requested to do so or not, or any false or fictitious name to any form of application or objection for the purposes of this Part either as applicant, objector, or witness:

(c) signs his or her name as witness to any signature upon any such form of application or objection without either seeing the signature written or hearing the person signing declare that the signature is in his or her own handwriting and that the name so signed is his or her own proper name.

Compare: 1956 No 107 s 67(1); 1980 No 29 s 5(7); 1990 No 1 s 32(1)

Section 119 heading: amended, on 21 March 2017, by section 57(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 119: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 119(a): amended, on 21 March 2017, by section 57(2) of the Electoral Amendment Act 2017 (2017 No 9).

120 Duty to report suspected offences

Where the Electoral Commission believes that any person has committed an offence against section 119, it must report the facts on which that belief is based to the New Zealand Police.

Compare: 1956 No 107 s 67(2); 1983 No 104 s 15

Section 120: amended, on 21 March 2017, by section 58(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 120: amended, on 21 March 2017, by section 58(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 120: amended, on 17 August 2011, by section 16 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

121 Failure to deliver application

Every person shall be liable on conviction to a fine not exceeding $2,000 who, having obtained possession of an application for registration signed by any other person for the purpose of being delivered to the Electoral Commission for registration, wilfully fails so to deliver it so that the applicant's name is not entered on the roll.

Compare: 1956 No 107 s 68; 1980 No 29 s 5(7); 1990 No 1 s 33(1)

Section 121: amended, on 21 March 2017, by section 59 of the Electoral Amendment Act 2017 (2017 No 9).

Section 121: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Miscellaneous provisions

122 Assistance to be given to Electoral Commission

(1) All constables—

(a) must, at the Electoral Commission's request, assist the Electoral Commission by informing it of the name of any person whom they have reason to believe is qualified to be registered as an elector but is not registered, or is registered but is not qualified to be registered; and

(b) must give the Electoral Commission any information the Electoral Commission requests relating to the qualifications of any person for registration as an elector.

(2) All constables must also assist the Electoral Commission by making such inquiries and obtaining such information as he or she requests.

Compare: 1956 No 107 s 51; 1980 No 29 s 5(7)

Section 122 heading: amended, on 21 March 2017, by section 60(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 122(1): substituted, on 17 August 2011, by section 17 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 122(1)(a): amended, on 21 March 2017, by section 60(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 122(1)(b): amended, on 21 March 2017, by section 60(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 122(2): substituted, on 17 August 2011, by section 17 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 122(2): amended, on 21 March 2017, by section 60(4) of the Electoral Amendment Act 2017 (2017 No 9).

123 Copies of rolls, etc, for Returning Officer

(1) The Electoral Commission—

(a) must supply to the Returning Officer for an electoral district—

(i) as many copies as the Returning Officer may require of the main roll and supplementary rolls for the district and any other district; and

(ii) a copy of the list of post-writ day deletions referred to in section 98(5); and

(b) may supply to the Returning Officer for an electoral district any other information that the Electoral Commission holds that may assist with the identification of electors.

(2) Despite sections 105 to 107 and 110, the Electoral Commission may modify the form or format of any copies of rolls or information supplied under this section if that is necessary to facilitate the use of technology for finding an elector on a roll, or for the scrutiny of the rolls under this Act.

Section 123: replaced, on 11 March 2020, by section 10 of the Electoral Amendment Act 2020 (2020 No 2).

124 Power to destroy records

(1) Subject to subsection (3), the Electoral Commission may destroy any of the records described in subsection (2) if—

(a) the Electoral Commission considers that the records are no longer required; and

(b) 2 general elections have taken place since the records were made.

(2) The records referred to in subsection (1) are records held by the Electoral Commission, being—

(a) applications for registration as electors; and

(b) forms returned following an inquiry under section 89D; and

(c) records forming part of the dormant roll maintained under section 109(1).

(3) Nothing in this section authorises any person to destroy any records if he or she has reason to believe that those records are relevant to an election petition or

that the time for bringing an election petition to which those records may be relevant has not expired.

(4) Despite subsections (1) to (3), the Electoral Commission may destroy paper copies of any of the records described in subsection (2) if satisfied that accurate electronic images of those records have been created by or on behalf of the Electoral Commission and are being stored by or on behalf of the Electoral Commission in a manner that ensures that those electronic images are and will be able to be used for the same purposes as the paper copies would, if not destroyed, have been required by the rest of this Act to be able to be used.

(5) A requirement in or under this Act that a paper copy of a record be used for a particular purpose is, after that paper copy is destroyed under subsection (4), satisfied by using for that purpose the accurate electronic image, created and stored under subsection (4), of that paper copy.

Section 124: substituted, on 18 March 2002, by section 43 of the Electoral Amendment Act 2002 (2002 No 1).

Section 124(1): amended, on 21 March 2017, by section 62 of the Electoral Amendment Act 2017 (2017 No 9).

Section 124(1)(a): amended, on 21 March 2017, by section 62 of the Electoral Amendment Act 2017 (2017 No 9).

Section 124(2): amended, on 21 March 2017, by section 62 of the Electoral Amendment Act 2017 (2017 No 9).

Section 124(2)(b): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 124(4): added, on 17 August 2011, by section 18 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 124(4): amended, on 21 March 2017, by section 62 of the Electoral Amendment Act 2017 (2017 No 9).

Section 124(5): added, on 17 August 2011, by section 18 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Part 6
Elections

General elections

125 Writ for general election

Whenever Parliament is dissolved or expires, the Governor-General must, not later than 7 days after the dissolution or expiration, issue a writ in form 3 to the Electoral Commission requiring the Electoral Commission to make all necessary arrangements for the conduct of a general election.

Section 125: substituted, on 28 February 2002, by section 44 of the Electoral Amendment Act 2002 (2002 No 1).

Section 125: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

126 Writs for general election

[Repealed]

Section 126: repealed, on 28 February 2002, by section 44 of the Electoral Amendment Act 2002 (2002 No 1).

127 Election of list candidates

(1) At any general election any secretary of a political party that is registered under Part 4 may forward to the Electoral Commission a list of candidates for election to the seats reserved for those members of Parliament elected from lists submitted under this section.

(2) The list must—

(a) list candidates in order of the party's preference, commencing with the first in order of preference and ending with the last; and

(b) set out the contact details of each candidate; and

(c) contain a declaration made by the secretary, in the manner provided by section 9 of the Oaths and Declarations Act 1957, that states—

(i) that each candidate is qualified to be a candidate and to be elected; and

(ii) whether the party is a party in respect of which there are 1 or more component parties; and

(iii) if the party has 1 or more component parties, the name of each component party; and

(d) be in a form that the Electoral Commission has approved.

(3) Every list submitted under this section—

(a) must be submitted to the Electoral Commission not later than noon on the day before nomination day; and

(b) may be submitted by hand, post, or electronically.

(3A) *[Repealed]*

(4) The secretary of the political party must lodge with the list submitted under this section, in relation to each candidate nominated in the list,—

(a) a statement in a form provided by the Electoral Commission, signed by the candidate, and confirming the candidate's consent to the nomination; and

(b) any statutory declaration made by the candidate received under section 49(4)(b).

(5) *[Repealed]*

(6) The Electoral Commission shall give a receipt in writing for every list accepted by the Electoral Commission.

(7) Where a list under this section is submitted by a political party that has a logo registered under section 71F, the secretary of that political party may submit with the list a copy of the logo so registered for inclusion—

(a) on the left-hand side of the ballot paper beside the name of that party on the party vote part of the ballot paper; and

(b) on the right-hand side of the ballot paper beside the name of any constituency candidate of that party (if any) on the electorate vote part of the ballot paper.

(8) Every logo submitted under this section—

(a) must be submitted to the Electoral Commission not later than noon on the date specified in the writ for the election of constituency candidates as the latest date for the nomination of constituency candidates; and

(b) may be submitted by hand, post, or electronically.

Section 127(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 127(2): replaced, on 21 March 2017, by section 63(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 127(3): substituted, on 28 February 2002, by section 45(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 127(3): amended, on 21 March 2017, by section 63(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 127(3)(a): amended, on 21 March 2017, by section 63(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 127(3)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 127(3)(b): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 127(3A): repealed, on 21 March 2017, by section 63(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 127(4): substituted, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 127(5): repealed, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 127(6): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 127(7): added, on 6 December 1995, by section 35(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 127(7): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 127(8): substituted, on 28 February 2002, by section 45(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 127(8)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 127(8)(b): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

127A Deposit by party secretary

(1) If a secretary of a political party submits a list under section 127, he or she must pay to the Electoral Commission, no later than noon on the day before nomination day, a deposit of $1,000 (inclusive of goods and services tax).

(2) The deposit must be paid by—

(a) direct credit to a bank account nominated by the Electoral Commission; or

(b) bank cheque.

(3) The deposit is forfeit and must be paid into a Crown Bank Account if the party neither—

(a) receives in total at least 0.5% of the total number of all party votes received by all the parties listed on the part of the ballot paper that relates to the party vote; nor

(b) wins a constituency seat.

(4) In every other case the deposit must be returned to the secretary of the party on whose behalf the deposit is paid, but only after the Electoral Commission has received—

(a) a duly completed return under section 206I in respect of that party; and

(b) the auditor's report obtained under section 206L that relates to that return.

(5) For the purposes of subsection (3)(b), a party wins a constituency seat if—

(a) a constituency candidate for that party has his or her name endorsed on the writ under section 185 as a person declared to be elected as a member of Parliament; or

(b) a constituency candidate for a component party of that party (being a component party that is not listed on the part of the ballot paper that relates to the party vote but is, in accordance with the details held by the Electoral Commission under any of the provisions of sections 127(3A) and 128A, a component party of that party) has his or her name endorsed on a writ under section 185 as a person declared to be elected as a member of Parliament.

Section 127A: inserted, on 28 February 2002, by section 46 of the Electoral Amendment Act 2002 (2002 No 1).

Section 127A(1): amended, on 21 March 2017, by section 64 of the Electoral Amendment Act 2017 (2017 No 9).

Section 127A(1): amended, on 5 December 2013, by section 4(1) of the Electoral Amendment Act 2013 (2013 No 115).

Section 127A(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 127A(2): replaced, on 25 March 2014, by section 24 of the Electoral Amendment Act 2014 (2014 No 8).

Section 127A(3): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 127A(4)(a): amended, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 127A(4)(b): amended, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 127A(4)(b): amended, on 20 December 2007, by section 14(2) of the Electoral Amendment Act 2007 (2007 No 113).

Section 127A(5)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

128 Acceptance or rejection of lists by Electoral Commission

(1) The Electoral Commission must reject a list submitted under section 127—

(a) if the list is not submitted by a political party registered under Part 4; or

(b) if the list is not lodged with the Electoral Commission by noon on the day before nomination day; or

(c) if the list does not contain the name of at least 1 candidate; or

(d) if the list is not accompanied by the declaration required by section 127(3A); or

(da) *[Repealed]*

(e) if the deposit required by section 127A is not paid by noon on the day before nomination day.

(2) Where—

(a) any person named as a candidate on a list submitted under section 127 is not qualified both to be a candidate and to be elected a member of Parliament; or

(b) the consent of any person named as a candidate on a list submitted under section 127 is not lodged in the required form with the Electoral Commission not later than noon on the day before nomination day,—

the Electoral Commission shall delete the name of that person from the list and the order of preference in the list shall be deemed to be amended accordingly.

(3) If, after the deletion of any name or names of candidates from a list pursuant to subsection (2), there are no names of candidates left remaining on the list, the provisions of subsection (1)(c) shall apply.

Section 128 heading: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 128(1): substituted, on 28 February 2002, by section 47 of the Electoral Amendment Act 2002 (2002 No 1).

Section 128(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 128(1)(b): amended, on 21 March 2017, by section 65(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 128(1)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 128(1)(da): repealed, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 128(1)(e): amended, on 21 March 2017, by section 65(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 128(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 128(2)(b): amended, on 21 March 2017, by section 65(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 128(2)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

128A Notice of change in component parties

(1) Where the list of any political party has been accepted by the Electoral Commission under section 127(6), it shall be the duty of the secretary of that political party to notify the Electoral Commission by a declaration in the manner provided for by section 9 of the Oaths and Declarations Act 1957 of any change occurring before polling day in the details recorded in the declaration made under section 127(3A).

(2) Every change to which subsection (1) applies shall be notified under that subsection as soon as practicable after the time at which the change occurs.

Section 128A: inserted, on 6 December 1995, by section 37 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 128A(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

128B Electoral Commission must record and notify change in component parties

If the component parties of a political party listed in the copy of any declaration received by the Electoral Commission under section 127(3A) differ from those recorded in the Register of Political Parties established by section 62(2), the Electoral Commission—

(a) must amend the Register so that the component parties recorded in the Register are the same as those recorded in the declaration made to the Electoral Commission; and

(b) must, immediately after amending the Register under paragraph (a), publish in the *Gazette* a notice of the amendment made under that paragraph.

Section 128B: substituted, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

128C Withdrawal of list of candidates

(1) A secretary of a political party may, by giving signed notice, withdraw a list of candidates submitted under section 127.

(1A) The notice must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

(2) No withdrawal of a list of candidates under subsection (1) shall have any effect unless it is lodged with the Electoral Commission not later than noon on the date specified in the writ for the election of constituency candidates as the latest date for the nomination of constituency candidates.

(2A) If a list of candidates is withdrawn under subsection (1), the deposit paid under section 127A must be returned to the party secretary, unless the party secretary submits another list of candidates in accordance with section 127.

(3) Where a list of candidates is withdrawn under subsection (1), the party secretary may submit another list of candidates in accordance with section 127.

Section 128C: inserted, on 6 December 1995, by section 37 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 128C(1): replaced, on 21 March 2017, by section 66 of the Electoral Amendment Act 2017 (2017 No 9).

Section 128C(1A): inserted, on 21 March 2017, by section 66 of the Electoral Amendment Act 2017 (2017 No 9).

Section 128C(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 128C(2): amended, on 28 February 2002, by section 48(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 128C(2A): inserted, on 28 February 2002, by section 48(2) of the Electoral Amendment Act 2002 (2002 No 1).

By-elections for vacancies in seats of members representing electoral districts

129 By-elections for members representing electoral districts

(1) If the Speaker is satisfied that the seat of a member elected to represent an electoral district has become vacant, the Speaker must, without delay, publish a notice of the vacancy and its cause in the *Gazette*.

(2) The Governor-General must, within 21 days after the date of a notice published in accordance with subsection (1), issue to the Electoral Commission a writ in form 6 requiring the Electoral Commission to make all necessary arrangements for the conduct of a by-election to fill the vacancy.

(3) In any case in which it appears to the Governor-General to be necessary for special reasons, the Governor-General may, by Order in Council, authorise the postponement of the issue of a writ for a by-election until a day stated in the Order in Council, being a day not later than 42 days after the date on which the notice was published in accordance with subsection (1).

(4) This section does not apply to a vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.

Section 129: substituted, on 28 February 2002, by section 49 of the Electoral Amendment Act 2002 (2002 No 1).

Section 129(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

130 When Governor-General to act for Speaker

[Repealed]

Section 130: repealed, on 28 February 2002, by section 49 of the Electoral Amendment Act 2002 (2002 No 1).

131 Power to resolve in certain cases that by-election not be held

Notwithstanding anything in section 129, no writ shall be issued for a by-election to supply a vacancy in the House of Representatives if—

(a) the vacancy arises in the period of 6 months ending with the date of the expiration of the Parliament and a resolution that a writ not be issued to supply the vacancy is passed by a majority of 75% of all the members of the House of Representatives; or

(b) following the presentation to the House of Representatives by the Prime Minister of a document informing the House that a general election is to be held within 6 months of the occurrence of the vacancy, a resolution is passed by a majority of 75% of all the members of the House of Representatives to the effect that a writ is not to be issued to supply the vacancy.

Compare: 1956 No 107 s 73A; 1990 No 1 s 35

Section 131(b): amended, on 17 August 2011, by section 19 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

132 Writ for by-election

[Repealed]

Section 132: repealed, on 28 February 2002, by section 50 of the Electoral Amendment Act 2002 (2002 No 1).

133 No writ to issue pending election petition

If after a petition has been presented against the return of any member representing an electoral district his or her seat becomes vacant on any of the grounds mentioned in section 55 or 55A, no writ to fill the vacancy shall be issued until after the petition has been disposed of, and not then if the court determines that that member was not duly elected or returned and that some other person was duly elected or returned.

Compare: 1956 No 107 s 75

Section 133: amended, on 4 October 2018, by section 6 of the Electoral (Integrity) Amendment Act 2018 (2018 No 39).

Filling of vacancies in other seats

134 Supply of vacancy of seat of member elected from party list

(1) If the Speaker is satisfied that the seat of a member elected as a consequence of inclusion of the member's name on a list submitted under section 127 has become vacant, the Speaker must, without delay, publish a notice of the vacancy and its cause in the *Gazette*.

(2) The Governor-General must, as soon as practicable after the date of a notice published in accordance with subsection (1), issue to the Electoral Commission a warrant in form 7 directing the Electoral Commission to proceed forthwith to supply the vacancy.

(3) This section does not apply to a vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.

Section 134: substituted, on 28 February 2002, by section 51 of the Electoral Amendment Act 2002 (2002 No 1).

Section 134(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

135 When Governor-General to act for Speaker

[Repealed]

Section 135: repealed, on 28 February 2002, by section 51 of the Electoral Amendment Act 2002 (2002 No 1).

136 Power to resolve in certain cases not to supply vacancy

Notwithstanding anything in section 134, no direction shall be issued under that section to the Electoral Commission to supply a vacancy in the House of Representatives if—

(a) the vacancy arises in the period of 6 months ending with the date of the expiration of the Parliament and a resolution that a direction not be issued to supply the vacancy is passed by a majority of 75% of all the members of the House of Representatives; or

(b) following the presentation to the House of Representatives by the Prime Minister of a document informing the House that a general election is to be held within 6 months of the occurrence of the vacancy, a resolution is passed by a majority of 75% of all the members of the House of Representatives to the effect that a direction is not to be issued to supply the vacancy.

Compare: 1956 No 107 s 73A; 1990 No 1 s 35

Section 136: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 136(b): amended, on 17 August 2011, by section 20 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

137 Method of supplying vacancy

(1) On receipt of any direction under section 134, the Electoral Commission must proceed to fill the vacancy in the manner prescribed in this section.

(2) The Electoral Commission must determine which of the unelected candidates whose name was included in the same party list as the member whose seat has been declared vacant stood highest in the order of preference.

(3) If that candidate is still alive, the Electoral Commission must inquire of the secretary of the political party on whose list the candidate appeared, whether the candidate remains a member of that party.

(4) If that candidate is still alive and remains a member of that political party, the Electoral Commission must then inquire of that candidate whether that candidate is willing to be a member of Parliament, and if that candidate so indicates his or her willingness, the Electoral Commission must declare that person to be elected by notifying the person's election in the *Gazette*.

(5) If that person has died or is no longer a member of the political party or does not signify his or her willingness to be a member of Parliament, the Electoral Commission must proceed to make the inquiries described in subsections (3) and (4) in respect of the following candidate in order of preference on the party list, and so on, in descending order of preference, until one of the candidates who remains a member of the party signifies his or her willingness to be a member of Parliament, in which case the Electoral Commission must declare that person to be elected by notifying the person's election in the *Gazette*.

(6) If—

(a) no candidate signifies his or her willingness to be a member of Parliament; or

(b) there is no candidate lower in the order of preference on the party list than the member of Parliament whose seat has been declared vacant,—

the vacancy shall not be filled until the next general election.

(7) Whenever subsection (6) applies, the Electoral Commission must publish in the *Gazette* a notice stating that the vacancy cannot be filled.

Section 137: substituted, on 6 December 1995, by section 38 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 137(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 137(1): amended, on 28 February 2002, by section 52(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 137(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 137(3): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 137(4): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 137(4): amended, on 28 February 2002, by section 52(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 137(5): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 137(5): amended, on 28 February 2002, by section 52(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 137(7): added, on 28 February 2002, by section 52(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 137(7): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

138 Filing of return

Where any vacancy is filled under section 137, or the Electoral Commission determines that the vacancy cannot be filled, the Electoral Commission shall, as soon as is convenient, file with the Clerk of the House of Representatives a return indicating,—

(a) in any case where the vacancy can be filled, the name of the person declared to be elected and the date of the return; or

(b) in any case where the vacancy cannot be filled, the fact that the vacancy cannot be filled and the date of the return.

Section 138: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Issue of writ

Heading: amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

139 Contents of writ

(1) In every writ for a general election or a by-election there shall be appointed—

(a) the latest day for the nomination of constituency candidates; and

(b) a day for the polling to take place if a poll is required, being a Saturday; and

(c) the latest day for the return of the writ.

(2) Polling day must not be earlier than the 20th day after nomination day.

(3) *[Repealed]*

(4) The latest day for the return of the writ (other than a writ issued under section 153E(2)) shall be the 60th day after its issue.

(5) The latest day for the return of a writ issued under section 153E(2) shall be the 78th day after its issue.

Compare: 1956 No 107 s 76; 1975 No 28 s 30; 1985 No 149 s 18

Section 139(1): amended, on 28 February 2002, by section 53(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 139(2): replaced, on 11 March 2020, by section 11(1) of the Electoral Amendment Act 2020 (2020 No 2).

Section 139(3): repealed, on 28 February 2002, by section 53(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 139(4): amended, on 11 March 2020, by section 11(2) of the Electoral Amendment Act 2020 (2020 No 2).

Section 139(4): amended, on 28 February 2002, by section 53(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 139(5): amended, on 28 February 2002, by section 53(3) of the Electoral Amendment Act 2002 (2002 No 1).

140 Chief Registrar to be notified of writ

[Repealed]

Section 140: repealed, on 1 July 2012, by section 50 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

141 Returning Officer to be notified of writ

[Repealed]

Section 141: repealed, on 21 March 2017, by section 67 of the Electoral Amendment Act 2017 (2017 No 9).

142 Electoral Commission to give public notice of polling day, nomination day, and nomination process

(1) Immediately after receiving a writ requiring an election to be held in a district, the Electoral Commission must give public notice of the following matters:

(a) the polling day appointed in the writ:

(b) the nomination day appointed in the writ:

(c) the requirements for submitting nominations of candidates.

(2) *[Repealed]*

Section 142: substituted, on 28 February 2002, by section 54 of the Electoral Amendment Act 2002 (2002 No 1).

Section 142 heading: amended, on 21 March 2017, by section 68(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 142(1): amended, on 21 March 2017, by section 68(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 142(2): repealed, on 21 March 2017, by section 68(3) of the Electoral Amendment Act 2017 (2017 No 9).

Nominations

143 Nominations of candidates for electoral districts

(1) Any person qualified under this Act may, with his or her consent, be nominated as a constituency candidate for election for any electoral district, by not fewer than 2 registered electors of that district, by a nomination paper on a form provided by the Electoral Commission.

(2) A person's consent to nomination—

(a) must, unless subsection (3) applies, be given in writing or electronically; but

(b) need not be given at the time the nomination paper is lodged.

(3) Where any person is for the time being outside New Zealand, his or her consent, for the purposes of subsection (2), may be signified to the Returning Officer in any manner approved by the Electoral Commission.

(3A) *[Repealed]*

(4) Every nomination paper and every consent and every logo submitted under subsection (3A) for inclusion on the ballot paper shall be lodged with or given to the Returning Officer for the district not later than noon on nomination day. The Returning Officer shall give a receipt in writing for every nomination accepted by him or her.

(5) Each constituency candidate shall be nominated by a separate nomination paper in such manner as, in the opinion of the Returning Officer, is sufficient to identify the constituency candidate.

(6) Every constituency candidate shall ensure that the name or names shown on the nomination paper as the name or names to be used on the ballot paper are short enough to fit on the ballot paper.

(7) No elector may nominate more than 1 constituency candidate.

(8) Any registered elector of the district may inspect any nomination paper or consent at the Returning Officer's office without payment at any time when the office is open for the transaction of business.

Compare: 1956 No 107 s 80(1)–(6); 1990 No 1 s 38

Section 143(1): substituted, on 28 February 2002, by section 55(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 143(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 143(2): replaced, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 143(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 143(3A): repealed, on 21 March 2017, by section 69 of the Electoral Amendment Act 2017 (2017 No 9).

Section 143(4): substituted, on 6 December 1995, by section 39(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

144 Deposit by candidate

(1) Every constituency candidate, or some person on the constituency candidate's behalf, shall deposit with the Returning Officer the sum of $300 not later than noon on nomination day.

(2) The deposit may be paid—

(a) in the form of money, a bank draft, or a bank cheque; or

(b) in any other form that the Electoral Commission approves.

(3) The deposit of an unsuccessful candidate is forfeit and must be paid into a Crown Bank Account if the candidate receives in total less than 5% of the total number of votes received by constituency candidates in the district.

(4) In every other case, the deposit of a constituency candidate must be returned to the person who paid it, but only after the Electoral Commission has received from that candidate duly completed returns under sections 205K and 209.

Compare: 1956 No 107 s 81; 1990 No 1 s 39(1)

Section 144(2): replaced, on 21 March 2017, by section 70 of the Electoral Amendment Act 2017 (2017 No 9).

Section 144(3): substituted, on 28 February 2002, by section 56 of the Electoral Amendment Act 2002 (2002 No 1).

Section 144(3): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 144(4): added, on 28 February 2002, by section 56 of the Electoral Amendment Act 2002 (2002 No 1).

Section 144(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 144(4): amended, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 144(4): amended, on 20 December 2007, by section 16 of the Electoral Amendment Act 2007 (2007 No 113).

145 Acceptance or rejection of nomination

(1) Subject to the concurrence of the Electoral Commission, the Returning Officer shall reject the nomination of any constituency candidate—

(a) if the nomination paper and the consent of the candidate are not lodged with the Returning Officer not later than noon on nomination day; or

(b) if the nomination paper does not state that the candidate is a registered elector of a specified electoral district, or, where section 49 applies, is a qualified elector of a specified electoral district; or

(c) if the nomination paper is not signed by at least 2 registered electors of the district for which the nomination is made; or

(ca) *[Repealed]*

(d) if the required deposit is not paid as required by this Act.

(2) Subject to the concurrence of the Electoral Commission, the Returning Officer shall not accept the nomination of any constituency candidate if the Returning Officer is not satisfied, by such evidence (if any) as the Returning Officer requires, that the name under which the candidate is nominated is—

(a) the name under which the candidate's birth was registered, with any alteration or addition made thereto under section 20 of the Births, Deaths, Marriages, and Relationships Registration Act 1995 or an earlier corresponding provision; or

(b) in the case of a person who has been adopted, the name conferred on that person by the adoption order; or

(c) the name by which the candidate was commonly known throughout the period of 12 months ending with the day on which the nomination paper is lodged with the Returning Officer; or

(d) the name which was adopted by the candidate through a name change registered under section 21B of the Births, Deaths, Marriages, and Relationships Registration Act 1995 (or an earlier corresponding provision) before the period of 12 months ending with the day on which the nomination paper is lodged with the Returning Officer and which was used by the candidate throughout that period.

(3) Despite anything in subsection (2), in applying that subsection in the case of any constituency candidate who is, or has been, married to, or in a civil union with, another person, the other person's surname may be substituted for the candidate's surname in any of the cases specified in paragraphs (a) to (d) of that subsection, unless, if the other person were nominated as a constituency candidate under that surname, the Returning Officer would be required to reject his or her nomination under the provisions of that subsection.

(4) *[Repealed]*

(5) Notwithstanding anything in subsection (2), the Returning Officer may, with the concurrence of the Electoral Commission, accept the nomination of any constituency candidate under a name that does not comply with the provisions of that subsection, if the Returning Officer is satisfied that the name has been adopted by the candidate in good faith and for good reason and is not indecent or offensive or likely to deceive or cause confusion.

(6) In every other case the Returning Officer shall accept the nomination.

(7) Nothing in subsection (6) limits the jurisdiction of the court hearing an election petition.

Compare: 1956 No 107 s 82; 1983 No 104 s 16(1)

Section 145(1): amended, on 21 March 2017, by section 71 of the Electoral Amendment Act 2017 (2017 No 9).

Section 145(1)(ca): repealed, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 145(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 145(2)(a): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 145(2)(a): amended, on 1 September 1995, pursuant to section 96 of the Births, Deaths, and Marriages Registration Act 1995 (1995 No 16).

Section 145(2)(d): substituted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 145(3): substituted, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 145(4): repealed, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 145(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146 Withdrawal of nomination

(1) A constituency candidate may, by giving signed notice, withdraw his or her nomination.

(1A) The notice must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

(2) No withdrawal of nomination shall have any effect unless it is lodged with the Returning Officer not later than noon on nomination day.

(3) Where a candidate has duly withdrawn his or her nomination his or her deposit shall be returned to the person who paid it.

Compare: 1956 No 107 s 83

Section 146(1): replaced, on 21 March 2017, by section 72 of the Electoral Amendment Act 2017 (2017 No 9).

Section 146(1A): inserted, on 21 March 2017, by section 72 of the Electoral Amendment Act 2017 (2017 No 9).

Bulk nomination of candidates by registered political parties

Heading: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

146A Purpose of sections 146B to 146L

Sections 146B to 146L provide an alternative to the procedures set out in sections 143 to 146 by which people can be nominated as candidates for election for electoral districts.

Section 146A: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

146B Notice of intention to lodge bulk nomination

(1) If, at any general election, a political party that is registered under Part 4 intends to lodge a bulk nomination schedule of candidates for election for electoral districts, the secretary of that party must notify that intention to the Electoral Commission.

(2) A notification under subsection (1)—

(a) must be given not later than 1 working day after writ day for the general election; and

(b) must be on a form provided by the Electoral Commission; and

(c) may be given by hand, post, or electronically.

(3) The secretary of a party may, at any time before lodging a bulk nomination schedule, withdraw a notification under subsection (1) by notifying the withdrawal to the Electoral Commission.

(4) A withdrawal under subsection (3)—

(a) must be on a form provided by the Electoral Commission; and

(b) may be given by hand, post, or electronically.

Section 146B: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146B(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146B(2)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146B(2)(c): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 146B(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146B(4)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146B(4)(b): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

146C Effect of notification of intention to lodge bulk nomination on nominations under section 143

(1) If the secretary of a political party notifies the party's intention to the Electoral Commission under section 146B(1), that notification remains in force for the purposes of the general election unless—

(a) the notification is withdrawn under section 146B(3); or

(b) any bulk nomination schedule lodged by the secretary of that party is rejected under section 146G; or

(c) the secretary of that party withdraws, under section 146I, a bulk nomination schedule previously lodged by the secretary without providing either of the following:

(i) an express statement on the form on which the withdrawal is made that the party intends to lodge another bulk nomination schedule; or

(ii) another bulk nomination schedule in accordance with section 146D.

(2) While a notification of a party's intention under section 146B remains in force for the purposes of a general election,—

(a) no Returning Officer may accept a nomination made under section 143 in respect of a candidate for that political party; and

(b) if a Returning Officer has already accepted a nomination made under section 143 in respect of a candidate for that political party, that nomination is of no effect and is to be treated as if it had been withdrawn under section 146.

Section 146C: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146C(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146D Bulk nomination of constituency candidates

(1) At any general election, the secretary of a political party that is registered under Part 4 may, in accordance with this section, nominate as candidates for election for electoral districts persons who are qualified under this Act and who consent to be nominated.

(2) The secretary of a party may nominate its candidates under this section by lodging, with the Electoral Commission, a single bulk nomination schedule on a form provided by the Electoral Commission.

(3) A bulk nomination schedule—

(a) may be lodged by hand, post, or electronically; and

(b) must be lodged with the Electoral Commission not later than noon on the day before nomination day.

(4) The Electoral Commission must give a written receipt for every bulk nomination schedule that the Electoral Commission accepts.

Section 146D: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146D(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146D(3)(a): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 146D(3)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146D(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146D(4): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146E Bulk nomination schedule

(1) The following requirements apply in relation to a bulk nomination schedule:

(a) the schedule must specify the electoral districts for which candidates are nominated in the schedule:

(b) the schedule must state, in relation to each such electoral district,—

(i) the full name of the constituency candidate; and

(ii) if the candidate's full name is not to be used on the ballot paper, the name or names to be used, which must be short enough to fit on the ballot paper.

(2) Every bulk nomination schedule must contain a declaration, made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, that the secretary is satisfied that each constituency candidate nominated in the schedule is qualified under this Act to be a constituency candidate.

(3) The secretary of the political party must lodge with the bulk nomination schedule, in relation to each constituency candidate nominated in the schedule,—

(a) a statement in a form provided by the Electoral Commission, signed by the constituency candidate, and confirming the candidate's consent to the nomination; and

(b) any statutory declaration made by the constituency candidate received under section 49(4)(b).

(4) If the secretary of a political party lodges a bulk nomination schedule and the political party has a logo registered under section 71F, but the political party is not submitting a party list under section 127, then a copy of the logo may be lodged with the Electoral Commission for inclusion on the ballot paper in accordance with section 150(13).

(5) Every logo lodged under subsection (4)—

(a) may be lodged by hand, post, or electronically; and

(b) must be lodged with the Electoral Commission not later than noon on nomination day.

Section 146E: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146E(3): substituted, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146E(4): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 146E(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146E(5)(a): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 146E(5)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146F Deposit payable in respect of bulk nomination schedule

(1) If a secretary of a party lodges a bulk nomination schedule under section 146D, he or she must pay to the Electoral Commission, by noon on the day before nomination day, a deposit of $300 (inclusive of goods and services tax) for every constituency candidate nominated in the bulk nomination schedule.

(2) The deposit must be paid in 1 lump sum by—

(a) direct credit to a bank account nominated by the Electoral Commission; or

(b) bank cheque.

(3) If an unsuccessful constituency candidate nominated in a bulk nomination schedule receives in total less than 5% of the total number of votes received by constituency candidates in the district for which the unsuccessful candidate was nominated, the amount of the deposit paid under subsection (1) in respect of that unsuccessful candidate is forfeit and must be paid into a Crown Bank Account.

(4) After deducting any amounts forfeit under subsection (3), the Electoral Commission must return the remainder (if any) of the amount paid under subsection (1) to the party secretary, but only if the Electoral Commission has received from every constituency candidate nominated in the bulk nomination schedule duly completed returns under sections 205K and 209.

Section 146F: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146F(1): amended, on 5 December 2013, by section 5(1) of the Electoral Amendment Act 2013 (2013 No 115).

Section 146F(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146F(2): replaced, on 25 March 2014, by section 25 of the Electoral Amendment Act 2014 (2014 No 8).

Section 146F(3): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 146F(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146F(4): amended, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 146F(4): amended, on 20 December 2007, by section 18 of the Electoral Amendment Act 2007 (2007 No 113).

146G Acceptance or rejection of bulk nomination schedule or nomination of candidate

(1) The Electoral Commission must reject a bulk nomination schedule lodged under section 146D—

(a) if the schedule is not lodged by the secretary of a political party registered under Part 4; or

(b) if the intention to lodge the schedule has not been notified under section 146B; or

(c) if the schedule is not lodged with the Electoral Commission by noon on the day before nomination day; or

(d) if the schedule does not contain the declaration required by section 146E(2); or

(da) *[Repealed]*

(e) if the deposit required by section 146F(1) is not paid by noon on the day before nomination day.

(2) The Electoral Commission must not accept the nomination of a candidate listed on a bulk nomination schedule in any case where a Returning Officer would be required to reject the nomination of that candidate under section 145(2) if the candidate had been nominated under section 143; and the provisions of subsections (2) to (5) of section 145 apply accordingly with all necessary modifications.

(3) The Electoral Commission must reject the nomination of a candidate listed on a bulk nomination schedule if—

(a) the candidate is not qualified both to be a candidate and to be elected as a member of Parliament; or

(b) the written notice required by section 146E(3) in relation to that candidate is not lodged with the Electoral Commission by noon on nomination day.

(4) In every other case the Electoral Commission must accept the bulk nomination schedule and the nominations made on the schedule.

(5) Subsection (4) does not limit the jurisdiction of the court hearing an election petition.

Section 146G: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146G(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146G(1)(c): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146G(1)(da): repealed, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 146G(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146G(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146G(3)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146G(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146H Amendment of bulk nomination schedule

(1) If the secretary of a party lodges a bulk nomination schedule with the Electoral Commission by noon on the day before nomination day, the secretary may, at any time before noon on nomination day, provide to the Electoral Commission any information necessary to remedy any defect or omission in the schedule, or in any document required to be lodged with the schedule.

(2) Information may be provided under subsection (1) to the Electoral Commission by hand, post, or electronically.

(3) If the Electoral Commission receives any information under subsection (1),—

(a) the Electoral Commission must, where appropriate, amend the bulk nomination schedule or other document to which the information relates:

(b) the Electoral Commission must take the information into account in determining whether to accept or reject, under section 146G, the bulk nomination schedule, or the nomination of a candidate listed on the schedule.

(4) This section does not authorise the secretary of a party to—

(a) substitute a different person as a candidate for election for an electoral district; or

(b) nominate a candidate for election for an electoral district for which no candidate was nominated in the schedule as originally lodged with the Electoral Commission.

Section 146H: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146H(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146H(2): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 146H(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146H(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146H(3)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146H(3)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146H(4)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146I Withdrawal of bulk nomination schedule

(1) A secretary of a party may withdraw a bulk nomination schedule lodged by him or her under section 146D.

(2) A bulk nomination schedule may be withdrawn under subsection (1) by notice, on a form provided by the Electoral Commission, signed by the secretary of the party and witnessed by a Justice of the Peace or a solicitor.

(3) The withdrawal of a bulk nomination schedule has no effect unless the withdrawal is lodged with the Electoral Commission, by hand, post, or electronically, by noon on nomination day.

(4) If the secretary of a party withdraws a bulk nomination schedule under subsection (1), any notification given by that party under section 146B(1) automatically ceases to be in force, unless—

(a) the form on which the withdrawal is made expressly states that the party intends to lodge another bulk nomination schedule; or

(b) at the time of lodging the withdrawal, the party secretary lodges another bulk nomination schedule in accordance with section 146D.

(5) If a bulk nomination schedule is withdrawn under subsection (1), the party secretary may lodge another bulk nomination schedule in accordance with section 146D.

(6) If a bulk nomination schedule is withdrawn under subsection (1), the deposit paid under section 146F must be returned to the party secretary, unless the party secretary submits another bulk nomination schedule in accordance with section 146D.

Section 146I: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146I(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146I(3): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 146I(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146J Withdrawal of nomination in bulk nomination schedule

(1) A constituency candidate nominated in a bulk nomination schedule or in accordance with section 146K may, by giving signed notice, withdraw his or her nomination.

(1A) The notice must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

(2) No withdrawal of nomination under subsection (1) has any effect unless it is lodged with the Electoral Commission not later than noon on nomination day.

(3) If a candidate for election for an electoral district withdraws his or her nomination under subsection (1), the amount of the deposit paid under section 146F(1) in respect of that candidate must be returned to the party secretary, unless another candidate for election for that electoral district is nominated under section 146K.

Section 146J: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146J(1): replaced, on 21 March 2017, by section 73 of the Electoral Amendment Act 2017 (2017 No 9).

Section 146J(1A): inserted, on 21 March 2017, by section 73 of the Electoral Amendment Act 2017 (2017 No 9).

Section 146J(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146K Replacement nomination if earlier nomination withdrawn or lapses

(1) If a candidate for election for an electoral district withdraws his or her nomination under section 146J, or the nomination of a constituency candidate nominated in a bulk nomination schedule is required by section 152 or section 152A(3) to be treated as if it had not been made, the secretary of the party may nominate another candidate for election for that electoral district in the following manner:

(a) written notice of the nomination must be lodged with the Electoral Commission, by hand, post, or electronically, not later than noon on nomination day:

(b) the requirements set out in subsections (1) to (3) of section 146E apply in relation to a notice under this section as if the nomination were made in a bulk nomination schedule:

(c) the secretary of the party must lodge with the Electoral Commission, by noon on nomination day, a deposit (in the form of money, a bank draft, or a bank cheque) of the amount payable under section 146F(1) for a constituency candidate nominated in a bulk nomination schedule, unless the Electoral Commission holds the amount of the deposit paid under section 146F(1) in respect of the candidate whose nomination was withdrawn or (as the case may be) who died or became incapacitated.

(2) Sections 146F(3) and (4), 146G, and 146H apply in relation to a nomination lodged under this section as if the nomination had been included in a bulk nomination schedule, except that the references in those sections to the day before nomination day are to be read as references to nomination day.

Section 146K: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146K(1)(a): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 146K(1)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146K(1)(c): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

146L Inspection of bulk nomination schedules and consents to nomination

Any registered elector may inspect the following material at the Electoral Commission's office without payment at any time when the office is open for the transaction of business:

(a) any bulk nomination schedule lodged under this Act:

(b) any copy of a consent lodged with a bulk nomination schedule in accordance with section 146E(3):

(c) any information provided to the Electoral Commission under section 146H:

(d) any nomination lodged under section 146K.

Section 146L: inserted, on 28 February 2002, by section 57 of the Electoral Amendment Act 2002 (2002 No 1).

Section 146L: amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 146L(c): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Advertisements

147 Advertisement of nomination and polling places

(1) After the close of nominations in any district, the Returning Officer must, as soon as practicable, forward to the Electoral Commission at Wellington the names of the constituency candidates who have been nominated under section 143 and who have not withdrawn their nominations.

(2) The Electoral Commission must immediately notify to every Returning Officer—

(a) the names of the constituency candidates who have been nominated for each district in which a poll is required to be taken and who have not withdrawn their nominations; and

(b) the party affiliations (if any) of the candidates referred to in paragraph (a), and copies of the party logos (if any) submitted in accordance with section 146E(4) in respect of those candidates; and

(c) the names of the political parties that have submitted lists in accordance with section 127 and the party logos (if any) submitted in accordance with subsections (7) and (8) of that section in respect of those parties; and

(d) the names of the candidates on the lists referred to in paragraph (c) or, where the names of more than 65 candidates are included on any such list, the first 65 of those names.

(3) The Electoral Commission—

(a) must publish the nomination and polling place information on an Internet site administered by the Electoral Commission; and

(b) may also, by any other means it considers appropriate, provide registered electors for the district with the nomination and polling place information.

(4) In this section, the **nomination and polling place information**, in relation to a district, means—

(a) the names of constituency candidates contesting the district and their party affiliations (if any); and

(b) the name of each political party that submitted a list in accordance with section 127 and, under the name of each political party, the names of the political party's list candidates in the political party's order of preference (up to a maximum of 65 candidates); and

(c) the polling places for the district; and

(d) the polling places in the district that have suitable access for persons who are physically disabled.

(5) *[Repealed]*

Section 147: substituted, on 6 December 1995, by section 40 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 147(1): replaced, on 21 March 2017, by section 74(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 147(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 147(2)(b): amended, on 21 March 2017, by section 74(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 147(2)(b): amended, on 28 February 2002, by section 58(b) of the Electoral Amendment Act 2002 (2002 No 1).

Section 147(3): replaced, on 21 March 2017, by section 74(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 147(4): replaced, on 21 March 2017, by section 74(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 147(5): repealed, on 21 March 2017, by section 74(3) of the Electoral Amendment Act 2017 (2017 No 9).

Uncontested elections

148 Procedure where election not contested

(1) If—

(a) only 1 constituency candidate is nominated in a district; or

(b) any constituency candidate who has been nominated duly withdraws his or her nomination and there remains only 1 constituency candidate,—

the Electoral Commission must, in accordance with section 179(2), declare the constituency candidate to be duly elected.

(2) The name of the person so elected must be endorsed on the writ by an Electoral Commissioner on behalf of the Electoral Commission, and the writ must be returned to the Clerk of the House of Representatives in accordance with section 185.

Section 148: substituted, on 28 February 2002, by section 59 of the Electoral Amendment Act 2002 (2002 No 1).

Section 148(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 148(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Elections

149 Poll to be taken

A poll shall be taken by secret ballot at the several polling places of the district on polling day.

Compare: 1956 No 107 s 86

150 Form of ballot papers

(1) Subject to subsection (18), the ballot papers to be used at any election shall be in form 11.

(2) Forthwith after nomination day for an election, the Electoral Commission must cause ballot papers to be printed in sufficient numbers for the election.

(3) Subject to subsection (4), each ballot paper in form 11 shall comprise 2 votes, namely, a party vote and an electorate vote.

(4) If only 1 constituency candidate is nominated or if the withdrawal of 1 or more nominations results in a declaration under section 148, the part of the ballot paper that relates to the electorate vote shall not be printed and the ballot paper shall thereafter be treated as if it comprised only the party vote.

(5) If more than 1 constituency candidate is nominated, and a sufficient number of constituency candidates do not withdraw their nominations so as to leave only 1 constituency candidate, the part of the ballot paper relating to the electorate vote shall contain a list of all the persons nominated as constituency candidates who have not withdrawn their nominations (which list shall be arranged in the manner prescribed by this section).

(6) On the part of the ballot paper relating to the electorate vote—

(a) the names of the constituency candidates shall be arranged alphabetically in order of their surnames:

(b) the other names of each constituency candidate that are required to appear on the ballot paper shall follow the candidate's surname:

(c) the surnames of the constituency candidates shall (except in the case of a special ballot paper that is not fully printed) be in large characters and bold type:

(d) the name of the political party of the constituency candidate, if any,—

(i) shall be shown immediately below the candidate's name; and

(ii) shall be in characters that are smaller than those used for the surname of the constituency candidate; and

(iii) shall not be in bold type:

(e) such other matter (if any) as may be necessary to distinguish the names of the constituency candidates shall be shown.

(7) A constituency candidate (other than an independent candidate) who seeks election shall not use the name of any political party that contested the last general election or any by-election held since the last general election unless that political party has endorsed that candidate as one of its candidates.

(8) No constituency candidate who seeks election as an independent candidate shall use the name of any political party that contested the last general election or any by-election held since the last general election but shall have the word "INDEPENDENT", without further qualification or addition, shown on the ballot paper immediately below that candidate's name.

(9) On the part of the ballot paper relating to the party vote the name of each political party that has submitted a list in accordance with section 127 (not being a political party that has submitted a list that has been rejected under section 128) shall be shown.

(10) The names of the political parties that, pursuant to subsection (9), are required to be shown on the part of the ballot paper that relates to the party vote, shall be arranged so that—

(a) where the name of any such political party is shown, immediately below the name of a constituency candidate whose name appears on the part of the ballot paper that relates to the electorate vote, the name of that political party shall be shown on the part of the ballot paper that relates to the party vote in a box that is aligned with the box that contains, on the part of the ballot paper that relates to the electorate vote, the name of that constituency candidate and the name of that political party; and

(b) where the names of any such political parties are not shown on the part of the ballot paper that relates to the electorate vote, the names of those political parties shall be shown in alphabetical order on the part of the ballot paper that relates to the party vote, with each such name being placed after the names of the political parties shown on that part of the ballot paper under paragraph (a) and in a box that is aligned with an empty box on the part of the ballot paper that relates to the electorate vote.

(11) Subject to subsections (6)(e), (12)(b), and (13)(b), no other identification, such as an occupation, title, honour, or degree shall be included on the ballot paper in relation to any candidate's name or political party.

(12) On the part of the ballot paper that relates to the party vote,—

(a) a circle shall be shown on the ballot paper to the right of the name of each political party; and

(b) the party's logo, if registered by the Electoral Commission and submitted to the Electoral Commission for inclusion on the ballot paper, shall be shown to the left of the name of the political party.

(13) On the part of the ballot paper that relates to the electorate vote,—

(a) a circle shall be shown on the ballot paper to the left of each candidate's name; and

(b) the party's logo, if registered by the Electoral Commission and submitted to the Electoral Commission in accordance with subsections (7) and (8) of section 127 or in accordance with subsections (4) and (5) of section 146E for inclusion on the ballot paper, shall be shown to the right of the name of the candidate.

(14) Every ballot paper shall have a counterfoil in form 13.

(15) There shall also be printed (in a form that is readable either with or without the aid of technology)—

(a) on the ballot paper; and

(b) in the space provided in the counterfoil attached to the ballot paper,—

a number (called a consecutive number) beginning with the number 1 in the case of the first ballot paper printed, and on all succeeding ballot papers printed the numbers shall be consecutive so that no 2 ballot papers for the district shall bear the same number.

(16) Where any question arises concerning the order or manner in which the names of the constituency candidates or the names of the political parties are to be shown on the ballot paper, the Electoral Commission must decide the question.

(17) At any by-election no ballot paper shall contain more than 1 part and the provisions of subsections (3), (9), (10), and (12) shall not apply.

(18) Every ballot paper used at a by-election shall be in form 12.

(19) Where the name or names given by a candidate as the name or names to be used on the ballot paper are too long to fit on the ballot paper, the Electoral Commission may abbreviate the name or names to be shown in such manner as will enable them to fit on the ballot paper.

Section 150: substituted, on 6 December 1995, by section 41 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 150(2): amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 150(12)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 150(13)(b): amended, on 21 March 2017, by section 75 of the Electoral Amendment Act 2017 (2017 No 9).

Section 150(13)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 150(13)(b): amended, on 28 February 2002, by section 60(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 150(15): amended, on 28 February 2002, by section 60(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 150(16): amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 150(19): amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

151 Name of political party for constituency candidates

(1) Where a name is shown on a nomination paper, or other document on which a constituency candidate consents to his or her nomination, as the name of the constituency candidate's political party, the Returning Officer may, if he or she considers it necessary, require the candidate to produce evidence sufficient to satisfy the Returning Officer of the candidate's eligibility to claim that accreditation.

(2) Subject to the concurrence of the Electoral Commission, where the Returning Officer considers that the name shown on the nomination paper or other document as the name of the constituency candidate's political party is indecent or offensive or excessively long or likely to cause confusion to or mislead electors,—

(a) the Returning Officer shall, after consultation with the candidate, show on the ballot paper as the name of the candidate's political party such name as the Returning Officer and the candidate agree upon in place of that shown on the nomination paper or other document; and

(b) if, on such consultation, the Returning Officer and the candidate cannot agree, or if consultation is not reasonably practicable, the Returning Officer shall not show any name on the ballot papers as the name of the candidate's political party.

Compare: 1956 No 107 s 87A; 1990 No 1 s 40(1)

Section 151(2): amended, on 21 March 2017, by section 76 of the Electoral Amendment Act 2017 (2017 No 9).

Death or incapacity of candidate

Heading: substituted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

151A Interpretation

For the purposes of sections 152A to 153H, a candidate is **incapacitated** if the Returning Officer or, as the case requires, the Electoral Commission is satisfied that, because the candidate is suffering from a serious illness or has sustained a serious injury,—

(a) if section 152A applies, the candidate is unable to personally withdraw his or her nomination; and

(b) in any case, the candidate, if elected, would be unlikely to be capable of taking the Oath of Allegiance as a member of Parliament on the 61st day after writ day.

Section 151A: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 151A: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 151A(b): amended, on 11 March 2020, by section 12 of the Electoral Amendment Act 2020 (2020 No 2).

152 Death before close of nominations

(1) If a constituency candidate who has been nominated and has not withdrawn his or her nomination dies before the close of nominations,—

(a) his or her nomination is to be treated in all respects as if it had not been made; and

(b) his or her deposit must be returned to his or her personal representatives or, as the case may be, to the person who paid it.

(2) Subsection (3) applies if the candidate dies on nomination day before noon, or on any of the 3 days immediately before nomination day.

(3) If this subsection applies, then, once the Returning Officer is satisfied of the fact of death,—

(a) the time for the close of nominations in that district is postponed until noon on the fourth day after the date of the candidate's death; and

(b) the Returning Officer must immediately give public notice of the fact that the close of nominations in that district has been postponed and of the new time for the close of nominations.

(4) If subsection (3) applies, but the candidate was nominated in a bulk nomination schedule or in accordance with section 146K, the references to Returning Officer in subsection (3) are to be read as references to the Electoral Commission.

Section 152: substituted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 152(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

152A Incapacity of candidate before close of nominations

(1) If a constituency candidate who has been nominated and has not withdrawn his or her nomination becomes incapacitated before the close of nominations, an application may be made for the cancellation of the nomination.

(2) Section 152B sets out how an application under subsection (1) must be made, and section 152C sets out how it is to be dealt with.

(3) If the Returning Officer or, as the case requires, the Electoral Commission cancels the nomination in accordance with section 152C(3),—

(a) the candidate's nomination is to be treated in all respects as if it had not been made; and

(b) the candidate's deposit must be returned to the candidate or, as the case may be, to the person who paid it.

(4) If the candidate's nomination is cancelled on nomination day, or on any of the 3 days immediately before nomination day, then—

(a) the time for the close of nominations in the district is postponed until noon on the fourth day after the date on which the candidate's nomination is cancelled; and

(b) the Returning Officer or, as the case requires, the Electoral Commission must immediately give public notice of the fact that the close of nominations in the district has been postponed and of the new time for the close of nominations.

Section 152A: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 152A(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152A(4)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

152B Procedural provisions relating to making of application under section 152A(1)

(1) An application under section 152A(1) must be made as follows:

(a) if the candidate was nominated under section 143,—

(i) the application must be made by the 2 registered electors who nominated the candidate, or, if either or both of them are unavailable or unable to act for any reason, then by the candidate's agent:

(ii) the application must be made to the Returning Officer for the district:

(b) if the candidate was nominated in a bulk nomination schedule or in accordance with section 146K,—

(i) the application must be made by the secretary of the party:

(ii) the application must be made to the Electoral Commission.

(2) The application must be made on a form provided by the Electoral Commission, and must be witnessed by a Justice of the Peace or a solicitor.

(3) 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 within the meaning of section 151A.

(4) The application—

(a) must be submitted to the Returning Officer or, as the case requires, the Electoral Commission not later than 4 pm on nomination day; and

(b) may be submitted by hand, post, or electronically.

Section 152B: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 152B(1)(b)(ii): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152B(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152B(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 152B(4)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152B(4)(b): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

152C How application under section 152A to be dealt with

(1) On receiving an application made under section 152A(1), the Returning Officer or, as the case requires, the Electoral Commission must, without delay, determine whether or not the candidate became incapacitated before the close of nominations.

(2) For the purpose of making a determination under subsection (1), the Returning Officer or Electoral Commission may make any inquiries, and seek any assistance (including, without limitation, expert medical assistance), that the Returning Officer or Electoral Commission considers necessary.

(3) If, before midnight on nomination day, the Returning Officer or Electoral Commission determines that the candidate became incapacitated before the close of nominations, the Returning Officer or Electoral Commission must cancel the candidate's nomination.

(4) If the Returning Officer or Electoral Commission has not made a determination under subsection (1) before midnight on nomination day, then—

(a) section 152A does not apply; and

(b) the application is to be treated as if it were an application under section 153G(1), and is to be determined accordingly.

(5) As soon as practicable after making a determination under subsection (1), the Returning Officer or Electoral Commission must inform the applicant or applicants of that determination.

Section 152C: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 152C(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152C(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152C(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152C(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152C(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 152C(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

153 Death or incapacity of list candidate after submission of list

(1) This section applies if a list candidate dies, or his or her nomination is cancelled on the grounds of incapacity, after the submission of the list and before the declaration required by section 193(5).

(2) If this section applies,—

(a) the poll must proceed; and

(b) the list must be treated subsequently as if the candidate's name had never been included on that list.

Section 153: substituted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 153(1): amended, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

153A Death or incapacity of constituency candidate after close of nominations and before polling day

(1) This section applies if a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, after the close of nominations and before polling day.

(2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate's nomination has been cancelled, the Returning Officer must,—

(a) in the case of a general election,—

(i) issue a notice cancelling the poll for the election of a member of Parliament for the district; and

(ii) proceed to conduct the poll on the part of the ballot paper that relates to the party vote, which for these purposes is to be treated as if it were the only part of the ballot paper; and this Part applies with any necessary modifications; and

(b) in the case of a by-election, issue a notice cancelling the poll; and

(c) report to the Electoral Commission—

(i) the issue and the date of the notice, under paragraph (a) or paragraph (b), cancelling the poll; and

(ii) whether the poll was cancelled because of the candidate's death or because of the candidate's incapacity; and

(iii) the date of the candidate's death, if applicable; and

(iv) if the candidate's incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.

(3) Immediately after the Electoral Commission receives the Returning Officer's report under subsection (2)(c), an Electoral Commissioner must, on behalf of the Electoral Commission, endorse on the writ—

(a) the name of the candidate whose death or whose incapacity resulted in the cancellation of the poll for the election of a member of Parliament for the district concerned; and

(b) the date of the notice by which the poll was cancelled; and

(c) the date on which the candidate died or, as the case requires, the date on which the candidate's incapacity was determined.

Section 153A: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 153A(2)(c): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153A(3): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

153B Death or incapacity of constituency candidate on polling day

(1) This section applies if a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, on polling day before the close of the poll.

(2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate's nomination has been cancelled, the Returning Officer must,—

(a) in the case of a general election,—

(i) immediately close the part of the poll that is based on electorate votes and declare that part of the poll to be of no effect; and

(ii) proceed to conduct the poll on the part of the ballot paper that relates to the party vote, which for these purposes is to be treated as if it were the only part of the ballot paper; and this Part applies with any necessary modifications; and

(b) in the case of a by-election, immediately close the poll; and

(c) report to the Electoral Commission—

(i) the closure of the poll or part of the poll and the time of the closure; and

(ii) whether the poll or part of the poll was closed because of the candidate's death or because of the candidate's incapacity; and

(iii) if the candidate's incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.

(3) Immediately after the Electoral Commission receives the Returning Officer's report under subsection (2)(c), an Electoral Commissioner must, on behalf of the Electoral Commission, endorse on the writ—

(a) the name of the candidate whose death or whose incapacity resulted in the closure of the poll for the election of a member of Parliament for the district concerned; and

(b) the time of that closure; and

(c) the date on which the candidate died or, as the case requires, the date on which the candidate's incapacity was determined.

Section 153B: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 153B(2)(c): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153B(3): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

153C Death or incapacity of successful constituency candidate after close of poll and before declaration of result

(1) This section applies if—

(a) a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, after the close of the poll and before the declaration of the result of the poll; and

(b) it is found on the completion of the count of votes or on a recount that the candidate, if still living or if not incapacitated, would have been elected.

(2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate's nomination has been cancelled, the Returning Officer must report to the Electoral Commission—

(a) the death or incapacity of the candidate; and

(b) the date of the candidate's death, if applicable; and

(c) if the candidate's incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.

(3) Immediately on the Electoral Commission being satisfied of the Returning Officer's report under subsection (2), an Electoral Commissioner must, on behalf of the Electoral Commission, endorse on the writ—

(a) the name of the candidate; and

(b) that the candidate would, if still living or if not incapacitated, have been elected as the member of Parliament for the district concerned; and

(c) the date on which the candidate died or, as the case requires, the date on which the candidate's incapacity was determined.

Section 153C: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 153C(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153C(3): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

153D Application of equality of votes provisions if constituency candidate dies or becomes incapacitated after close of poll

The provisions of this Act as to an equality of votes between constituency candidates apply even though, after the close of the poll, one of those candidates dies or the nomination of one of those candidates is cancelled on the grounds of incapacity.

Section 153D: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

153E New election to be held if writ vacated

(1) Immediately after an Electoral Commissioner has endorsed the writ in accordance with section 153A or section 153B or section 153C, the Electoral Commission must notify the Governor-General of the need for a fresh election because of the death or the incapacity of the candidate concerned.

(2) On receiving notification under subsection (1), the Governor-General must, without delay, issue a writ for a fresh election in that district, and that election must be conducted as if it were a by-election unless this Act provides otherwise.

(3) The main roll and supplementary rolls which were to be used at the election which has failed must be used at the new election without any amendment or addition.

(4) Any candidate who, at the time of the cancellation or closure of the poll, was a duly nominated candidate does not need to be nominated again, but the candidate may withdraw his or her nomination before the time appointed for the close of nominations for the new election.

(5) All appointments of polling places made in respect of the election that has failed continue in respect of the new election.

Section 153E: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 153E(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153E(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

153F Destruction of ballot papers if by-election interrupted

(1) This section applies if, in the case of a by-election, the poll is interrupted as a result of the death of a constituency candidate or the cancellation of the nomination of a constituency candidate on the grounds of incapacity.

(2) If this section applies,—

(a) all ballot papers that have been placed in ballot boxes must be taken out by the managers of polling places and made up into secured packages; and

(b) those packages must be sent, unopened, to the Returning Officer; and

(c) the Returning Officer must immediately destroy those packages in the presence of a District Court Judge or a Justice of the Peace.

Section 153F: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

153G 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,—

(a) in the case of a candidate whose name is included on a list submitted under section 127, the candidate becomes incapacitated after the submission of the list and before the declaration required by section 193(5):

(b) in the case of a constituency candidate, the candidate becomes incapacitated after the close of nominations and before the declaration of the result of the poll.

(2) An application under subsection (1) must be made as follows:

(a) if the candidate was nominated under section 143,—

(i) the application must be made by the 2 registered electors who nominated the candidate or, if either or both of them are unavailable or unable to act for any reason, then by the candidate's agent:

(ii) the application must be made to the Returning Officer for the district:

(b) if the candidate was nominated in a bulk nomination schedule or in accordance with section 146K, or is a candidate whose name is included on a list submitted under section 127,—

(i) the application must be made by the secretary of the party:

(ii) the application must be made to the Electoral Commission.

(3) The application must be made on a form provided by the Electoral Commission, 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 within the meaning of section 151A.

(5) The application—

(a) must be submitted to the Returning Officer or, as the case requires, the Electoral Commission—

(i) as soon as practicable after the candidate becomes incapacitated; and

(ii) before the declaration of the result of the poll; and

(b) may be submitted by hand, post, or electronically.

Section 153G: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 153G(2)(b)(ii): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153G(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153G(4): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 153G(5)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153G(5)(b): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

153H How application under section 153G to be dealt with

(1) On receiving an application made under subsection (1) of section 153G, the Returning Officer or, as the case requires, the Electoral Commission must, without delay, determine whether or not the candidate became incapacitated in the circumstances set out in that subsection.

(2) For the purpose of making a determination under subsection (1), the Returning Officer or Electoral Commission may make any inquiries, and seek any assistance (including, without limitation, expert medical assistance), that the Returning Officer or Electoral Commission considers necessary.

(3) If, before the declaration of the result of the poll, the Returning Officer or Electoral Commission determines that the candidate became incapacitated in the circumstances set out in section 153G(1), the Returning Officer or Electoral Commission must cancel the candidate's nomination.

(4) If the Returning Officer or Electoral Commission has not made a determination under subsection (1) before the declaration of the result of the poll, the application is to be treated as having been declined.

(5) As soon as practicable after making a determination under subsection (1), the Returning Officer or Electoral Commission must inform the applicant or applicants of that determination.

Section 153H: inserted, on 28 February 2002, by section 61 of the Electoral Amendment Act 2002 (2002 No 1).

Section 153H(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153H(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153H(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153H(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153H(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 153H(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Candidates' meetings

154 Use of public schoolrooms for election meetings

(1) Any candidate at an election may, for the purpose of holding public meetings of electors for electoral purposes during the period of an election, use free of charge, other than the cost of lighting and heating, and of cleaning after use, and of repairing any damage done, any suitable room in any public primary school or intermediate school or secondary school after the ordinary school hours, subject to the following provisions:

(a) 3 days' notice of the proposed public meeting shall be given to the governing body of the school:

(b) the use of the school shall be granted in the order of receipt of applications by or on behalf of the candidates:

(c) no candidate shall have the use of the same room on a second occasion if any other candidate who has not before used it desires to make use of it at the same time under this section.

(2) If it is proved that any such meeting was not a public meeting within the meaning of this section, the person by whom and the candidate on whose behalf the meeting was convened shall each be liable on conviction to a fine not exceeding $1,000.

(3) For the purposes of this section, the term **candidate** means—

(a) any person who has declared his or her intention of becoming a candidate either by advertisement in a newspaper, or by circular, or by announcement at a public meeting, or by duly consenting to nomination, but does not include a candidate who has withdrawn his or her nomination; or

(b) any person whose name has been included in a list submitted under section 127.

Compare: 1956 No 107 s 90; 1975 No 28 s 35(1)(a); 1990 No 1 s 42(1), (2)

Section 154(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Polling at elections

155 Power to appoint polling places

(1) In respect of each election, the Electoral Commission may from time to time, subject to subsections (2) to (4), appoint polling places for any district, and may revoke, alter, or add to any such appointment.

(2) The polling places appointed for any district may include polling places that are not within the limits of that district.

(3) *[Repealed]*

(4) At least 12 polling places within the limits of each district shall have access that is suitable for persons who are physically disabled.

(5) The Electoral Commission may make the details of every appointment, revocation, alteration, or addition publicly available by any means that the Electoral Commission considers appropriate.

(6) Subsection (5) does not limit section 147.

Compare: 1956 No 107 s 91; 1990 No 1 s 43(1)

Section 155(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 155(1): amended, on 28 February 2002, by section 62(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 155(3): repealed, on 11 March 2020, by section 13 of the Electoral Amendment Act 2020 (2020 No 2).

Section 155(4): amended, on 6 December 1995, by section 43(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 155(5): substituted, on 28 February 2002, by section 62(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 155(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 155(6): added, on 28 February 2002, by section 62(2) of the Electoral Amendment Act 2002 (2002 No 1).

155A Use of licensed premises as polling places

(1) Any licensed premises may be appointed as a polling place under section 155, but only if—

(a) alcohol will not be available for sale, supply, or consumption in that part of the licensed premises where voting papers are issued; and

(b) that part of the licensed premises where voting papers are issued may be accessed without passing through any other part of the licensed premises in which alcohol is being consumed.

(2) In this section, **alcohol** and **licensed premises** have the same meanings as in section 5(1) of the Sale and Supply of Alcohol Act 2012.

Compare: Commonwealth Electoral Act 1918 (Aust) s 205

Section 155A: inserted, on 11 March 2020, by section 14 of the Electoral Amendment Act 2020 (2020 No 2).

156 Use of public schools as polling places

(1) Any public primary school or intermediate school or secondary school may be appointed to be a polling place under section 155, and in every such case it shall be the duty of the governing body of the school to place it at the free disposal of the Returning Officer from 4 pm on the day before polling day and for the whole of polling day.

(2) The cost of cleaning any part of a school used as a polling place, the cost of lighting and heating used on polling day, and the cost of repairing any damage arising from the use of a school as a polling place, shall be defrayed by the Returning Officer out of money to be appropriated by Parliament.

Compare: 1956 No 107 s 91A; 1990 No 1 s 43(1)

157 Materials for polling places

(1) The Returning Officer must ensure that each polling place has the following things for the purposes of the poll:

(a) 1 or more inner compartments to enable voters to vote in secret:

(b) in each inner compartment, suitable facilities for the marking of ballot papers:

(c) 1 or more ballot boxes:

(d) 1 or more copies (in printed or electronic form and as supplied under section 123) of the main roll and supplementary rolls for the district:

(e) a sufficient number of ballot papers.

(2) The Returning Officer must ensure that there is displayed prominently in every polling place either—

(a) the name of each political party that submitted a list in accordance with section 127 and, under the name of each political party, the names of the political party's list candidates in the political party's order of preference (up to a maximum of 65 candidates); or

(b) copies of the information published under section 147(3)(a).

Section 157: substituted, on 28 February 2002, by section 63 of the Electoral Amendment Act 2002 (2002 No 1).

Section 157(1)(d): amended, on 21 March 2017, by section 77(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 157(2)(b): amended, on 21 March 2017, by section 77(2) of the Electoral Amendment Act 2017 (2017 No 9).

158 Appointment of polling place officials

(1) The Returning Officer must, for each polling place, appoint in writing as many polling place officials as the Returning Officer thinks are required for the conduct of the poll, and the preliminary count of votes, at that place.

(2) The Returning Officer must, in relation to each polling place, designate, by notice in writing, one of the polling place officials as the manager of the place.

(3) The Returning Officer may, in relation to each polling place,—

(a) authorise in writing 1 or more polling place officials to issue ballot papers at the place; and

(b) designate in writing 1 or more of the polling place officials as interpreters; and

(c) authorise in writing or, if the appointment is made on polling day, orally, any person to act for the manager of the polling place in case of the manager's absence.

(4) The Returning Officer for an electoral district may delegate his or her duties and powers under subsections (1) to (3) to a Returning Officer for another electoral district.

(5) The Public Service Act 2020 does not apply to a person appointed under this section.

Section 158: substituted, on 28 February 2002, by section 63 of the Electoral Amendment Act 2002 (2002 No 1).

Section 158(5): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

158A Polling place officials under direction of Electoral Commission and Returning Officer

(1) The Electoral Commission and the Returning Officer may each give oral or written directions to all or any polling place officials.

(2) Every polling place official must exercise or perform his or her powers, duties, and functions in accordance with any directions given by the Electoral Commission or the Returning Officer.

Section 158A: inserted, on 28 February 2002, by section 63 of the Electoral Amendment Act 2002 (2002 No 1).

Section 158A heading: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 158A(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 158A(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

159 Exercise of powers and duties of polling place officials

(1) The Returning Officer may exercise in person all the powers, duties, and functions of a manager of a polling place.

(2) A person authorised under section 158(3)(c) has, while acting for a manager of a polling place, all the powers, duties, and functions of the manager.

(3) Every polling place official must, before being allowed to act, declare that he or she will comply with section 203.

(3A) The declaration must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

Section 159: substituted, on 28 February 2002, by section 63 of the Electoral Amendment Act 2002 (2002 No 1).

Section 159(3): replaced, on 21 March 2017, by section 78 of the Electoral Amendment Act 2017 (2017 No 9).

Section 159(3A): inserted, on 21 March 2017, by section 78 of the Electoral Amendment Act 2017 (2017 No 9).

159A Interpreters

(1) Whenever the Returning Officer designates polling place officials as interpreters, the Returning Officer must, at the request of a candidate, give the candidate the names of the interpreters.

(2) Regulations made under section 267 may prescribe procedures governing the use of interpreters.

Section 159A: inserted, on 28 February 2002, by section 63 of the Electoral Amendment Act 2002 (2002 No 1).

160 Scrutineers

(1) Each constituency candidate may appoint 1 or more scrutineers for each polling place at any election.

(2) If, at an election in a district, no constituency candidate is standing for a political party that is listed in the part of the ballot paper that relates to the party vote, the secretary of the party may appoint 1 or more scrutineers for each polling place in the district.

(3) Every appointment of a scrutineer—

(a) must be in writing; and

(b) must be signed by the constituency candidate or, as the case requires, the secretary of the party.

(4) Every scrutineer must, before being allowed to act, declare that he or she will comply with section 203.

(4A) The declaration must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

(5) The number of scrutineers for a candidate or for a political party who may be present in a polling place may not exceed the number of issuing officers designated for the polling place.

(6) A scrutineer may at any time during the hours of polling leave and re-enter the polling place for which he or she is appointed.

(7) Nothing in this Act renders it unlawful for a scrutineer to communicate to a person information as to the names of persons who have voted.

(8) No candidate may act as a scrutineer under this section.

Section 160: substituted, on 28 February 2002, by section 63 of the Electoral Amendment Act 2002 (2002 No 1).

Section 160(4): replaced, on 21 March 2017, by section 79 of the Electoral Amendment Act 2017 (2017 No 9).

Section 160(4A): inserted, on 21 March 2017, by section 79 of the Electoral Amendment Act 2017 (2017 No 9).

161 Hours of polling

(1) The poll at every election shall commence at 9 am on polling day, and, except as otherwise provided in this Act, shall finally close at 7 pm on the same day.

(2) Every elector who at the close of the poll is present in a polling place for the purpose of voting shall be entitled to receive a ballot paper and to mark and deposit it in the same manner as if he or she had voted before the close of the poll.

Compare: 1956 No 107 s 96

Section 161(2): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

162 Employees to have time off to vote

(1) Subject to the provisions of this section, on the polling day at any election every employer shall allow every worker in his or her employment who is an elector of any electoral district in which the election is being held, and who has not had a reasonable opportunity of voting before commencing work, to leave his or her work for the purpose of voting not later than 3 o'clock in the afternoon for the remainder of the day, and it shall not be lawful for any employer to make any deduction from any remuneration payable to any such worker in respect of any time after the time of his or her leaving his or her work as aforesaid.

(2) Where any such worker is required to work after 3 o'clock in the afternoon of polling day for the purpose of carrying on any essential work or service, his or her employer shall on that day allow the worker to leave his or her work for a reasonable time for the purpose of voting, and it shall not be lawful for the employer to make any deduction from any remuneration payable to the worker in respect of any time, not exceeding 2 hours, occupied in voting as aforesaid.

(3) Every person commits an offence and shall be liable on conviction to a fine not exceeding $1,000 who contravenes subsection (1) or subsection (2).

(4) Every master of a ship that happens to be in any port in New Zealand at the time of any general election or by-election in any district, at the request of any of the crew being registered or qualified to be registered as electors of that district, shall allow them to go ashore at a proper time to admit of their voting at the election; and every master who without reasonable cause commits any

breach of this subsection shall be liable on conviction to a fine not exceeding $1,000.

(5) For the purposes of this section,—

employer has the same meaning as in section 5 of the Employment Relations Act 2000

master, in relation to any ship, includes any person (except a pilot) having command or charge of the ship

worker has the same meaning as that given to employee in section 6 of the Employment Relations Act 2000.

(6) This section shall bind the Crown.

Compare: 1956 No 107 s 98; 1990 No 1 s 48(1)

Section 162(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 162(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 162(5) **employer**: inserted, on 1 April 2004, by section 91(2) of the Holidays Act 2003 (2003 No 129).

Section 162(5) **employer** and **worker**: repealed, on 1 April 2004, by section 91(2) of the Holidays Act 2003 (2003 No 129).

Section 162(5) **worker**: added, on 1 April 2004, by section 91(2) of the Holidays Act 2003 (2003 No 129).

Voting

163 Ballot box to remain closed during poll

(1) The manager of the polling place shall, before the opening of the poll, and in sight of any of the scrutineers present,—

(a) see that the ballot box is empty; and

(b) close the ballot box; and

(c) ensure that the ballot box is sealed or locked in such a manner as to prevent it being opened without breaking the seal or lock.

(2) Subject to subsection (3), the ballot box, after being sealed or locked in accordance with subsection (1), shall not again be opened until after the close of the poll.

(3) If the ballot box becomes full and no other ballot box is available, the manager of the polling place, in sight of any of the scrutineers present, may open the ballot box and compress the papers in it.

(4) Where a ballot box is opened pursuant to subsection (3), the manager of the polling place shall, after compressing the papers and in sight of any of the scrutineers present,—

(a) close the ballot box; and

(b) ensure that the ballot box is sealed or locked in such a manner as to prevent it being opened without breaking the seal or lock.

(5) In this section, **ballot box** means a box in which ballot papers issued in accordance with section 167 are deposited.

Compare: 1956 No 107 s 101; 1990 No 1 s 51

Section 163(1): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 163(3): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 163(4): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 163(5): inserted, on 11 March 2020, by section 15 of the Electoral Amendment Act 2020 (2020 No 2).

164 Persons not to remain in polling places

No person not actually engaged in voting may remain in a polling place other than the following:

(a) the Returning Officer:

(b) polling place officials:

(c) scrutineers:

(d) any other person with the permission of the Returning Officer.

Section 164: substituted, on 28 February 2002, by section 64 of the Electoral Amendment Act 2002 (2002 No 1).

165 Voters not to be communicated with in polling place

(1) No scrutineer or other official or unofficial person shall communicate with any voter in a polling place either before or after the voter has given his or her vote, except only the issuing officer (with an interpreter if necessary), who may ask the questions he or she is authorised to put, and give such general directions as may assist any voter to give his or her vote, 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.

(2) Every person who offends against this section shall be liable on conviction to a fine not exceeding $400 and may at once be removed from the polling place by order of the manager.

Compare: 1956 No 107 s 103; 1990 No 1 s 53(1)

Section 165 heading: amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 165(1): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 165(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 165(2): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

166 Questions may be put to voters

(1) The issuing officer may, and if so required by any scrutineer shall, before allowing any person to vote, put to that person the following questions:

(a) are you the person whose name appears as AB in the electoral roll now in force for the [*name of district*] Electoral District?

(b) have you already voted at this election in this or any other electoral district?

(2) In every such case the issuing officer shall require the questions to be answered in writing signed by the person to whom they are put.

(3) Every person to whom those questions are put who does not answer them, or does not answer the first in the affirmative and the second in the negative, shall be liable on conviction to a fine not exceeding $1,000, and shall be prohibited from voting then or afterwards at that election.

(4) Every person who wilfully and knowingly makes a false answer to either of the questions that the issuing officer may put to that person under this section shall be liable on conviction to a fine not exceeding $1,000.

Compare: 1956 No 107 s 104; 1990 No 1 s 54(1)

Section 166(1): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 166(2): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 166(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 166(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 166(4): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

167 Issue of ordinary ballot papers

(1) Every issuing officer must, in accordance with this section, issue ballot papers to every elector who applies to vote.

(2) An elector who applies to vote must—

(a) verbally give or verbally confirm his or her name; and

(b) give or confirm any other particulars that may be necessary to find the elector's name on the rolls.

(2A) If an elector is unable to comply with the requirement in subsection (2)(a) because of an inability to understand English or because of a physical disability, the elector may comply with that requirement by—

(a) gesture; or

(b) any other means with the assistance of a person nominated by the elector who is present with the elector.

(3) If the name of the elector is on the rolls, the issuing officer must—

(a) mark the rolls (either manually or by electronic means) to indicate that the elector has applied to vote:

(b) if the consecutive number printed on the ballot paper can be read without the aid of technology, ensure that a piece of gummed paper is firmly fixed over the consecutive number on the ballot paper to conceal it effectively:

(c) write on the counterfoil of the ballot paper—

(i) the issuing officer's initials; and

(ii) the number of the page, and the number of the line, on which the elector's name appears on the roll:

(d) ensure that the official mark of the issuing officer is placed on the ballot paper to indicate that it was issued by an authorised person:

(e) issue the ballot paper to the elector.

(4) Every person commits an offence and is liable on conviction to a fine not exceeding $1,000 who, being an issuing officer, fails to comply with the requirements of this section.

Section 167: substituted, on 28 February 2002, by section 65(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 167(2): replaced, on 25 March 2014, by section 26 of the Electoral Amendment Act 2014 (2014 No 8).

Section 167(2A): inserted, on 25 March 2014, by section 26 of the Electoral Amendment Act 2014 (2014 No 8).

Section 167(3)(a): amended, on 21 March 2017, by section 80 of the Electoral Amendment Act 2017 (2017 No 9).

Section 167(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

168 Method of voting

(1) The voter, having received a ballot paper,—

(a) shall immediately retire into one of the inner compartments provided for the purpose; and

(b) shall there alone and secretly vote—

(i) by marking the party vote with a tick within the circle immediately after the name of the party for which the voter wishes to vote; and

(ii) by marking the electorate vote with a tick within the circle immediately before the name of the constituency candidate for whom the voter wishes to vote.

(2) Where the ballot paper comprises only a party vote or only an electorate vote, the provisions of subsection (3) shall apply instead of subsection (1).

(3) The voter, having received a ballot paper,—

(a) shall immediately retire into one of the inner compartments provided for the purpose; and

(b) shall there alone and secretly vote either—

(i) by marking the party vote with a tick within the circle immediately after the name of the party by which the voter wishes to vote; or

(ii) by marking the electorate vote with a tick within the circle immediately before the name of the constituency candidate for whom the voter wishes to vote.

(4) Every voter shall, before leaving the inner compartment, fold the ballot paper so that the contents cannot be seen, and shall then deposit it so folded in the ballot box.

(5) Nothing in this section limits the provisions of section 178(5)(a)(ii).

Section 168: substituted, on 6 December 1995, by section 46 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

169 Spoilt ballot papers

(1) Any voter who, not having deposited his or her ballot paper, in the ballot box, satisfies the issuing officer that the voter has spoilt it by inadvertence may be supplied with a fresh ballot paper, but only after the spoilt one has been returned to the issuing officer.

(2) The issuing officer shall—

(a) cancel every such spoilt ballot paper by writing across the face thereof the words “Spoilt by voter, and a fresh ballot paper issued” and writing his or her initials thereon:

(b) if any ballot paper is inadvertently spoilt by the issuing officer or any other official, cancel it by writing across the face thereof the words “Spoilt by official” and also the words “and a fresh ballot paper issued” if that is the case, and writing his or her initials thereon:

(c) retain all spoilt ballot papers in his or her possession until the close of the poll.

Section 169: substituted, on 6 December 1995, by section 47 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 169(1): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 169(2): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 169(2)(b): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

170 Blind, disabled, or illiterate voters

(1) Any elector who is wholly or partially blind, or (whether because of physical handicap or otherwise) is unable to read or write or has severe difficulty in reading or writing, or is not sufficiently familiar with the English language to vote without assistance, may vote in accordance with the provisions of this section.

(2) At the request of any such voter, any person nominated by the voter, or, if no person is so nominated, the issuing officer, shall accompany the voter into one of the inner compartments provided for the marking of ballot papers, and the ballot paper may there be marked by the voter with the assistance of the person nominated or, as the case may be, of the issuing officer, or may be marked by the person nominated or, as the case may be, by the issuing officer in accordance with the instructions of the voter.

(3) A voter to whom subsection (2) applies, whether or not he or she nominates a person for the purposes of that subsection, may nominate a person or another person, as the case may require, to inspect the ballot paper before it is deposited in the ballot box.

(4) Any elector voting as a special voter may vote in the manner prescribed by this section, with any necessary modifications, or in any manner prescribed by regulations made under this Act.

(5) Every person commits an offence, and shall be liable on conviction to a fine not exceeding $1,000, who, being a person who is present in accordance with this section or with any regulations when an elector votes, communicates at any time to any person any information obtained as to the constituency candidate or party for whom the voter is about to vote or has voted, or as to the number on the ballot paper given to the voter.

(6) Regulations made under section 267 may make provision for electors who are wholly or partially blind to vote by means of devices that enable them to vote without assistance despite the fact that they are wholly or partially blind.

Compare: 1956 No 107 s 108(1), (2), (4)–(7); 1981 No 120 s 33(1)

Section 170(2): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 170(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 170(5): amended, on 6 December 1995, by section 48 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

171 Procedure when second vote given in same name

If any person proposing to vote at any election gives as his or her name the name of any person to whom a ballot paper has already been given at the same election, he or she shall be dealt with in all respects in like manner as any other voter:

provided that the ballot paper of any such person shall not be deposited in the ballot box or allowed by the issuing officer, but shall be set aside for separate custody.

Compare: 1956 No 107 s 109

Section 171 proviso: amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 171 proviso: amended, on 6 December 1995, by section 49 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Special voting

172 Voting by special voters

(1) Notwithstanding anything to the contrary in this Act, a special voter may vote at such place (whether at a polling place or not and whether in or outside New Zealand), at such time, in such manner, and upon or subject to such conditions as may be prescribed in that behalf by regulations made under this Act.

(2) Different methods of voting may be prescribed for different classes of special voters.

(3) The ballot papers for use by special voters or by any class of special voters may be in such form as is prescribed by regulations, and the consecutive numbers of the special ballot papers for any district may be in a different series from that used for the ordinary ballot papers.

(3A) The special vote ballot papers may contain the logos submitted in accordance with section 127(7) and (8) or section 143(3A) and (4) or section 146E(4) and (5) or a depiction of those logos in black and white; but nothing in this Act requires the inclusion of those logos on the special vote ballot papers.

(4) Each constituency candidate may, in writing, appoint 1 or more scrutineers to be present at the office of the Electoral Commission when the Commission is performing its duties in relation to special vote declarations for the district.

(5) Every scrutineer must, before being allowed to act, declare that he or she will comply with section 203.

(5A) The declaration must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

(6) If a constituency candidate appoints more than 1 scrutineer under subsection (4), not more than 1 scrutineer for that candidate may be present at any time at the office of the Electoral Commission when the Commission is performing its duties in relation to special vote declarations for the district.

(7) No candidate shall act as scrutineer under this section.

(8) Subject to the provisions of this section and section 61, and to the provisions of any regulations made for the purposes of this section, all the provisions of this Act shall, as far as applicable and with the necessary modifications, apply with respect to voting by special voters and to their votes.

Compare: 1956 No 107 s 110; 1981 No 120 s 34; 1990 No 1 s 57

Section 172(3A): inserted, on 6 December 1995, by section 50 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 172(3A): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 172(4): replaced, on 21 March 2017, by section 81(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 172(5): replaced, on 21 March 2017, by section 81(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 172(5A): inserted, on 21 March 2017, by section 81(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 172(6): replaced, on 21 March 2017, by section 81(3) of the Electoral Amendment Act 2017 (2017 No 9).

173 Voting by special voters on Tokelau, Campbell Island, and Raoul Island, in Ross Dependency, and on fishing vessels

[Repealed]

Section 173: repealed, on 28 February 2002, by section 66(1) of the Electoral Amendment Act 2002 (2002 No 1).

173A Special voting by facsimile

[Repealed]

Section 173A: repealed, on 28 February 2002, by section 66(1) of the Electoral Amendment Act 2002 (2002 No 1).

Preliminary count of votes

174 Preliminary count of votes cast in polling place

(1) The manager of every polling place must, as soon as practicable after the close of the poll, in the presence of any scrutineers (including those lawfully in the polling place under any other Act) and the polling place officials, but of no other person, arrange for a preliminary count of the votes cast in that polling place to be conducted in accordance with this section—

(a) at the polling place; or

(b) at any other place designated by the Electoral Commission.

(1A) The Electoral Commission may, under subsection (1)(b), designate for a polling place some other place where the preliminary count of votes cast in the polling place may be conducted only if the Commission is satisfied that it is necessary to do so because the preliminary count of votes will not be able to be conducted at the polling place in the absence of unauthorised persons.

(1B) If the Electoral Commission designates for a polling place some other place where the preliminary count of votes cast in the polling place may be conducted,—

(a) the Returning Officer must—

(i) give notice to the constituency candidates or their scrutineers of that place at which the preliminary count of votes will be conducted (the **counting place**); and

(ii) afford to the scrutineers present at the polling place the opportunity to accompany the ballot boxes to the counting place; and

(b) all ballot boxes containing ballot papers must be taken from the polling place to the counting place accompanied by—

(i) a polling place official appointed as an official for the polling place; and

(ii) any scrutineers wishing to take up the opportunity afforded by paragraph (a)(ii).

(2) For the purposes of the preliminary count, all ballot papers must be taken from the ballot boxes to ascertain, as the case may require,—

(a) the number of votes received by each party listed in the part of the ballot paper that relates to the party vote; or

(b) the number of votes received by each candidate listed in the part of the ballot paper that relates to the electorate vote; or

(c) both.

(3) For the purposes of subsection (2), the following votes must be set aside as informal:

(a) any party votes that do not clearly indicate the party for which the voter desired to vote:

(b) any electorate votes that do not clearly indicate the candidate for whom the voter desired to vote.

(4) As soon as possible after ascertaining a result of the voting, the manager must ensure that the result is reported to the Returning Officer.

(5) If a referendum has, under any Act, been taken with the poll, the manager must ensure that the preliminary count of the party votes and the electorate votes, and the reports under subsection (4) take priority over the counting of the votes of the referendum.

Section 174: substituted, on 28 February 2002, by section 67(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 174(1): replaced, on 11 March 2020, by section 16 of the Electoral Amendment Act 2020 (2020 No 2).

Section 174(1A): inserted, on 11 March 2020, by section 16 of the Electoral Amendment Act 2020 (2020 No 2).

Section 174(1B): inserted, on 11 March 2020, by section 16 of the Electoral Amendment Act 2020 (2020 No 2).

174A Ballot papers, etc, to be compiled, certified, and sent to Returning Officer

(1) After completing the preliminary count under section 174, the manager of the polling place must—

(a) ensure that the following documents are enclosed in 1 or more parcels:

(i) the used ballot papers:

(ii) the ballot papers set aside under section 171:

(iii) the certified copies of the main roll and supplementary rolls that have been marked by issuing officers to indicate the persons who applied to vote:

(iv) all the counterfoils of ballot papers that have been issued to voters and all the unused ballot papers:

(v) all the spoilt ballot papers; and

(b) ensure that each parcel is properly secured and endorsed with a description of its contents, the name of the district, the name or other identifier of the polling place, and the date of the polling; and

(c) ensure that 1 or more certificates are prepared that certify—

(i) the number of votes received by each party (if applicable):

(ii) the number of votes received by each candidate (if applicable):

(iii) the number of informal party votes:

(iv) the number of informal electorate votes:

(v) the number of ballot papers set aside under section 171:

(vi) the number of spoilt ballot papers:

(vii) the number of ballot papers issued to special voters:

(viii) the number of unused ballot papers:

(ix) the total number of ballot papers allocated for use at the polling place; and

(d) sign, and invite each scrutineer who is present to sign, every endorsement prepared under paragraph (b) and every certificate prepared under paragraph (c).

(2) The manager must ensure that all parcels mentioned in this section are sent to the Returning Officer without delay.

(3) This section does not prevent any of the documents referred to in subparagraphs (ii) to (v) of subsection (1)(a) from being placed in 1 or more parcels before the preliminary count under section 174 has commenced or while it is in progress.

Section 174A: inserted, on 28 February 2002, by section 67(1) of the Electoral Amendment Act 2002 (2002 No 1).

174B No preliminary count if fewer than 6 ordinary ballot papers issued

(1) If, at any election, the number of ordinary ballot papers issued for a district at a polling place is smaller than 6, the manager of the polling place must, after the close of the poll, arrange for the secure dispatch of those ballot papers to the Returning Officer for the district.

(2) This section overrides sections 174 and 174A.

Section 174B: inserted, on 28 February 2002, by section 67(1) of the Electoral Amendment Act 2002 (2002 No 1).

174C Preliminary count of early votes

(1) In this section and in sections 174D to 174G, **early votes** means special votes that—

(a) are delivered or sent to the Returning Officer on or before polling day; and

(b) were, in accordance with regulations made under this Act, issued in substantially the same manner as ordinary ballot papers are issued under section 167.

(2) The Returning Officer must, in the presence of any scrutineers appointed under section 174F and any of the Returning Officer's assistants, but of no other person, conduct (either manually or by electronic means), in accordance with this section, a preliminary count of early votes.

(3) The Returning Officer must take the early votes and ascertain, as the case may require,—

(a) the number of votes received by each party listed in the part of the ballot paper that relates to the party vote; or

(b) the number of votes received by each candidate listed in the part of the ballot paper that relates to the electorate vote; or

(c) both.

(4) For the purposes of subsection (3), the Returning Officer must set aside as informal—

(a) all party votes that do not clearly indicate the party for which the voter desired to vote:

(b) all electorate votes that do not clearly indicate the candidate for whom the voter desired to vote.

(5) A count under this section must be commenced,—

(a) if an electoral district meets the conditions stated in section 174D(2), at a time (not earlier than 9 am on polling day) determined by the Electoral Commission; or

(b) if those conditions are not met, as soon as practicable after the close of the poll.

(5A) The Returning Officer must give notice in writing to each of the constituency candidates or their scrutineers of the time and place at which the preliminary count of early votes will commence.

(6) If a referendum has, under any Act, been taken with the poll, the Returning Officer must ensure that the count, under this section, of party votes and electorate votes takes priority over the counting of the votes of the referendum.

Section 174C: inserted, on 28 February 2002, by section 67(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 174C(2): amended, on 21 March 2017, by section 82(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 174C(5)(a): replaced, on 21 March 2017, by section 82(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 174C(5)(b): amended, on 21 March 2017, by section 82(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 174C(5A): inserted, on 21 March 2017, by section 82(4) of the Electoral Amendment Act 2017 (2017 No 9).

174D Conditions for counting early votes before close of poll

(1) In this section and in sections 174E to 174G, **restricted area** means an area that—

(a) is designated by the Electoral Commission for the purpose of the count of early votes; and

(b) has features that—

(i) preclude persons who are not in the area from seeing or hearing any aspect of the count; and

(ii) permit the Returning Officer to control persons who wish to enter or leave the area.

(2) The conditions referred to in section 174C(5)(a) are as follows:

(a) the Electoral Commission has authorised the Returning Officer to commence the count before the close of the poll:

(b) the count is to be conducted in a restricted area:

(c) on every entrance to the restricted area there is a notice stating that it is an offence, without the express authorisation of the Returning Officer, to enter the area:

(d) on every exit from the restricted area there is a notice stating that it is an offence, without the express authorisation of the Returning Officer, to leave the area.

Section 174D: inserted, on 28 February 2002, by section 67(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 174D(1): amended, on 21 March 2017, by section 83(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 174D(1)(a): amended, on 21 March 2017, by section 83(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 174D(2)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

174E Maintenance of secrecy of count of early votes

(1) On polling day, no person (other than a scrutineer appointed under section 174F) may, without the express authorisation of the Returning Officer, enter a restricted area.

(2) On polling day, a person who enters, whether with or without authorisation, a restricted area may not leave the area before the close of the poll without the express authorisation of the Returning Officer.

(3) The Electoral Commission may issue instructions to Returning Officers setting further requirements for the purpose of maintaining the secrecy of counts conducted before the close of the poll.

(4) The Returning Officer must ensure that all persons who take part in the counts conducted before the close of the poll are familiar with any instructions issued under subsection (3), and the Returning Officer and those persons must comply with those instructions.

Section 174E: inserted, on 28 February 2002, by section 67(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 174E(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

174F Scrutineers for count of early votes

(1) Each constituency candidate may appoint a scrutineer to attend at the count of early votes conducted under section 174C.

(2) Every appointment of a scrutineer—

(a) must be in writing; and

(b) must be signed by the constituency candidate.

(3) Every scrutineer must, before being allowed to act, declare that he or she will comply with section 203.

(3A) The declaration must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

(4) If the count is conducted before the close of the poll, every scrutineer appointed under this section may enter and be present in the restricted area from the time on polling day that is 30 minutes before the time determined under section 174C(5)(a) for the start of the count until the conclusion of the count.

(5) No scrutineer may, before the close of the poll, enter a restricted area with a device that enables information to be conveyed to a person or machine outside the area.

(6) If a scrutineer fails to comply with subsection (5) or an instruction issued under section 174E(3) and communicated to the scrutineer, the Returning Officer may—

(a) refuse to allow the scrutineer to enter the restricted area; or

(b) require the scrutineer to leave the restricted area.

Section 174F: inserted, on 28 February 2002, by section 67(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 174F(3): replaced, on 21 March 2017, by section 84(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 174F(3A): inserted, on 21 March 2017, by section 84(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 174F(4): amended, on 21 March 2017, by section 84(2) of the Electoral Amendment Act 2017 (2017 No 9).

174G Offences in relation to count of early votes conducted before close of poll

(1) Every person commits an offence and is liable on conviction to a fine not exceeding $2,000 who,—

(a) not being a scrutineer appointed under section 174F, enters, on polling day, a restricted area without the express authorisation of the Returning Officer; or

(b) being a scrutineer appointed under section 174F, enters, on polling day, a restricted area with a device that enables information to be conveyed to a person or machine outside the area; or

(c) leaves, on polling day, a restricted area without the express authorisation of the Returning Officer.

(2) Every person commits an offence and is guilty of a corrupt practice who, being or having been in a restricted area, discloses, before the close of the poll, to any person outside the area any information about the results of a count of early votes conducted under section 174C.

Section 174G: inserted, on 28 February 2002, by section 67(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 174G(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Scrutiny of the rolls

175 Scrutiny of the rolls

(1) The Returning Officer—

(a) shall make arrangements for a scrutiny of the rolls as soon as practicable after the close of the poll; and

(b) shall give notice in writing to each of the constituency candidates or their scrutineers of the time and place at which the Returning Officer will commence the scrutiny.

(2) Each constituency candidate may appoint 1 or more scrutineers to be present at the scrutiny of the rolls.

(3) Every scrutineer must, before being allowed to act, declare that he or she will comply with section 203.

(3A) The declaration must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

(4) Where a constituency candidate appoints more than 1 scrutineer to be present at the scrutiny of the rolls, only 1 scrutineer for that candidate, or such greater number as is permitted by the Returning Officer, shall be present at the scrutiny of the rolls at any time.

(5) The only persons who may be present at the scrutiny are—

(a) an Electoral Commissioner:

(b) the Returning Officer:

(c) any assistant of the Electoral Commissioner or of the Returning Officer:

(d) any expert or technician who provides advice or support to the Electoral Commissioner or to the Returning Officer for the purpose of the scrutiny:

(e) any scrutineer.

(6) No candidate shall act as scrutineer under this section.

(7) A scrutineer may be appointed under this section electronically.

Compare: 1956 No 107 s 112; 1990 No 1 s 59(1)

Section 175(2): replaced, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 175(3): replaced, on 21 March 2017, by section 85 of the Electoral Amendment Act 2017 (2017 No 9).

Section 175(3A): inserted, on 21 March 2017, by section 85 of the Electoral Amendment Act 2017 (2017 No 9).

Section 175(5): substituted, on 28 February 2002, by section 68(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 175(5)(a): substituted, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 175(5)(c): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 175(5)(d): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 175(7): replaced, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

176 Marked copies of rolls to be compared

(1) The Returning Officer or the Electoral Commissioner must, in the presence of any assistants, experts, or technicians and any scrutineers that are entitled to be present under this Act or any other Act, but of no other person,—

(a) compare (either manually or by any electronic means)—

(i) all the certified copies of the main roll and supplementary rolls that have been marked to indicate the persons who applied to vote; and

(ii) all records of special votes exercised; and

(iii) the list of post-writ day deletions supplied to the Returning Officer by the Electoral Commission under section 123(b); and

(b) compile a master roll by marking (either manually or by any electronic means) on an unmarked copy of the main roll and on every supplementary roll the number and name of any elector—

(i) who is shown on any of the certified copies of the rolls as having received a ballot paper; or

(ii) who is shown in any record of special votes issued as having received a ballot paper; or

(iii) whose name is shown on the list of post-writ day deletions.

(2) If on that comparison or from the checking of declarations in respect of special votes or from the report of a manager of a polling place on the ballot papers set aside under section 171, and after any inquiry the Returning Officer considers necessary, it appears that the same voter has received more than 1 ballot paper, the Returning Officer must,—

(a) in the presence of any assistants and any scrutineers that choose to be present, but of no other person, open the parcel or parcels of ballot papers that are likely to contain the ballot papers issued to the voter; and

(b) select from the parcel or parcels the ballot papers that appear from their consecutive numbers and counterfoils to have been issued to that voter; and

(c) subject to subsection (3), disallow every vote that appears to have been given by means of the ballot papers so selected.

(3) Notwithstanding subsection (2)(c), if the Returning Officer is satisfied—

(a) that 1 and only 1 of the ballot papers was lawfully received by the voter entitled thereto; and

(b) that the voter entitled thereto was not in any way concerned in the issue of the other ballot paper or ballot papers,—

the Returning Officer shall allow the vote of that voter and shall disallow the other vote or votes.

(4) If, on the comparison with all the certified copies of the main roll and supplementary rolls on which the fact of any person having received a ballot paper has been noted, and all records of special votes exercised in respect of the district, and the list of post-writ day deletions, it appears that any person has received a ballot paper by giving a name shown on the list of post-writ day deletions, the Returning Officer—

(a) must, in the presence of any assistants and any scrutineers that choose to be present, but of no other person, open the parcel or parcels of ballot papers that are likely to contain the ballot papers issued to the voter; and

(b) must select from the parcel or parcels the ballot papers that appear from their consecutive numbers and counterfoils to have been issued to that voter; and

(c) subject to subsections (5) and (6), shall disallow every vote appearing to have been given by means of any ballot paper so selected.

(5) Notwithstanding subsection (4)(c), but subject to subsection (6), if the Returning Officer is satisfied that the name by which a ballot paper selected under subsection (4)(b) was received was entered on the list of post-writ day deletions by mistake or clerical error or as a result of false information, he or she shall allow each vote given by means of that ballot paper.

(6) Notwithstanding subsections (4) and (5), if—

(a) the Returning Officer is satisfied that the name by which a ballot paper selected under subsection (4)(b) was received was entered on the list of post-writ day deletions by mistake or clerical error or as a result of false information; and

(b) more than 1 ballot paper was received by the giving of a name shown on the list of post-writ day deletions; and

(c) the Returning Officer is satisfied—

(i) that 1 and only 1 of the ballot papers was lawfully received by the voter entitled thereto; and

(ii) that the voter entitled thereto was not in any way concerned in the issue of the other ballot paper or ballot papers,—

the Returning Officer shall allow the vote of that voter and shall disallow the other vote or votes.

(7) *[Repealed]*

(8) Except in the case of the ballot papers so selected therefrom, the Returning Officer shall inspect only the consecutive numbers on the ballot papers in the several parcels so opened, and shall so cover the ballot papers that no person present shall have the opportunity of determining the party or constituency candidate for whom any particular voter has voted.

Section 176: substituted, on 6 December 1995, by section 54 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 176(1): substituted, on 28 February 2002, by section 69(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 176(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 176(1)(a)(iii): amended, on 21 March 2017, by section 86 of the Electoral Amendment Act 2017 (2017 No 9).

Section 176(2): substituted, on 28 February 2002, by section 69(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 176(4)(a): substituted, on 28 February 2002, by section 69(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 176(4)(b): substituted, on 28 February 2002, by section 69(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 176(7): repealed, on 28 February 2002, by section 69(3) of the Electoral Amendment Act 2002 (2002 No 1).

177 Parcels to be secured after scrutiny

(1) When the Returning Officer has selected from any parcel all the ballot papers he or she is required to select therefrom, he or she shall forthwith, in the presence of his or her assistants (if any) and such scrutineers as are present, but of no other person, close and secure the parcel, and shall endorse thereon a memorandum of the fact of the ballot papers having been selected from that parcel, specifying the same by the name of the person to whom the same appear to have been delivered, and shall sign the endorsement with his or her name.

(2) The Returning Officer shall set aside all ballot papers selected by him or her from any parcel as herein provided, and shall in the presence of his or her assistants (if any) and such scrutineers as are present, but of no other person, secure those ballot papers in a separate parcel, and shall endorse the parcel with a description of the contents thereof, and shall sign the endorsement with his or her name.

Compare: 1956 No 107 s 114

Section 177(1): amended, on 6 December 1995, by section 55 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 177(2): amended, on 6 December 1995, by section 55 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Official count and declaration of poll

178 Counting the votes

(1) On or before the completion of the scrutiny under section 175, the Returning Officer, with any assistants the Returning Officer considers necessary, and in the presence of any of the scrutineers appointed under section 175 that are present (not exceeding, unless the Returning Officer otherwise permits, 1 scrutineer for each candidate) and also in the presence of a Justice (who is to attend at the request of the Returning Officer), but of no other person, must select and open one of the parcels of used ballot papers referred to in section 174A(1)(a)(i).

(2) The procedure set out in subsection (1) need not be delayed until the inquiries under section 176(2), or the inquiries as to the qualifications of persons casting a special vote at the election, have been completed, and the ballot papers from any particular polling place may be counted while any inquiries in respect of ballot papers from that place or in respect of the qualifications of persons casting a special vote at the election are being completed, but the count shall not be completed until those inquiries have been completed.

(3) No special vote shall be disallowed by reason only of some error or omission on the part of an official, if the Returning Officer is satisfied that the voter was qualified to vote at the election.

(4) Where a person who has voted in an election dies before the close of the day before polling day, the Returning Officer shall, on receiving from a Registrar of Births and Deaths notification of that person's death, disallow that person's vote.

(5) When the parcel selected under subsection (1) has been opened, the Returning Officer shall, in the presence of his or her assistants (if any) and the scrutineers and Justice as aforesaid, but of no other person, deal with the ballot papers as follows:

(a) he or she shall reject as informal—

(i) any ballot paper that does not bear the official mark if there is reasonable cause to believe that it was not issued to a voter by an issuing officer; and

(ii) a ballot paper that does not clearly indicate the constituency candidate or the party, as the case may require, for which the voter desired to vote:

provided that no ballot paper or part of the ballot paper shall be rejected as informal by reason only of some informality in the manner in which it or any other part of the ballot paper has been dealt with by the voter if the ballot paper or part of the ballot paper being considered is otherwise regular, and if, in the opinion of the Returning Officer, the intention of the voter is clearly indicated:

provided also that no ballot paper or part of a ballot paper shall be rejected as informal by reason only of some error or omission on the part of an official, if the Returning Officer is satisfied that the voter was qualified to vote at the election:

(b) the Returning Officer shall then—

(i) count, as the case may require, the number of votes received by each party or the number of votes received by each constituency candidate or both; and

(ii) count the number of party votes rejected as informal; and

(iii) count the number of electorate votes rejected as informal; and

(iv) compare the results of the counts conducted under subparagraphs (i) to (iii) with the certificate of the polling place manager in respect of the preliminary count; and

(c) the Returning Officer shall then, where necessary, amend the certificate of the polling place manager in respect of the preliminary count; and every such certificate shall be initialled by the Returning Officer and the Justice attending:

(d) the Returning Officer must then endorse on the parcel the name or other identifier of the polling place where the votes were recorded; and that endorsement must be signed by the Returning Officer and the Justice who attends.

(5A) Despite section 60, if a voter who was qualified to vote as an elector of a particular district votes as if he or she were an elector of another district, the voter's party vote—

(a) may not be disallowed simply because of the voter's error with regard to the district; and

(b) for the purposes of this section and sections 179 to 181, is to be regarded as having been cast by an elector of the other district.

(6) The ballot papers from all the parcels shall be dealt with in the manner aforesaid and the ballot papers from one parcel may be so dealt with while those from another parcel or parcels are also being so dealt with.

(7) The ballot papers of special voters shall be dealt with in like manner, after which they shall be made up together into a parcel which shall be properly secured and shall be endorsed in the manner hereinbefore described.

(8) When all the ballot papers have been dealt with in the prescribed manner, the Justice attending shall sign a certificate stating the total number of ballot papers used at the election, the number of votes received by each party or constituency candidate, as the case may require, and the number of informal votes, and that certificate shall be preserved by the Returning Officer for production when required.

(9) Where at any count of the ballot papers under this section counting of the ballot papers extends beyond 1 day, the Justice attending shall give his or her certificate day by day showing the progress of that counting and describing the parcels counted in his or her presence.

Section 178: substituted, on 6 December 1995, by section 56 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 178(1): substituted, on 28 February 2002, by section 70(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 178(2): amended, on 28 February 2002, by section 70(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 178(5)(a)(i): substituted, on 28 February 2002, by section 70(3) of the Electoral Amendment Act 2002 (2002 No 1).

Section 178(5)(b)(iv): amended, on 21 March 2017, by section 87 of the Electoral Amendment Act 2017 (2017 No 9).

Section 178(5)(c): amended, on 28 February 2002, by section 70(4) of the Electoral Amendment Act 2002 (2002 No 1).

Section 178(5)(d): substituted, on 28 February 2002, by section 70(5) of the Electoral Amendment Act 2002 (2002 No 1).

Section 178(5A): inserted, on 28 February 2002, by section 70(6) of the Electoral Amendment Act 2002 (2002 No 1).

179 Declaration of result of poll

(1) When the official count under section 178 is completed, the Returning Officer must give the Electoral Commission the following information:

(a) the total number of valid votes received by each of the parties listed on the party vote part of the ballot paper:

(b) the total number of valid votes received by each constituency candidate:

(c) the total number of informal party votes:

(d) the total number of informal electorate votes.

(2) As soon as practicable after receiving from a Returning Officer the information specified in subsection (1), the Electoral Commission must declare the results of the official count for the district concerned by publishing a notice in the *Gazette*.

(3) The Electoral Commission may declare the results for any number of districts on the same day, if the Electoral Commission considers it appropriate to do so.

(4) The Electoral Commission may make arrangements under which persons with a particular interest in any declaration under subsection (2) are informed of the result, by any means the Electoral Commission considers appropriate.

(5) If there is an equality of votes between constituency candidates for a district and the addition of 1 vote would entitle one of those candidates to be declared elected, the Electoral Commission must, without delay, apply to a District Court Judge for a recount under section 180, and all the provisions of that section apply accordingly, except that no deposit is necessary.

(6) If on a recount under section 180 there is an equality of votes between constituency candidates and the addition of 1 vote would entitle one of those candidates to be declared elected, the Electoral Commission must determine by lot which of those candidates is to be elected.

Section 179: substituted, on 28 February 2002, by section 71(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 179(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 179(2): amended, on 21 March 2017, by section 88 of the Electoral Amendment Act 2017 (2017 No 9).

Section 179(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 179(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 179(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 179(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 179(6): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Recount

180 Application to District Court Judge for recount

(1) Any constituency candidate for a district may, within 3 working days after the public declaration made under section 179 in respect of that district, apply to a District Court Judge for the conduct, in respect of that district, of a recount of the electorate votes.

(2) Any secretary of a political party that is listed on the part of the ballot paper that relates to the party vote may, within 3 working days after the public declaration made under section 179 in respect of a district, apply to a District Court Judge for the conduct, in respect of that district, of a recount of the party votes.

(3) Every application under subsection (1) shall be accompanied by a deposit of $1,000 (which deposit shall be inclusive of goods and services tax).

(4) Every application under subsection (2) shall be accompanied by a deposit of $1,500 (which deposit shall be inclusive of goods and services tax).

(5) The District Court Judge—

(a) shall cause a recount of the electorate votes or the party votes, as the case may require, to be commenced within 3 working days after receiving the application; and

(b) shall give notice in writing of the time and place at which the recount will be made—

(i) to the Electoral Commission; and

(ii) in the case of an application made under subsection (1), to each of the candidates who may be affected by the recount; and

(iii) in the case of an application under subsection (2), to each of the political parties that may be affected by the recount.

(6) The recount shall be made in the presence of the District Court Judge or of an officer appointed by the District Court Judge for the purpose, and shall, as far as practicable, be made in the manner provided in the case of the original count.

(7) No person shall be present at the recount except—

(a) the District Court Judge or the officer appointed by the District Court Judge; and

(b) the assistants (if any) of the District Court Judge or the officer appointed by the District Court Judge; and

(c) the Returning Officer and the assistants (if any) of the Returning Officer; and

(d) in the case of a recount of electorate votes, the scrutineers appointed under section 175 or section 183(1) (not exceeding, unless the District Court Judge or the officer appointed by the District Court Judge otherwise permits, 1 scrutineer for each constituency candidate); and

(e) in the case of a recount, made on an application under subsection (2), of party votes, the scrutineers appointed under section 183(2)(a) (not exceeding, unless the District Court Judge or the officer appointed by the District Court Judge otherwise permits, 1 scrutineer for each political party); and

(f) in the case of a recount, made on an application under section 181(1), of party votes, the scrutineers appointed under section 183(2)(b) (not exceeding, unless the District Court Judge or the officer appointed by the District Court Judge otherwise permits, 1 scrutineer for each political party).

(8) The District Court Judge shall have all the powers that the Returning Officer had on the original count, and may, in addition, review any decision of the Returning Officer or the Registrar of Electors or the Electoral Commission in respect of—

(a) the checking of special voting declarations; or

(b) the allowance or disallowance of special votes.

(9) Any decision referred to in subsection (8) and any other decision made by the Returning Officer in the exercise of the Returning Officer's powers on the original count may be confirmed, reversed, or set aside by the District Court Judge.

(10) If on the recount the District Court Judge finds that the public declaration was incorrect, the District Court Judge shall order the Electoral Commission to give an amended declaration of the result of the poll.

(11) The District Court Judge may make such order as to the costs of and incidental to the recount as the District Court Judge thinks just, and, subject to any such order, shall direct that the deposit made under this section be returned to the person who paid it.

Compare: 1956 No 107 s 117; 1990 No 1 s 61(1)

Section 180(1): substituted, on 6 December 1995, by section 58(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 180(2): substituted, on 6 December 1995, by section 58(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 180(5)(a): substituted, on 6 December 1995, by section 58(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 180(5)(b)(i): replaced, on 21 March 2017, by section 89(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 180(7)(d): substituted, on 6 December 1995, by section 58(3) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 180(7)(e): substituted, on 6 December 1995, by section 58(3) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 180(7)(f): added, on 6 December 1995, by section 58(3) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 180(8): amended, on 21 March 2017, by section 89(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 180(10): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 180(10): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

181 Application by political party for recount in every electoral district

(1) Any secretary of a political party listed on the part of the ballot paper that relates to the party vote may, instead of making 1 or more separate applications for recounts under section 180(2), apply to the Chief District Court Judge for recounts of the party votes to be conducted in every electoral district.

(2) Every application under subsection (1) must be made within 3 working days after the date of the last public declaration made under section 179 for any electoral district.

(3) Every application under subsection (1) shall be accompanied by a deposit of $90,000 (which deposit shall be inclusive of goods and services tax).

(4) The Chief District Court Judge shall cause a separate recount of the party votes to be conducted for each electoral district and, for that purpose, shall, within 3 working days after receiving the application for the recounts, arrange, in respect of each recount, for a District Court Judge to conduct it.

(5) Each recount conducted under this section shall be conducted in accordance with subsections (5) to (10) of section 180, except that each recount shall be commenced within 3 working days of the date on which the District Court Judge conducting the recount is assigned that task.

(6) At the conclusion of all recounts under this section, the Chief District Court Judge may make such order or orders as to the costs of and incidental to those recounts as the Chief District Court Judge thinks just, and, subject to any such order, shall direct that the deposit made under this section be returned to the person who paid it.

Section 181(1): substituted, on 6 December 1995, by section 59(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 181(4): substituted, on 6 December 1995, by section 59(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

182 Ability to combine recounts

Nothing in section 180 or section 181 requires the electorate votes or the party votes to be the subject of more than 1 recount and, where more than 1 application is received that would involve recounts of the same votes or of both parts of the same ballot papers, those applications may be combined by the District Court Judge conducting the recount.

Section 182: substituted, on 6 December 1995, by section 60 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

183 Scrutineers for recounts and allocation of list seats

(1) Any constituency candidate affected by an application under section 180(1) for a recount of electorate votes in an electoral district may appoint 1 or more scrutineers to be present at the recount.

(2) Any political party affected—

(a) by an application under section 180(2) for a recount of party votes in an electoral district; or

(b) by an application under section 181(1) for recounts of the party votes in every electoral district,—

may appoint 1 or more scrutineers to be present at any such recount.

(3) Any political party listed in the part of the ballot paper that relates to the party vote may appoint 1 or more scrutineers to be present during the allocation of list seats by the Electoral Commission under sections 191 to 193.

(4) Every scrutineer must, before being allowed to act, declare that he or she will comply with section 203.

(4A) The declaration must—

(a) be in a form that the Electoral Commission has approved; and

(b) be witnessed as specified in the form.

(5) Where a political party appoints more than 1 scrutineer to be present during the allocation of list seats, only 1 scrutineer for that political party, or such greater number as is permitted by the Electoral Commission, shall be present at any one time.

(6) No candidate shall act as a scrutineer under this section.

(7) A scrutineer appointed under this section may be appointed by facsimile transmission.

Section 183: substituted, on 6 December 1995, by section 61 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 183(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 183(4): replaced, on 21 March 2017, by section 90 of the Electoral Amendment Act 2017 (2017 No 9).

Section 183(4A): inserted, on 21 March 2017, by section 90 of the Electoral Amendment Act 2017 (2017 No 9).

Section 183(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

184 Ballot papers and certificate to be compared on recount

(1) At any recount made as aforesaid the Returning Officer shall produce to the District Court Judge all the used ballot papers, together with the Justice's certificate stating the total number of ballot papers used at the election.

(2) If, on comparing the number of ballot papers stated in the certificate with the ballot papers used at the election, the District Court Judge finds that any of the ballot papers have been lost, stolen, or in any way interfered with during the interval between the official count and the recount, the official count made by the Returning Officer shall be deemed to be correct, and the result of the poll declared accordingly. Where in any such case there is an equality of votes between constituency candidates and the addition of a vote would entitle one of those constituency candidates to be declared elected, the Electoral Commission must determine by lot which candidate shall be elected.

Compare: 1956 No 107 s 118

Section 184(1): amended, on 6 December 1995, by section 62 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 184(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 184(2): amended, on 6 December 1995, by section 62 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Return of writ

185 Endorsement and return of writ

(1) As soon as practicable after the Electoral Commission has, under section 179(2), declared the result for every district, an Electoral Commissioner must, on behalf of the Electoral Commission,—

(a) endorse on the writ—

(i) the full name of every constituency candidate declared to be elected; and

(ii) the date of the endorsement; and

(b) sign the writ; and

(c) immediately after endorsing and signing the writ, transmit the writ to the Clerk of the House of Representatives.

(2) The date endorsed on the writ under subsection (1) is the day of the return of the writ.

(3) The writ must be returned within the time specified in the writ for its return.

(4) If any application for a recount of the votes for any constituency candidates has been made, the Electoral Commission must postpone the return of the writ until the completion of every recount.

(5) If, at any time before the expiry of the time for an application for a recount of the votes for constituency candidates, it appears to the Electoral Commission that such an application may be made, the Electoral Commission may postpone the return of the writ until that expiry.

(6) Subsections (4) and (5) prevail over subsections (1) to (3).

Section 185: substituted, on 28 February 2002, by section 73 of the Electoral Amendment Act 2002 (2002 No 1).

Section 185(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 185(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 185(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

186 Electoral Commission may correct writ

(1) If the Electoral Commission is satisfied that the name of a member elected to represent an electoral district is not correctly recorded on the writ, an Electoral Commissioner may, on behalf of the Electoral Commission, before or after complying with the requirements of section 185(1), make any alterations to the writ necessary to ensure that the member's name is correctly recorded.

(2) Before making a correction under subsection (1), the Electoral Commissioner must consult with the member concerned and with the Returning Officer.

(3) If the Electoral Commissioner makes a correction under subsection (1) after complying with the requirements of section 185(1),—

(a) the Electoral Commission must forward to the Clerk of the House of Representatives a copy of the writ as corrected; and

(b) that copy is to be treated for all purposes as the copy forwarded to the Clerk of the House of Representatives under section 185(1).

Section 186: substituted, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Disposal of ballot papers

187 Disposal of ballot papers, rolls, etc

(1) As soon as practicable after giving the Electoral Commission the information specified in section 179(1), the Returning Officer must destroy or cause to be destroyed all unused ballot papers.

(1A) As soon as practicable after complying with the requirements of subsection (1), the Returning Officer must—

(a) enclose or cause to be enclosed in 1 or more packets all parcels that have been received, or made up, by the Returning Officer and that contain any of the following documents:

(i) used ballot papers, including the special voters' ballot papers:

(ii) counterfoils of issued ballot papers and counterfoils of unused ballot papers:

(iii) spoilt ballot papers:

(iv) ballot papers set aside under section 171 or section 177; and

(b) enclose or cause to be enclosed in 1 or more packets the following materials:

(i) ballot paper accounts:

(ii) copies of rolls (except the master roll):

(iii) books or other papers provided for by this Act:

(iv) all letters and other papers received from any manager of a polling place or issuing officer about special votes; and

(c) ensure that each packet is properly secured and endorsed with a description of its contents, the name of the district, the name or other identifier of the polling place, and the date of the polling; and

(d) sign the endorsement on each packet; and

(e) ensure that every packet is sent to the Clerk of the House of Representatives without delay.

(2) The Clerk of the House of Representatives shall forthwith give or send to the Returning Officer a receipt under his or her hand for the said packets and parcel.

(3) The Electoral Commission must attach to the master roll for each district a list that—

(a) sets out the names and addresses of all special voters whose names were not on the printed roll (other than those whose names were not on that roll by virtue of section 115); and

(b) indicates the special voters whose votes have been disallowed.

(4) The Electoral Commission shall keep the master roll, and the attached list, until the next general election.

(5) Any registered elector of the district may inspect any master roll for the district, and the attached list, at the office of the Electoral Commission for the district, without payment of any fee, at any time when the office is open for the transaction of business.

Compare: 1956 No 107 s 121; 1981 No 120 s 38; 1990 No 1 s 62

Section 187(1): substituted, on 28 February 2002, by section 74 of the Electoral Amendment Act 2002 (2002 No 1).

Section 187(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 187(1A): inserted, on 28 February 2002, by section 74 of the Electoral Amendment Act 2002 (2002 No 1).

Section 187(3): replaced, on 21 March 2017, by section 91(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 187(4): amended, on 21 March 2017, by section 91(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 187(5): replaced, on 21 March 2017, by section 91(3) of the Electoral Amendment Act 2017 (2017 No 9).

188 Annotation of list of special voters

(1) A constituency candidate at an election who applies for a recount of the votes or a person who files an election petition may, by notice in writing to the Electoral Commission, require the Electoral Commission forthwith to annotate the list attached to the master roll pursuant to section 187(3):

provided that this subsection shall not apply where the Electoral Commission receives the notice after the Returning Officer has forwarded to the Clerk of the House of Representatives the packets required, by section 187(1)(b), to be forwarded to the Clerk of the House of Representatives.

(2) The annotations shall show, in relation to each special voter whose vote is shown on the list as having been disallowed, the reason for the disallowance of the vote.

(3) The annotated list must be held by the Electoral Commission, and any registered elector of the district may inspect the annotated list at the office of the Electoral Commission for the district, without payment of any fee, at any time when the office is open for the transaction of business.

(4) *[Repealed]*

Compare: 1956 No 107 s 121A; 1990 No 1 s 63

Section 188(1): amended, on 21 March 2017, by section 92(1)(a) of the Electoral Amendment Act 2017 (2017 No 9).

Section 188(1): amended, on 21 March 2017, by section 92(1)(b) of the Electoral Amendment Act 2017 (2017 No 9).

Section 188(3): replaced, on 21 March 2017, by section 92(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 188(4): repealed, on 21 March 2017, by section 92(2) of the Electoral Amendment Act 2017 (2017 No 9).

189 Disposal of packets

(1) The packets and parcels must be safely kept for 6 months unopened, unless a court of competent jurisdiction or the House of Representatives orders them, or any of them, to be opened.

(2) At the end of 6 months, the packets and parcels must be destroyed unopened in the presence of the Clerk of the House of Representatives and an Electoral Commissioner.

(3) Despite subsection (2), a packet or parcel may not be destroyed so long as the packet or parcel is, or may reasonably be expected to be, required for the purposes of an investigation into, or a prosecution of, an offence against this Act.

Section 189: substituted, on 28 February 2002, by section 75 of the Electoral Amendment Act 2002 (2002 No 1).

Section 189(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

190 Papers taken from parcels as evidence in certain cases

(1) Any ballot paper, and any copy of a roll, and any book purporting to be taken from any such parcel as aforesaid, and having written thereon respectively, under the hand of the Clerk of the House of Representatives, a certificate of the several particulars by this Act required to be endorsed on the parcel, shall be conclusive evidence in any court or before any Committee of the House of Representatives that it was so taken and that it, if a ballot paper, was deposited and, if a roll or book, was kept or used at the election and polling place to which the endorsement and writing relate.

(2) Every ballot paper so certified shall be evidence of a vote given at the poll, and of the correspondence of the number appearing on the ballot paper with the number appearing on any roll so certified as of the same election and polling place, according to the tenor of the said ballot paper.

(3) But, in the case of the ballot papers set aside or selected by an issuing officer or by the Returning Officer, the correspondence shall be evidence only of some person having voted in the name appearing on the roll.

Compare: 1956 No 107 s 123

Section 190(1): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 190(1): amended, on 6 December 1995, by section 64(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 190(2): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 190(2): amended, on 6 December 1995, by section 64(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 190(3): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 190(3): amended, on 6 December 1995, by section 64(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

List seats

191 Election of other members

(1) When the Electoral Commission has received from all Returning Officers the information required by section 179(1) to be forwarded to the Electoral Commission, the Electoral Commission must proceed to determine which of the candidates whose names have been included in party lists submitted pursuant to section 127 have been elected.

(2) The Electoral Commission must first ascertain from the information given under section 179(1)(a) the total number of all the party votes received by each of the parties listed on the part of the ballot paper that relates to the party vote.

(3) The Electoral Commission must enter those totals in separate columns under the name of each party in a working sheet in the manner specified in a form that the Electoral Commission has approved.

(4) The Electoral Commission must disregard any total under the name of any party that—

(a) has not achieved a total that is at least 5% of the total number of all the party votes received by all the parties listed on the part of the ballot paper that relates to the party vote; and

(b) is a party in respect of which no constituency candidate who is either—

(i) a candidate for that party; or

(ii) a candidate for a component party of that party (being a component party that is not listed on the part of the ballot paper that relates to the party vote but is, in accordance with the details held by the Electoral Commission under any of the provisions of sections 127(3A) and 128A, a component party of that party)—

has had his or her name endorsed on the writ pursuant to section 185 as a person declared to be elected as a member of Parliament.

(4A) Where the Electoral Commission disregards the name of a party in accordance with subsection (4), that party shall, for the purpose of this section and sections 192 and 193, be deemed to have been deleted from the list of parties included in the part of the ballot paper that relates to the party vote.

(5) The Electoral Commission must then proceed to divide each of the remaining totals successively by a series of numbers beginning with 1, 3, 5, 7, 9, 11, 13 and thereafter by every odd number as may be necessary to ensure that the number of seats required to be allocated by this section and sections 192 and 193 are allocated.

(6) The quotient of each successive division shall be recorded on the working sheet.

(7) Once the quotient of each successive division is entered on the working sheet, the Electoral Commission must then proceed to ascertain from a comparison of all the figures in the working sheet in form 15 listed under the heading "Quotients of divisions", the highest 120 quotients or such lower number as is required by subsection (8).

(8) If any person whose name is endorsed on the writ pursuant to section 185 as a person declared to be elected as a member of Parliament, is—

(a) an independent; or

(b) a member of a political party that did not appear on the list of parties in that part of the ballot paper that relates to the party vote (not being a political party that is, in accordance with the details held by the Electoral Commission under any of the provisions of sections 127(3A) and 128A, a component party of a political party that did appear on that list),—

the Electoral Commission must, for the purposes of applying subsection (7), deduct from the number of 120 the number of any such persons.

(9) In any case where the lowest of the numbers required to be ascertained under subsection (7) constitutes 2 or more numbers in different columns which are of exactly the same value, the Electoral Commission must determine by lot which of those numbers is to be selected for the purpose of subsection (7).

(10) The Electoral Commission, having ascertained the numbers required by subsection (7), must cause a circle to be drawn on the working sheet around each of those numbers.

Section 191(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(1): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 191(2): substituted, on 6 December 1995, by section 65(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 191(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(2): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 191(3): amended, on 21 March 2017, by section 93 of the Electoral Amendment Act 2017 (2017 No 9).

Section 191(3): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(4): substituted, on 6 December 1995, by section 65(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 191(4): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(4): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 191(4)(b)(ii): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(4A): inserted, on 6 December 1995, by section 65(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 191(4A): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(5): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(7): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(8): substituted, on 6 December 1995, by section 65(3) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 191(8): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(8): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 191(8)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(9): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 191(10): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

192 Determination of party eligibility for list seats

(1) Having ascertained the numbers required by section 191(7), the Electoral Commission must then proceed to ascertain the number of seats in Parliament to which each remaining party listed in the part of the ballot paper that relates to the party vote is entitled by adding the number of circles in the column of numbers under the name of that party.

(2) Subject to subsection (3), the Electoral Commission must then proceed, in respect of each remaining party listed in the part of the ballot paper that relates to the party vote, to deduct from the number of seats to which each party is entitled under subsection (1)—

(a) the number of persons who stood as constituency candidates for that party and whose names were endorsed on the writ pursuant to section 185 as having been elected as members of Parliament; and

(b) the number of persons who stood as constituency candidates for a party that is, in accordance with the details held by the Electoral Commission under any of the provisions of sections 127(3A) and 128A, a component party of that party and whose names were endorsed on a writ pursuant to section 185 as having been elected as members of Parliament.

(3) The deduction described in subsection (2)(b) shall not be made in respect of constituency seats gained by a component party that is listed on the part of the ballot paper that relates to the party vote.

(4) Subject to subsection (5), after the process of deduction described in subsection (2) has been completed in respect of each party, the remainder derived therefrom shall be the number of seats to be allocated to that party from the list of candidates submitted pursuant to section 127.

(5) If any party listed in the part of the ballot paper that relates to the party vote has obtained, through the election of any of its constituency candidates or any of the constituency candidates for any party that is, in accordance with the details held by the Electoral Commission under any of the provisions of sections 127(3A) and 128A, a component party of that party or both, a number of seats that is equal to or greater than the total number of seats in Parliament to which it would be entitled under subsection (1), that party shall not be allocated any seats from the list of candidates submitted by that party pursuant to section 127, but the seats of the constituency candidates of that party who have been elected as members of Parliament shall not be affected.

Section 192: substituted, on 6 December 1995, by section 66 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 192(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 192(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 192(2)(a): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 192(2)(b): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 192(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

193 Selection of candidates

(1) Upon completing the procedures outlined in section 192, the Electoral Commission must proceed to determine which of the candidates whose names appear on the list submitted pursuant to section 127 by each of the parties listed in the part of the ballot paper that relates to the party vote are entitled to be elected.

(2) The Electoral Commission must determine which candidates are entitled to be elected by selecting those candidates on the list of each party, beginning with the first candidate on the list and ending with the lowest ranking candidate, which are equal in number to the number of seats to which that party is entitled to have allocated from its list submitted pursuant to section 127.

(3) In performing the duties required by subsection (2), the Electoral Commission must disregard the name of any candidate whose name has been endorsed on

the writ pursuant to section 185, and the name of that candidate shall be deemed to have been deleted from the list submitted pursuant to section 127.

(4) Where all the candidates appearing on a list submitted by a party pursuant to section 127 are entitled to be selected, no further candidates for that party may be selected, notwithstanding that the party may be entitled to a greater number of seats than the number of candidates appearing on that list and those seats shall not be filled.

(5) The Electoral Commission must, as soon as practicable after selecting the names of those candidates entitled to be elected,—

(a) declare those candidates to be elected by publishing in the *Gazette* the full names of the members elected; and

(b) forward to the Clerk of the House of Representatives a return listing the names of the members elected.

(6) Notwithstanding any other provision of this section or any provision of sections 191 and 192, the Electoral Commission may proceed to select the names of those candidates entitled to be elected from lists submitted under section 127, by such method and procedure as the Electoral Commission thinks fit, including the use of computer technology:

provided that, before declaring any candidates to be elected under subsection (5), the Electoral Commission shall complete the procedures required by sections 191 and 192 and this section.

(7) In completing the procedures required by sections 191 and 192 and this section, the Electoral Commission may use such assistants as the Electoral Commission considers necessary.

Section 193(1): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193(1): amended, on 6 December 1995, by section 67(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 193(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193(3): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193(3): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 193(5): substituted, on 6 December 1995, by section 67(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 193(5): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193(5)(a): amended, on 28 February 2002, by section 76 of the Electoral Amendment Act 2002 (2002 No 1).

Section 193(6): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193(6): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193(7): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193(7): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

193A Electoral Commission may correct list of members elected

(1) If the Electoral Commission is satisfied that the name of a member declared to be elected is not correctly recorded on a return forwarded to the Clerk of the House of Representatives under section 193(5)(b),—

(a) the Electoral Commission may forward to the Clerk of the House a further return that correctly records the member's name; and

(b) that further return—

(i) is to be treated for the purposes of section 54(2)(a) as dated the same as the earlier return; and

(ii) is to be treated for all purposes as the return forwarded to the Clerk of the House under section 193(5)(b).

(2) The Electoral Commission may not forward a further return to the Clerk of the House under subsection (1)(a) unless the Electoral Commission has first consulted with the member concerned.

Section 193A: inserted, on 28 February 2002, by section 77 of the Electoral Amendment Act 2002 (2002 No 1).

Section 193A heading: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193A(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193A(1)(a): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 193A(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Maintenance of order at elections

194 Manager of polling place to maintain order

(1) Every manager of a polling place must maintain order and keep the peace at the polling place, and may, without any other warrant than this Act,—

(a) cause to be arrested and taken before a Justice any person reasonably suspected of committing or attempting to commit at the polling place any of the offences set out in section 201; or

(b) cause to be removed a person who obstructs the approaches to the polling place or wilfully and unnecessarily obstructs the proceedings at the polling or conducts himself or herself in a disorderly manner or causes a disturbance or wilfully acts in any manner in defiance of the lawful directions of the manager of the polling place.

(2) All constables must aid and assist the manager of the polling place in the performance of his or her duty.

Section 194: substituted, on 28 February 2002, by section 78 of the Electoral Amendment Act 2002 (2002 No 1).

Polling disruptions

Heading: replaced, on 11 March 2020, by section 17 of the Electoral Amendment Act 2020 (2020 No 2).

195 Meaning of unforeseen or unavoidable disruption

(1) In sections 195A, 195B, and 195D, an **unforeseen or unavoidable disruption** means a disruption that is likely to—

(a) prevent voters voting at a polling place; or

(b) pose a risk to the proper conduct of an election.

(2) An unforeseen or unavoidable disruption includes, but is not limited to, a disruption arising as a result of—

(a) a natural disaster:

(b) adverse weather conditions:

(c) a riot or disorder, or a threat of a riot or disorder:

(d) a terrorist act (as defined in section 5 of the Terrorism Suppression Act 2002):

(e) an epidemic notice given under section 5(1) of the Epidemic Preparedness Act 2006 being in force:

(f) a cyberattack on the Electoral Commission's electronic operating systems.

Section 195: replaced, on 11 March 2020, by section 17 of the Electoral Amendment Act 2020 (2020 No 2).

195A Adjournment of poll on polling day

(1) The Chief Electoral Officer may direct that the voting at 1 or more polling places on polling day be adjourned because of an unforeseen or unavoidable disruption.

(2) Voting may be adjourned on the direction of the Chief Electoral Officer for—

(a) an initial period of no more than 3 days; and

(b) 1 or more subsequent periods of no more than 7 days each.

(3) Before making a direction under subsection (2)(b) adjourning the voting for a subsequent period, the Chief Electoral Officer must—

(a) consult—

(i) the Prime Minister; and

(ii) the Leader of the Opposition; and

(iii) any person or organisation that in the Chief Electoral Officer's opinion is able to give information about the scale and duration of the unforeseen or unavoidable disruption; and

(b) be satisfied that the adjournment is necessary in all the circumstances.

(4) The Chief Electoral Officer must, as soon as is reasonably practicable after making a direction under subsection (2)(a), notify the following persons of the adjournment:

(a) the Prime Minister; and

(b) the Leader of the Opposition.

(5) The Chief Electoral Officer must, as soon as is reasonably practicable after making a direction under subsection (2)(a) or (b), give public notice of the adjournment in any manner that the Chief Electoral Officer considers appropriate.

(6) If voting at 1 or more polling places is adjourned under this section for any number of days, the day on or before which the writ must be returned is postponed by the same number of days.

Section 195A: inserted, on 11 March 2020, by section 17 of the Electoral Amendment Act 2020 (2020 No 2).

195B Alternative voting processes to respond to polling disruption

(1) This section applies if—

(a) an unforeseen or unavoidable disruption occurs at 1 or more advance polling places that may reasonably be expected to continue until polling day; or

(b) an unforeseen or unavoidable disruption occurs at 1 or more polling places on polling day.

(2) The Chief Electoral Officer may manage an unforeseen or unavoidable disruption to which this section applies by using alternative voting processes if the Chief Electoral Officer considers that doing so is the most appropriate and efficient way to address the disruption.

(3) The alternative voting processes referred to in subsection (2) may modify or adapt any requirements, processes, or procedures specified by or prescribed under this Act (for example, the Chief Electoral Officer may extend the polling hours, or extend to voters in New Zealand the procedure for the electronic issue of voting papers that is available to voters outside New Zealand).

(4) In this section, **advance polling place** has the same meaning given to it in section 197A(10).

Section 195B: inserted, on 11 March 2020, by section 17 of the Electoral Amendment Act 2020 (2020 No 2).

195C Matters Chief Electoral Officer must have regard to when exercising discretion under section 195A or 195B

When considering whether to exercise his or her discretion under section 195A or 195B, the Chief Electoral Officer must have regard to the following matters:

(a) the need to ensure the safety of voters and electoral officials; and

(b) the need to ensure that the election process is free from corrupt or illegal practices; and

(c) the need to ensure that the election process is concluded in a timely and expeditious manner.

Section 195C: inserted, on 11 March 2020, by section 17 of the Electoral Amendment Act 2020 (2020 No 2).

195D Deferral of release of information about result of preliminary count of votes at polling place if close of poll delayed

(1) If, as a result of an unforeseen or unavoidable disruption, the close of the poll at any polling place is delayed, the Chief Electoral Officer must not disclose any information about the results of a preliminary count of votes cast at that polling place, or any other polling place, until the close of the poll at all polling places.

(2) However, the Chief Electoral Officer may disclose that information if he or she considers that the disclosure of the information will not unduly influence—

(a) the overall result of the poll in an electoral district; or

(b) the number of seats in Parliament that a party is entitled to be allocated under sections 191 and 192, and the selection of list candidates under section 193.

(3) A person commits an offence and is guilty of a corrupt practice if—

(a) the person knows that,—

(i) as a result of an unforeseen or unavoidable disruption, the close of the poll at any polling place has been delayed; and

(ii) the Chief Electoral Officer has not disclosed the results of a preliminary count of votes cast at that polling place or any other polling place; and

(b) the person discloses information about those results.

(4) Subsection (3) does not apply to disclosures of information between—

(a) electoral officials; or

(b) members of the Electoral Commission; or

(c) electoral officials and members of the Electoral Commission.

Section 195D: inserted, on 11 March 2020, by section 17 of the Electoral Amendment Act 2020 (2020 No 2).

195E Interfering with or influencing voters at resumed poll

If, under section 195A, voting at any polling place is adjourned, then, when polling resumes at that polling place or any alternative polling place and until the close of the poll at that place,—

(a) section 197(1)(i) and (j) applies with all necessary modifications as if references in those paragraphs to any polling place were references to the polling place at which polling has resumed; and

(b) section 197A applies with all necessary modifications as if—

(i) references in that section to an advance voting place were references to the polling place at which polling has resumed; and

(ii) references in that section to a buffer zone for the advance voting place were references to the buffer zone for the polling place at which polling has resumed.

Section 195E: inserted, on 11 March 2020, by section 17 of the Electoral Amendment Act 2020 (2020 No 2).

Custody of ballot papers

196 Obligation of persons in possession of ballot papers

(1) Every person who is, other than for the purpose of recording his or her vote, in possession of 1 or more ballot papers must—

(a) take all reasonable steps to ensure the safe custody of the ballot papers; and

(b) deal with the ballot papers in accordance with—

(i) any applicable provisions of this Act or regulations made under this Act; and

(ii) in the case of an electoral official or a polling place official, any applicable directions given under section 20A or section 158A; and

(iii) in the case of a person involved in performing or assisting with the performance of a contract with an electoral official or a polling place official, the terms of the relevant contract and any instructions given by or on behalf of the official.

(2) Subsection (1) applies to a person involved in performing or assisting with the performance of a contract for the carriage of ballot papers only if the person is aware of that fact or, because of indications on the box, parcel, or packet in which the ballot papers are contained, ought to be aware of the fact.

(3) Whenever ballot papers are delivered to a Returning Officer by or on behalf of the printer who has printed the ballot papers,—

(a) the Returning Officer must give or send the printer a receipt specifying the total number of ballot papers received by the Returning Officer; and

(b) the printer must see that all copies of ballot papers other than those delivered to the Returning Officer are immediately destroyed.

(4) Every person commits an offence and is liable on conviction to a fine of $2,000 who fails to comply with a requirement imposed on the person by this section.

Section 196: substituted, on 28 February 2002, by section 79 of the Electoral Amendment Act 2002 (2002 No 1).

Section 196(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

196A Unlawful possession of ballot paper

(1) Every person is liable on conviction to a fine not exceeding $2,000 who, without authority under this Act or regulations made under this Act, obtains possession of any ballot paper.

(2) Every person commits an offence and is liable on conviction to a fine not exceeding $2,000 who retains any ballot paper in his or her possession after leaving a polling place.

Section 196A: inserted, on 28 February 2002, by section 79 of the Electoral Amendment Act 2002 (2002 No 1).

Section 196A(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 196A(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Offences at elections

197 Interfering with or influencing voters

(1) Every person commits an offence and shall be liable on conviction to a fine not exceeding $20,000 who at an election—

(a) in any way interferes with any elector, either in the polling place or while the elector is on the way to the polling place with the intention of influencing the elector or advising the elector as to the elector's vote:

(b) at any time on polling day before the close of the poll in or in view or hearing of any public place holds or takes part in any demonstration or procession having direct or indirect reference to the poll by any means whatsoever:

(c) at any time on polling day before the close of the poll makes any statement having direct or indirect reference to the poll by means of any loudspeaker or public address apparatus or cinematograph or television apparatus:

provided that this paragraph shall not restrict the publication by radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989 of—

(i) any advertisement placed by the Electoral Commission or a Returning Officer; or

(ii) any non-partisan advertisement broadcast, as a community service, by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989; or

(iii) any news in relation to an election:

(d) at any time before the close of the poll, conducts in relation to the election a public opinion poll of persons voting before polling day:

(e) at any time on polling day before the close of the poll, conducts a public opinion poll in relation to the election:

(f) at any time on polling day before the close of the poll, or at any time on any of the 3 days immediately preceding polling day, prints or distributes or delivers to any person anything being or purporting to be in imitation of any ballot paper to be used at the poll and having thereon the names of the candidates or the parties or any of them, together with any direction or indication as to the candidate or party for whom or for which any person should or should not vote, or in any way containing any such direction or indication, or having thereon any matter likely to influence any vote:

(g) at any time on polling day before the close of the poll exhibits in or in view of any public place, or publishes, or distributes, or broadcasts,—

(i) any statement advising or intended or likely to influence any elector as to the candidate or party for whom the elector should or should not vote; or

(ii) any statement advising or intended or likely to influence any elector to abstain from voting; or

(iii) any party name, emblem, slogan, or logo; or

(iv) any ribbons, streamers, rosettes, or items of a similar nature in party colours:

provided that this paragraph shall not apply to any statement, name, emblem, slogan, or logo in a newspaper published before 6 pm on the day before polling day:

provided also that where any statement, name, emblem, slogan, or logo which does not relate specifically to the election campaign and which is so exhibited before polling day in a fixed position and in relation to the New Zealand or regional or campaign headquarters (not being mobile headquarters) of a political party or a member of Parliament's out-of-Parliament office, it shall not be an offence to leave the statement, name, emblem, slogan, or logo so exhibited on polling day:

provided further that this paragraph shall not restrict the publication of any party name in any news which relates to an election and which is

published in a newspaper or other periodical or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989:

provided further that this paragraph shall not apply to ribbons, streamers, rosettes, or items of a similar nature, which are worn or displayed by any person (not being an electoral official) on his or her person or on any vehicle in party colours or to a party lapel badge worn by any person (not being an electoral official):

(h) at any time on polling day before the close of the poll prints or distributes or delivers to any person any card or paper (whether or not it is an imitation ballot paper) having thereon the names of the candidates or the parties or any of them:

(i) exhibits or leaves in any polling place any card or paper having thereon any direction or indication as to how any person should vote or as to the method of voting:

(j) subject to any regulations made under this Act, at any time on polling day before the close of the poll, within, or at the entrance to, or in the vicinity of, any polling place,—

(i) gives or offers to give any person any written or oral information derived from a main or supplementary roll as to any name or number on the main roll or any supplementary roll being used at the election:

(ii) permits or offers to permit any person to examine any copy of the main roll or any supplementary roll being used at the election:

(k) in respect of an advance voting place or a buffer zone, as defined in section 197A(10), does any of the things prohibited in that section.

(2) It shall be a defence to a prosecution for an offence against subsection (1)(g) that relates to the exhibition in or in view of a public place of a statement, name, emblem, slogan, or logo, if the defendant proves that—

(a) the exhibition was inadvertent; and

(b) the defendant caused the exhibition to cease as soon as the defendant was notified by a Returning Officer or a manager of the polling place that the exhibition was taking place.

(2A) It is a defence to a prosecution for an offence against paragraph (g) of subsection (1) that relates to the publication on an Internet web site of a statement or other material specified in that paragraph, if the defendant proves that—

(a) the statement or material was placed on the web site before polling day; and

(b) the defendant did not operate or permit the operation of systems that cause the statement or material on the web site to be made available, on

polling day, to persons other than persons who voluntarily access the web site; and

(c) the defendant did not, on polling day, distribute, broadcast, or exhibit in or in view of a public place, or publish, or at any time cause to be published, in an issue of a newspaper or magazine that is first issued on polling day any material promoting or advertising the web site.

(2B) It is a defence to a prosecution for an offence against subsection (1)(k) that relates to the exhibition of a statement, name, emblem, slogan, or logo in an advance voting place or a buffer zone if the defendant proves that—

(a) the exhibition was inadvertent; and

(b) the defendant caused the exhibition to cease as soon as the defendant was notified by the Electoral Commission or a manager of the advance voting place that the exhibition was taking place.

(3) Nothing in this section shall apply to any official statement or announcement made or exhibited under the authority of this Act.

Compare: 1956 No 107 s 127; 1990 No 1 s 65(1)

Section 197(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 197(1): amended, on 20 December 2007, by section 20 of the Electoral Amendment Act 2007 (2007 No 113).

Section 197(1)(a): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 197(1)(c)(i): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 197(1)(f): amended, on 6 December 1995, by section 69(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 197(1)(g): amended, on 21 March 2017, by section 95(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 197(1)(h): amended, on 6 December 1995, by section 69(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 197(1)(i): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 197(1)(k): inserted, on 21 March 2017, by section 95(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 197(2)(b): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 197(2A): inserted, on 28 February 2002, by section 80 of the Electoral Amendment Act 2002 (2002 No 1).

Section 197(2B): inserted, on 21 March 2017, by section 95(3) of the Electoral Amendment Act 2017 (2017 No 9).

197A Interfering with or influencing advance voters

(1) A person must not do any of the things listed in subsection (2) in an advance voting place or in a buffer zone for that advance voting place while the advance voting place is open for voting.

(2) A person must not—

(a) hold or take part in a demonstration or procession having direct or indirect reference to the poll; or

(b) make a statement that contains a direct or indirect reference to the poll by means of a loudspeaker, public address apparatus, cinematograph, or television apparatus; or

(c) exhibit, publish, distribute, or broadcast—

(i) a statement advising or intended or likely to influence an elector as to the candidate or party for whom the elector should or should not vote; or

(ii) a statement advising or intended or likely to influence an elector to abstain from voting; or

(iii) a party name, emblem, slogan, or logo; or

(iv) any ribbons, streamers, rosettes, or items of a similar nature in party colours.

(3) Despite subsections (1) and (2), a person may do the things allowed by subsections (4) to (7) in an advance voting place or in a buffer zone for that advance voting place while the advance voting place is open for voting.

(4) A person may make a statement described in subsection (2)(b) if the statement is a publication by radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989 of—

(a) an advertisement placed by the Electoral Commission; or

(b) a non-partisan advertisement broadcast, as a community service, by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989; or

(c) news that relates to an election.

(5) A person may exhibit a statement, party name, emblem, slogan, or logo described in subsection (2)(c) if—

(a) the statement or thing does not relate specifically to the election campaign; and

(b) before the advance voting place is first opened, the statement or thing is exhibited in a fixed position and in relation to the New Zealand or regional or campaign headquarters (not being mobile headquarters) of a political party.

(6) A person may wear, or display on a vehicle, ribbons, streamers, rosettes, or other items of a similar nature in party colours if the person is not an electoral official.

(7) A person may wear a party lapel badge if the person is not an electoral official.

(8) Nothing in this section applies to an official statement or announcement made or exhibited under the authority of this Act.

(9) The Electoral Commission may, at any time during the period when an advance voting place is maintained, cause to be removed or obliterated from the advance voting place or the buffer zone statements or things referred to in section 198(1)(a) to (c), subject to section 198(2) and (3).

(10) In this section,—

advance voting place means an office for advance special voters maintained by the Electoral Commission under regulations made under this Act, but does not include other facilities for special voting (for example, special voting facilities at a hospital)

buffer zone means the area within 10 metres of any entrance, or any smaller buffer zone specified by the Electoral Commission for a particular advance voting place

entrance means an entrance, used by voters, to the area of the advance voting place where voting papers are being issued, and the Electoral Commission may specify an entrance for a particular advance voting place.

Section 197A: inserted, on 21 March 2017, by section 96 of the Electoral Amendment Act 2017 (2017 No 9).

198 Power to remove statements, names, emblems, slogans, or logos

(1) The Returning Officer may at any time on polling day before the close of the poll cause to be removed or obliterated—

(a) any statement advising or intended or likely to influence any elector as to the candidate or party for whom the elector should or should not vote; or

(b) any statement advising or intended or likely to influence any elector to abstain from voting; or

(c) any party name, emblem, slogan, or logo,—

which is exhibited in or in view of any public place.

(2) Nothing in subsection (1)(c) shall apply to ribbons, streamers, rosettes, or items of a similar nature which are worn or displayed by any person (whether on his or her person or on any vehicle) in his or her party's colours or to a party lapel badge worn by any person.

(3) Nothing in subsection (1) shall apply to a statement, party name, emblem, slogan, or logo which does not relate specifically to the election campaign and which was so exhibited before polling day in a fixed position and in relation to the New Zealand or regional or campaign headquarters (not being mobile headquarters) of a political party.

Compare: 1956 No 107 s 127A(1)–(3); 1981 No 120 s 40(1); 1990 No 1 s 66

199 Recovery of expenses

All expenses incurred by the Electoral Commission in exercising the powers conferred by sections 197A(9) and 198(1) may be recovered by the Electoral Commission from the persons by whom or by whose direction the statement, name, emblem, slogan, or logo was exhibited, as a debt due by them jointly and severally to the Crown.

Compare: 1956 No 107 s 127A(4); 1981 No 120 s 40(1)

Section 199: amended, on 21 March 2017, by section 97 of the Electoral Amendment Act 2017 (2017 No 9).

199A Publishing false statements to influence voters

(1) A person is guilty of a corrupt practice if the person, with the intention of influencing the vote of an elector,—

(a) first publishes or republishes a statement, during the specified period, that the person knows is false in a material particular; or

(b) arranges for the first publication or republication of a statement, during the specified period, that the person knows is false in a material particular.

(2) Subsection (1) does not apply if—

(a) the statement was first published before the specified period and remains available or accessible within all or part of the specified period; but

(b) the person did not, during the specified period, by any means,—

(i) advertise or draw attention to the statement; or

(ii) promote or encourage any person to access the statement.

(3) In this section,—

publish, in relation to a statement, means to bring to the notice of a person in any manner,—

(a) including by—

(i) displaying on any medium:

(ii) distributing by any means:

(iii) delivering to an address:

(iv) leaving at a place:

(v) sending by post or otherwise:

(vi) printing in a newspaper or other periodical:

(vii) broadcasting by any means:

(viii) disseminating by means of the Internet or any other electronic medium:

(ix) storing electronically in a way that is accessible to the public:

(x) incorporating in a device for use with a computer:

(xi) inserting in a film or video; but

(b) excluding addressing 1 or more persons face to face

specified period means the period—

(a) beginning 2 days immediately before polling day; and

(b) ending with the close of the poll.

Section 199A: replaced, on 21 March 2017, by section 98 of the Electoral Amendment Act 2017 (2017 No 9).

200 Erasing and altering official mark on ballot paper

Every person shall be liable on conviction to a fine not exceeding $2,000 who erases, obliterates, or alters any official mark, stamp, or writing on any ballot paper, or places thereon any writing, print, or other matter which might lead persons to believe that it was put thereon by any official or person duly authorised in that behalf.

Compare: 1956 No 107 s 129; 1990 No 1 s 67(1)

Section 200: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 200: amended, on 6 December 1995, by section 70 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

201 Offences in respect of ballot papers and ballot boxes

(1) Every person commits an offence against this section who—

(a) forges, or counterfeits, or fraudulently defaces, or fraudulently destroys any ballot paper, or the official mark on any ballot paper:

(b) without due authority supplies any ballot paper to any person:

(c) fraudulently puts into any ballot box any paper other than the ballot paper that he or she is authorised by law to put therein:

(d) fraudulently takes out of a polling place any ballot paper:

(e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box, or box or packet or parcel of ballot papers, then in use for the purposes of an election, or in course of transmission by post or otherwise, or thereafter whenever the same may be kept as a record of the election.

(2) Every person who commits an offence against this section shall be liable on conviction,—

(a) if a Returning Officer or a polling place official in attendance at a polling place, to imprisonment for a term not exceeding 2 years:

(b) if any other person, to imprisonment for a term not exceeding 6 months.

(3) Every person who attempts to commit any offence against this section shall be liable on conviction to imprisonment for a term not exceeding one-half of the longest term to which a person committing the offence may be sentenced.

(4) Every person who commits an offence against this section or who attempts to commit an offence against this section is guilty of a corrupt practice.

Compare: 1956 No 107 s 130; 1990 No 1 s 68

Section 201(1)(a): amended, on 6 December 1995, by section 71(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 201(1)(b): amended, on 6 December 1995, by section 71(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 201(1)(c): amended, on 6 December 1995, by section 71(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 201(1)(d): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 201(1)(d): amended, on 6 December 1995, by section 71(1) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 201(1)(e): amended, on 6 December 1995, by section 71(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 201(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 201(2)(a): substituted, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 201(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

202 Property to be stated as being in Electoral Commission

In any prosecution for an offence in relation to any ballot boxes, ballot papers, or marking instruments at an election, the property in the boxes, ballot papers, and instruments may be stated as being in the Electoral Commission.

Compare: 1956 No 107 s 131

Section 202 heading: amended, on 21 March 2017, by section 99(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 202: amended, on 21 March 2017, by section 99(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 202: amended, on 6 December 1995, by section 72 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

203 Infringement of secrecy

(1) Every electoral official, polling place official, scrutineer, or other person appointed for the purposes of this Act shall use or disclose information acquired by him or her in that capacity only in accordance with his or her official duty or his or her duty as a scrutineer, as the case may require.

(2) No person, except for some purpose authorised by law, shall—

(a) interfere with or attempt to interfere with a voter when marking his or her vote:

(b) attempt to obtain in a polling place information as to the candidate for whom or the party for which a voter in the polling place is about to vote or has voted:

(c) communicate at any time to any person any information obtained in a polling place as to the candidate for whom or the party for which any voter at the polling place is about to vote or has voted, or as to the consecutive number on the ballot paper given to any voter at the polling place.

(3) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at the counting as to the candidate for whom or the party for which any vote is given in any particular ballot paper.

(4) No person shall directly or indirectly induce any voter to display his or her ballot paper after he or she has marked it, so as to make known to any person the name of any candidate for or against whom he or she has voted or the name of the party for which he or she has voted.

Compare: 1956 No 107 s 132(1)–(4); 1983 No 104 s 20

Section 203(1): amended, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 203(2)(b): substituted, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 203(2)(c): substituted, on 28 February 2002, by section 101(1) of the Electoral Amendment Act 2002 (2002 No 1).

Section 203(4): amended, on 6 December 1995, by section 73(2) of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

204 Infringement of secrecy constitutes corrupt practice

Every person who commits an offence against section 203 is guilty of a corrupt practice.

Compare: 1956 No 107 s 132(5); 1990 No 1 s 69

Part 6AA
Election advertising

Part 6AA: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Interpretation provisions

Heading: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204A Interpretation

In this Part, unless the context otherwise requires,—

address means—

(a) in relation to an individual,—

(i) the full street address of the place where that individual usually lives; or

(ii) the full street address of any other place where that individual can usually be contacted between the hours of 9 am and 5 pm on any working day:

(b) in relation to a body corporate or unincorporated,—

(i) the full street address of the body's principal place of business; or

(ii) the full street address of the body's head office

contact details for a person means that person's—

(a) address; and

(b) telephone numbers; and

(c) email address (if any)

election advertisement has the meaning given to it by section 3A

promoter means a person who initiates or instigates an election advertisement that—

(a) is published; or

(b) is to be published

register means the register of registered promoters established and maintained under section 204R

registered promoter—

(a) means a promoter who is registered under section 204N; and

(b) includes a promoter who at any time in the regulated period has been registered under section 204N

unregistered promoter means a promoter who is not—

(a) a registered promoter; or

(b) a constituency candidate; or

(c) a list candidate; or

(d) a party; or

(e) a person involved in the administration of—

(i) the affairs of a candidate in relation to the candidate's election campaign; or

(ii) the affairs of a party.

Section 204A: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Subpart 1—General rules governing election advertisements

Subpart 1: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204B Persons who may promote election advertisements

(1) A person is entitled to promote an election advertisement if the person is—

(a) a party secretary:

(b) a candidate:

(c) a registered promoter:

(d) an unregistered promoter who does not incur advertising expenses exceeding $13,800 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A) in relation to election advertisements published during the regulated period.

(2) The amount in subsection (1)(d) is inclusive of goods and services tax.

(3) Every person who wilfully promotes an election advertisement without being entitled to do so under subsection (1) is guilty of an illegal practice.

Compare: 2007 No 111 s 63(3), (4)

Section 204B: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 204B(1)(d): amended, on 1 July 2021, by clause 3 of the Electoral (Expenditure Limit) Order 2021 (LI 2021/125).

204C Apportionment of advertising expenses for publication of election advertisement promoted by unregistered promoter both before and during regulated period

(1) This section applies if an election advertisement that is promoted by an unregistered promoter—

(a) is published both before the commencement of the regulated period and during the regulated period; or

(b) is published before the commencement of the regulated period and continues to be published during the regulated period.

(2) If this section applies,—

(a) the election advertisement is deemed to have been published during the regulated period; but

(b) the advertising expenses for the publication of the election advertisement must be apportioned so that only a fair proportion of the expenses is attributed to being incurred during the regulated period.

(3) Only the advertising expenses attributed to being incurred during the regulated period determined in accordance with subsection (2) are advertising expenses for the purposes of section 204B(1)(d).

Compare: 1993 No 87 ss 205C, 206C (pre-1 January 2011)

Section 204C: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204D Offence to avoid limit set out in section 204B(1)(d)

(1) An unregistered promoter may not enter into an agreement, or enter into an arrangement or understanding, with any other person for the purpose of circumventing the maximum amount prescribed in section 204B(1)(d).

(2) A body corporate or unincorporated may not encourage its members to take any action for the purpose of circumventing the maximum amount prescribed in section 204B(1)(d).

(3) No person may incorporate or form 2 or more bodies corporate or unincorporated for the purpose of circumventing the maximum amount prescribed in section 204B(1)(d).

(4) Every person who wilfully contravenes subsection (1), (2), or (3) is guilty of an illegal practice.

Compare: 2007 No 111 s 64

Section 204D: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204E Obligation to retain records necessary to verify promoter's advertising expenses

(1) This section applies to a promoter who—

(a) is an unregistered promoter:

(b) at any time during the regulated period has been an unregistered promoter.

(2) A promoter to whom this section applies must take all reasonable steps to retain the records, documents, and accounts that are necessary to enable verification of the advertising expenses incurred as an unregistered promoter in relation to an election advertisement.

(3) Subsection (2) applies until the close of the day that is 3 years after polling day for the election to which the advertisement relates.

(4) Every promoter who fails, without reasonable excuse, to comply with subsection (2) commits an offence and is liable on conviction to a fine not exceeding $40,000.

Section 204E: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 204E(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

204F Election advertisement to include promoter statement

(1) A person may publish or cause or permit to be published an election advertisement only if the advertisement includes a promoter statement.

(2) A promoter statement referred to in subsection (1) must state the name and address of the promoter of the election advertisement.

(3) If the promoter is a registered promoter, the name and address of the promoter stated in the promoter statement must be the same name and address of the promoter that appear in the register.

(4) If the promoter is an unregistered promoter and is a body corporate or unincorporated, the promoter statement must also include the name of a member of the body who is the duly authorised representative of the promoter.

(5) If the election advertisement is published in a visual form, the promoter statement must be clearly displayed in the advertisement.

(6) If the election advertisement is published only in an audible form, the promoter statement when published must be no less audible than the other content of the advertisement.

(7) A person who wilfully contravenes any of subsections (1) to (6) is guilty of an illegal practice.

Compare: 1993 No 87 s 221(2)(b), (3)(b), (4) (pre-1 January 2011)

Section 204F: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204G Publication of candidate advertisement promoting candidate

(1) A person may publish or cause or permit to be published a candidate advertisement that may reasonably be regarded as encouraging or persuading voters to vote for a constituency candidate only if the publication of the advertisement is authorised in writing by the candidate.

(2) A person may publish or cause or permit to be published an election advertisement comprising 2 or more candidate advertisements of the kind described in subsection (1) only if the publication of the advertisement is authorised in writing by each of the candidates.

(3) A person who wilfully contravenes subsection (1) or (2) is guilty of an illegal practice.

Compare: 1993 No 87 s 221(1)(a), (2)(a), (4), (5) (pre-1 January 2011)

Section 204G: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204H Publication of party advertisement promoting party

(1) A person may publish or cause or permit to be published a party advertisement that may reasonably be regarded as encouraging or persuading voters to vote for a party only if the publication of the advertisement is authorised in writing by the party secretary.

(2) A person who wilfully contravenes subsection (1) is guilty of an illegal practice.

Compare: 1993 No 87 s 221(1)(b), (3), (4), (5) (pre-1 January 2011)

Section 204H: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204I Electoral Commission to provide advice on application of definition of election advertisement

(1) Any person (a **requestor**) may request the Electoral Commission to provide advice on whether, in the opinion of the Electoral Commission, an advertisement constitutes an election advertisement.

(2) A request made under subsection (1) must be accompanied by the advertisement in the form required by the Electoral Commission.

(3) On receipt of a request under subsection (1), the Electoral Commission must, as soon as is reasonably practicable, provide an opinion to the requestor.

(4) During the period specified in subsection (6), the Electoral Commission must treat the following documents as confidential:

(a) an advertisement received under subsection (2):

(b) any supporting material made available by the requestor to the Electoral Commission:

(c) advice given by the Electoral Commission to a requestor under subsection (3).

(5) Notwithstanding subsection (4), the Electoral Commission may, upon request or on its own initiative, make available to the New Zealand Police copies of the documents referred to in that subsection to assist with the investigation or prosecution of any offence or suspected offence relating to an election.

(6) The period specified for the purposes of subsection (4) is, in relation to a document, the period that—

(a) begins on the day the Electoral Commission receives the document; and

(b) ends on the day after the day for the return of the writ for the election to which the advertisement relates.

(7) Subsection (4) overrides the Official Information Act 1982 and the Privacy Act 2020.

Section 204I: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 204I(7): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

204J Duty of Electoral Commission to report suspected offences

(1) If the Electoral Commission believes that any person has committed an offence specified in this subpart, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

Section 204J: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Subpart 2—Registered promoters

Subpart 2: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204K Promoters eligible to be registered

A promoter (including a corporation sole, a body corporate, and an unincorporated body) is eligible to be a registered promoter if the promoter is not—

(a) a constituency candidate:

(b) a list candidate:

(c) a party:

(d) an overseas person as defined in section 207(2):

(e) a person involved in the administration of—

(i) the affairs of a candidate in relation to the candidate's election campaign; or

(ii) the affairs of a party.

Compare: 2007 No 111 s 13

Section 204K: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 204K(d): amended, on 1 January 2020, by section 4 of the Electoral Amendment Act 2019 (2019 No 72).

204L Application for registration

(1) An application to be a registered promoter must be made to the Electoral Commission and made,—

(a) if the promoter is an individual, by that individual; or

(b) if the promoter is a company, by a person who is duly authorised by the board of directors to make the application; or

(c) if the promoter is not an individual or a company, by the promoter's representative who is duly authorised by the promoter to make the application.

(2) An application to be a registered promoter must be made in the form required by the Electoral Commission and set out—

(a) the name and contact details of—

(i) the promoter; and

(ii) the person described in subsection (1)(b) or (c) who made the application, if the promoter is not an individual; and

(b) the names of the persons occupying a position in the body that is comparable with that of a director of a company, if the promoter is not an individual or a company; and

(c) the names of the trustees, if the promoter is a trust.

(3) An application to be a registered promoter must be accompanied by evidence of the authority to make the application, if the application is made by a person described in subsection (1)(b) or (c).

Compare: 2007 No 111 s 15(2), (3)(a)

Section 204L: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204M Grounds on which application for registration must be refused

The Electoral Commission must refuse an application by a promoter to be registered if—

(a) the application does not comply with section 204L; or

(b) the Electoral Commission is not satisfied that the promoter is eligible under section 204K to be registered; or

(c) the name of the promoter is—

(i) indecent or offensive; or

(ii) likely to cause confusion or mislead electors.

Compare: 1993 No 87 s 65(a), (c); 2007 No 111 s 17(1)(a), (c)

Section 204M: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204N Electoral Commission's decision on application

(1) If there are no grounds under section 204M to refuse an application by a promoter to be registered, the Electoral Commission must, as soon as is reasonably practicable after receiving the application,—

(a) register the promoter; and

(b) notify the person who made the application of the date of registration of the promoter.

(2) If there are grounds under section 204M to refuse an application, the Electoral Commission must, as soon as is reasonably practicable after receiving the application,—

(a) refuse the application; and

(b) notify the person who made the application of the refusal and the reasons.

Compare: 2007 No 111 s 18

Section 204N: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204O Obligation to notify Electoral Commission of change in contact details

A registered promoter must give written notice to the Electoral Commission of any change in the information provided under section 204L(2) within 10 working days after the change.

Compare: 2007 No 111 s 19(1)

Section 204O: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204P Cancellation of registration

(1) The Electoral Commission must cancel the registration of a promoter if—

(a) the Electoral Commission is satisfied that the promoter is not eligible to be registered; or

(b) the promoter—

(i) requests that it do so; and

(ii) has not incurred expenses in relation to election advertisements that exceed the amount specified in section 204B(1)(d).

(2) If the Electoral Commission cancels the registration of a promoter under subsection (1), the Electoral Commission must, as soon as is reasonably practicable, and in any case not later than 10 working days after the date of the cancellation, give the promoter written notice of—

(a) the cancellation; and

(b) the reason for the cancellation.

Compare: 2007 No 111 s 20

Section 204P: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204Q Expiry of registration

Unless earlier cancelled under section 204P, a promoter's registration expires on the close of polling day for the next election following the date of the promoter's registration.

Section 204Q: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204R Establishment of register

(1) The Electoral Commission must establish and maintain a register of registered promoters.

(2) The Electoral Commission must enter in the register in respect of every registered promoter—

(a) the name of the registered promoter; and

(b) the address of the registered promoter; and

(c) the names of the persons set out in the promoter's application, if any, provided under section 204L(2)(a)(ii), (b), and (c).

(3) The Electoral Commission may enter in the register any other information that the Electoral Commission considers necessary or desirable for the purposes of the register.

Section 204R: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204S Purposes of register

The purposes of the register are—

(a) to enable members of the public to ascertain—

(i) whether a person is a registered promoter and, if so, the address of that person; and

(ii) whether an election advertisement is promoted by a registered promoter; and

(b) to assist with the enforcement of the provisions of this Part.

Section 204S: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204T Form of register

The register may be kept—

(a) as an electronic register (for example, on the Electoral Commission's Internet site); or

(b) in any other manner that the Electoral Commission thinks fit.

Section 204T: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204U Alterations to register

The Electoral Commission may at any time make any amendments to the register that are necessary to—

(a) reflect any changes in the information referred to in section 204O; or

(b) correct any error or omission on the part of the Electoral Commission or any person to whom the Electoral Commission has delegated its functions, duties, or powers.

Section 204U: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204V Register to be public

The Electoral Commission must—

(a) make the register available for public inspection at its office during ordinary office hours, without fee; and

(b) supply to a person copies of all or part of the register on request, subject to the payment of any charges that may be made under the Official Information Act 1982.

Section 204V: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204W Search of register

A person may search the register for a purpose set out in section 204S.

Section 204W: inserted, on 1 January 2011, by section 7 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

204X When search constitutes interference with privacy of individual

A search of the register for personal information that has not been carried out for a purpose specified in section 204S constitutes an action that is an interference with the privacy of an individual under section 69 of the Privacy Act 2020.

Section 204X: replaced, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Part 6A
Election expenses and donations

Part 6A: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Subpart 1—Election expenses of candidates

Subpart 1: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Subpart 1 heading: substituted, on 1 January 2011, by section 8 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205 Interpretation and application

(1) In this subpart, unless the context otherwise requires,—

advertising expenses has the meaning given to it by section 3E

candidate advertisement has the meaning given to it by section 3(1)

election advertisement has the meaning given to it by section 3A

election expenses, in relation to a candidate,—

(a) means the advertising expenses incurred in relation to a candidate advertisement that—

(i) is published, or continues to be published, during the regulated period; and

(ii) is promoted by—

(A) the candidate; or

(B) any person (including a registered promoter) authorised by the candidate; and

(b) includes—

(i) any election expense of an election advertisement that is apportioned to a candidate under section 205E or 205EA; and

(ii) as required by section 40 of the Electoral Referendum Act 2010, any referendum expenses incurred in relation to an advertisement that comprises both—

(A) a candidate advertisement; and

(B) a referendum advertisement (within the meaning of section 31 of the Electoral Referendum Act 2010)

party advertisement has the meaning given to it by section 3(1).

(2) For the purposes of the definition of **election expenses**, it is immaterial whether an election expense is paid or incurred before, during, or after the regulated period.

(3) Nothing in sections 205K to 205R applies to a person who has not been nominated as a candidate for a seat in the House of Representatives.

Section 205: substituted, on 1 January 2011, by section 8 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205A Persons who may incur election expenses in relation to candidate advertisement

An election expense in relation to a candidate advertisement may only be incurred by—

(a) a candidate; or

(b) a party secretary in relation to an election advertisement described in section 205EA; or

(c) a promoter authorised by the candidate under section 204G.

Section 205A: substituted, on 1 January 2011, by section 8 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205B Offence to incur unauthorised election expense

Every person is guilty of—

(a) a corrupt practice who wilfully contravenes section 205A; and

(b) an illegal practice who contravenes section 205A in any other case.

Compare: 2007 No 111 s 75

Section 205B: substituted, on 1 January 2011, by section 8 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205C Maximum amount of candidate's total election expenses

(1) The total election expenses of a candidate in respect of any regulated period must not exceed—

(a) $28,600 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A), in the case of a candidate at a general election; and

(b) $57,200 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A), in the case of a candidate at a by-election.

(2) The amounts in subsection (1) are inclusive of goods and services tax.

Compare: 1993 No 87 s 205B (pre-1 January 2011)

Section 205C: substituted, on 1 January 2011, by section 8 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 205C(1)(a): amended, on 1 July 2021, by clause 4(1) of the Electoral (Expenditure Limit) Order 2021 (LI 2021/125).

Section 205C(1)(b): amended, on 1 July 2021, by clause 4(2) of the Electoral (Expenditure Limit) Order 2021 (LI 2021/125).

205D Apportionment of advertising expenses for publication of candidate advertisement both before and during regulated period

(1) This section applies if a candidate advertisement—

(a) is published both before the commencement of the regulated period and during the regulated period; or

(b) is published before the commencement of the regulated period and continues to be published during the regulated period.

(2) If this section applies,—

(a) the candidate advertisement is deemed to have been published during the regulated period; but

(b) the advertising expenses for the publication of the candidate advertisement must be apportioned so that only a fair proportion of the expenses is attributed to being incurred during the regulated period.

(3) Only the advertising expenses attributed to being incurred during the regulated period in accordance with subsection (2) are election expenses.

Compare: 1993 No 87 s 205C (pre-1 January 2011)

Section 205D: substituted, on 1 January 2011, by section 8 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205E Apportionment of election expenses of election advertisement between candidates

(1) This section applies if an election advertisement comprises 2 or more candidate advertisements.

(2) If this section applies, the election expenses of the election advertisement must be apportioned among the candidates in proportion to the coverage the advertisement provides to each candidate.

(3) For the purposes of this section,—

(a) **election expenses of the election advertisement** means the total of the election expenses of all of the candidate advertisements comprised in the election advertisement; and

(b) the coverage provided by an election advertisement must be calculated in such a manner as is appropriate in relation to the form of the advertisement.

(4) Only the expenses apportioned to a candidate in accordance with this section are election expenses of that candidate.

Compare: 1993 No 87 s 205D (pre-1 January 2011)

Section 205E: substituted, on 1 January 2011, by section 8 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205EA Apportionment of election expenses of election advertisement between candidate and party

(1) This section applies if an election advertisement comprises both—

(a) a candidate advertisement; and

(b) a party advertisement.

(2) If this section applies, the election expenses of the election advertisement must be apportioned between the candidate and the party in proportion to the coverage the advertisement provides to the candidate and to the party.

(3) For the purposes of this section,—

(a) **election expenses of the election advertisement** means the advertising expenses incurred in relation to both the candidate advertisement and the party advertisement; and

(b) the coverage provided by an election advertisement must be calculated in such a manner as is appropriate in relation to the form of the election advertisement.

(4) Only the expenses apportioned to the candidate in accordance with this section are election expenses of the candidate.

Section 205EA: inserted, on 1 January 2011, by section 8 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205F Offence to pay election expenses in excess of 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 election expenses any sum in excess of either of the maximum amounts prescribed by section 205C.

(2) The candidate or other person is guilty of—

(a) a corrupt practice if he or she knew the payment was in excess of the prescribed maximum amount; or

(b) an illegal practice in any other case, unless he or she proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the prescribed maximum amount.

(3) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing either of the maximum amounts prescribed in section 205C is guilty of a corrupt practice.

Compare: 1993 No 87 s 213(3) (pre-20 December 2007); 2007 No 111 s 81

Section 205F: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 205F(1): amended, on 17 August 2011, by section 21 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 205F(3): added, on 1 January 2011, by section 9 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205G Periods for claiming and paying candidate's election expenses

(1) A claim for any election expenses against a candidate is recoverable only if it is sent to the candidate within 20 working days after the day on which the declaration required by section 179(2) is made.

(2) A claim that is sent to a candidate in accordance with subsection (1) must be paid within 40 working days after the day on which that declaration is made, and not otherwise.

(3) A person who makes a payment in breach of this section is guilty of an illegal practice.

(4) This section is subject to sections 205H and 205I.

Compare: 1993 No 87 s 206 (pre-20 December 2007); 2007 No 111 s 82

Section 205G(1): amended, on 1 January 2011, by section 10 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 205G: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

205H Procedure if claim disputed

(1) If a candidate, in the case of a claim for election expenses sent to a candidate within the period specified in section 205G(1), disputes the claim, or fails to pay the claim within the period of 40 working days specified in section 205G(2), then—

(a) the claim is to be treated as a disputed claim; and

(b) the claimant may, if he or she thinks fit, within 20 working days after the expiry of that period of 40 working days, bring an action for the disputed claim in any court of competent jurisdiction.

(2) Any sum paid by the candidate in accordance with a judgment or order of the court in any such action is to be treated as paid within the period specified in section 205G(2).

Compare: 1993 No 87 s 207 (pre-20 December 2007); 2007 No 111 s 83

Section 205H: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

205I Leave to pay claim after time limitation

(1) On the application of a claimant or a candidate, the District Court may make an order granting leave to the candidate to pay—

(a) a claim for election expenses sent after the period specified in section 205G(1); or

(b) a claim not paid in the period specified in section 205G(2); or

(c) a disputed claim in respect of which an action was not brought within the period specified in section 205H(1)(b).

(2) Any sum paid by the candidate in accordance with an order made under subsection (1) is to be treated as having been paid within the period specified in section 205G(2).

Compare: 1993 No 87 s 208 (pre-20 December 2007); 2007 No 111 s 84

Section 205I: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 205I(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

205J Invoice and receipt required for election expenses of $50 or more

Every payment made in respect of any election expenses of a candidate, other than a payment that is less than $50, must be vouched by an invoice stating the particulars and by a receipt.

Compare: 1993 No 87 s 209 (pre-20 December 2007); 2007 No 111 s 85

Section 205J: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

205K Return of candidate's election expenses

(1) Within 70 working days after polling day, a candidate must file a return of election expenses with the Electoral Commission.

(2) A return under subsection (1) must be in the form required by the Electoral Commission.

Compare: 1993 No 87 s 210(1)(a), (2) (pre-20 December 2007); 2007 No 111 s 86

Section 205K: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 205K(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 205K(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

205L Nil return

If a candidate considers that there is no relevant information to disclose under section 205K, the candidate must file a nil return under that section.

Compare: 2007 No 111 s 87

Section 205L: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

205M Return may be filed after time limitation if candidate outside New Zealand

(1) This section applies to a candidate who is outside New Zealand on the day on which the declaration required by section 179(2) is made (**election result day**).

(2) The candidate must file a return of election expenses with the Electoral Commission within 85 working days after election result day.

(3) A return filed by the candidate in accordance with subsection (2) is deemed to be filed within the time period specified in section 205K(1).

Compare: 1993 No 87 s 210(3) (pre-20 December 2007)

Section 205M: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 205M(1): amended, on 25 March 2014, by section 29(1) of the Electoral Amendment Act 2014 (2014 No 8).

Section 205M(2): replaced, on 25 March 2014, by section 29(2) of the Electoral Amendment Act 2014 (2014 No 8).

Section 205M(2): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

205N Offences relating to return of candidate's election expenses

(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 election expenses under section 205K during 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 (the **late period**).

(1A) A candidate is guilty of a corrupt practice who, without reasonable excuse,—

(a) files a return of election expenses under section 205K after the late period; or

(b) fails to file a return of election expenses under section 205K.

(2) A candidate who files a return under section 205K that is false in any material particular is guilty of—

(a) a corrupt practice if he or she 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) 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 that the information was accurate.

(3) A person charged with an offence against subsection (2)(a) may be convicted of an offence against subsection (2)(b).

Compare: 1993 No 87 s 210(4)–(6) (pre-20 December 2007); 2007 No 111 s 88

Section 205N: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 205N(1): replaced, on 25 March 2014, by section 30 of the Electoral Amendment Act 2014 (2014 No 8).

Section 205N(1A): inserted, on 25 March 2014, by section 30 of the Electoral Amendment Act 2014 (2014 No 8).

205O Obligation to retain records necessary to verify return of candidate's election expenses

(1) A candidate must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable a return under section 205K 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 return or in relation to any matter to which the return relates.

(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.

Compare: 1993 No 87 s 214L (pre-20 December 2007); 2007 No 111 s 89

Section 205O: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 205O(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

205P Duty of Electoral Commission

(1) If the Electoral Commission believes that any person has committed an offence specified in this subpart, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

Compare: 1993 No 87 s 210(8) (pre-20 December 2007); 2007 No 111 s 90

Section 205P: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 205P heading: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 205P(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 205P(2): added, on 1 January 2011, by section 11 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

205Q Return of candidate's election expenses to be sent by Chief Electoral Officer to Electoral Commission

[Repealed]

Section 205Q: repealed, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

205R Return of candidate's election expenses to be publicly available

(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return filed under section 205K.

(2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return filed under section 205K.

(3) The Electoral Commission may make inspection under subsection (2) subject to the payment of any charges that may be made under the Official Information Act 1982.

Section 205R: substituted, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

205S Unlawful use of public money not validated

Nothing in this subpart validates any use of public money that would otherwise be unlawful.

Compare: 1993 No 87 s 213(5) (pre-20 December 2007)

Section 205S: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Subpart 2—Election expenses of parties

Subpart 2: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Subpart 2 heading: substituted, on 1 January 2011, by section 12 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206 Interpretation

(1) In this subpart,—

advertising expenses has the meaning given to it by section 3E

allocation, in relation to a party, means an allocation of money made to the party under section 79 of the Broadcasting Act 1989

candidate advertisement has the meaning given to it by section 3(1)

election advertisement has the meaning given to it by section 3A

election expenses, in relation to a party,—

(a) means the advertising expenses incurred in relation to a party advertisement that—

(i) is published, or continues to be published, during the regulated period; and

(ii) is promoted by—

(A) the party secretary; or

(B) any person (including a registered promoter) authorised by the party secretary; and

(b) includes—

(i) any election expense of an election advertisement that is apportioned to a party under section 206CB or 206CC; and

(ii) as required by section 40 of the Electoral Referendum Act 2010, any referendum expenses incurred in relation to an advertisement that comprises both—

(A) a party advertisement; and

(B) a referendum advertisement (within the meaning of section 31 of the Electoral Referendum Act 2010); but

(c) excludes the costs referred to in section 74(1) of the Broadcasting Act 1989 that are paid by the Electoral Commission out of money allocated to the party under section 79 of that Act.

party advertisement has the meaning given to it by section 3(1).

(2) For the purposes of the definition of **election expenses**, it is immaterial whether an election expense is paid or incurred before, during, or after the regulated period.

Section 206: substituted, on 1 January 2011, by section 12 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 206(1) **allocation**: inserted, on 21 March 2017, by section 100 of the Electoral Amendment Act 2017 (2017 No 9).

Section 206(1) **election expenses** paragraph (c): replaced, on 21 March 2017, by section 7 of the Broadcasting (Election Programmes and Election Advertising) Amendment Act 2017 (2017 No 8).

206A Persons who may incur election expenses in relation to party advertisement

An election expense in relation to a party advertisement may only be incurred by—

(a) the party secretary; or

(b) a candidate in relation to an election advertisement described in section 206CC; or

(c) a promoter authorised by the party secretary under section 204H.

Section 206A: substituted, on 1 January 2011, by section 12 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206B Offence to incur unauthorised election expense

Every person is guilty of—

(a) a corrupt practice who wilfully contravenes section 206A; and

(b) an illegal practice who contravenes section 206A in any other case.

Section 206B: substituted, on 1 January 2011, by section 12 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206C Maximum amount of party's total election expenses

(1) If a party is listed in the part of the ballot paper that relates to the party vote, the total election expenses of that party in respect of any regulated period must not exceed—

(a) $1,217,000 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A); and

(b) $28,600 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A) for each electoral district contested by a candidate for the party.

(2) If a party is not listed in the part of the ballot paper that relates to the party vote, the total election expenses of that party in respect of any regulated period must not exceed $28,600 for each electoral district contested by a candidate for the party.

(3) The amounts in subsections (1) and (2) are inclusive of goods and services tax.

Compare: 1993 No 87 s 206B (pre-1 January 2011)

Section 206C: substituted, on 1 January 2011, by section 12 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 206C(1)(a): amended, on 1 July 2021, by clause 5(1) of the Electoral (Expenditure Limit) Order 2021 (LI 2021/125).

Section 206C(1)(b): amended, on 1 July 2021, by clause 5(2) of the Electoral (Expenditure Limit) Order 2021 (LI 2021/125).

Section 206C(2): amended, on 1 July 2021, by clause 5(3) of the Electoral (Expenditure Limit) Order 2021 (LI 2021/125).

206CA Apportionment of advertising expenses for publication of party advertisement both before and during regulated period

(1) This section applies if a party advertisement—

(a) is published both before the commencement of the regulated period and during the regulated period; or

(b) is published before the commencement of the regulated period and continues to be published during the regulated period.

(2) If this section applies,—

(a) the party advertisement is deemed to have been published during the regulated period; but

(b) the advertising expenses for the publication of the party advertisement must be apportioned so that only a fair proportion of the expenses is attributed to being incurred during the regulated period.

(3) Only the advertising expenses attributed to being incurred during the regulated period in accordance with subsection (2) are election expenses.

Compare: 1993 No 87 s 206C (pre-1 January 2011)

Section 206CA: inserted, on 1 January 2011, by section 12 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206CB Apportionment of election expenses of election advertisement between parties

(1) This section applies if an election advertisement comprises 2 or more party advertisements.

(2) If this section applies, the election expenses of the election advertisement must be apportioned among the parties in proportion to the coverage the advertisement provides to each party.

(3) For the purposes of this section,—

(a) **election expenses of the election advertisement** means the total of the election expenses of all of the party advertisements comprised in the election advertisement; and

(b) the coverage provided by an election advertisement must be calculated in such a manner as is appropriate in relation to the form of the advertisement.

(4) Only the expenses apportioned to a party in accordance with this section are election expenses of that party.

Section 206CB: inserted, on 1 January 2011, by section 12 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206CC Apportionment of election expenses of election advertisement between party and candidate

(1) This section applies if an election advertisement comprises both—

(a) a party advertisement; and

(b) a candidate advertisement.

(2) If this section applies, the election expenses of the election advertisement must be apportioned between the party and the candidate in proportion to the coverage the advertisement provides to the party and to the candidate.

(3) For the purpose of this section,—

(a) **election expenses of the election advertisement** means the advertising expenses incurred in relation to both the candidate advertisement and the party advertisement; and

(b) the coverage provided by an election advertisement must be calculated in such a manner as is appropriate in relation to the form of the election advertisement.

(4) Only the expenses apportioned to the party in accordance with this section are election expenses of the party.

Section 206CC: inserted, on 1 January 2011, by section 12 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206D Offence to pay election expenses in excess of prescribed maximum

(1) This section applies to any person who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any election expenses any sum in excess of either of the maximum amounts prescribed by section 206C.

(2) The person is guilty of—

(a) a corrupt practice if he or she knew the payment was in excess of the prescribed maximum amount; or

(b) an illegal practice in any other case, unless he or she proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the prescribed maximum amount.

(3) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing either of the maximum amounts prescribed in section 206C is guilty of a corrupt practice.

Compare: 1993 No 87 s 214B(3) (pre-20 December 2007); 2007 No 111 s 101

Section 206D: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206D(1): amended, on 17 August 2011, by section 22 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 206D(3): added, on 1 January 2011, by section 13 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206E Periods for claiming and paying party's election expenses

(1) A claim for any election expenses against a party is recoverable only if it is sent to the party secretary within 20 working days after the day on which the declaration required by section 193(5) is made.

(2) A claim that is sent to the party secretary in accordance with subsection (1) must be paid within 40 working days after the day on which the declaration required by section 193(5) is made.

(3) A person who makes a payment in breach of this section is guilty of an illegal practice.

(4) This section is subject to sections 206F and 206G.

Compare: 1993 No 87 s 214BA (pre-20 December 2007); 2007 No 111 s 102

Section 206E: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

206F Procedure if claim disputed

(1) If a party, in the case of a claim for any election expenses sent to the party secretary within the period specified in section 206E(1), disputes the claim, or fails to pay the claim within the period of 40 working days specified in section 206E(2), then—

(a) the claim is to be treated as a disputed claim; and

(b) the claimant may, if he or she thinks fit, within 20 working days after the expiry of that period of 40 working days, bring an action for the disputed claim in any court of competent jurisdiction.

(2) Any sum paid by the party in accordance with a judgment or order of the court in any such action is to be treated as paid within the period specified in section 206E(2).

Compare: 1993 No 87 s 214BB (pre-20 December 2007); 2007 No 111 s 103

Section 206F: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

206G Leave to pay claim after time limitation

(1) On the application of a claimant or a party, the District Court may make an order granting leave to a party to pay—

(a) a claim for election expenses sent after the period specified in section 206E(1); or

(b) a claim not paid in the period specified in section 206E(2); or

(c) a disputed claim in respect of which an action was not brought within the period specified in section 206F(1)(b).

(2) Any sum paid by the party in accordance with an order made under subsection (1) is to be treated as having been paid within the period specified in section 206E(2).

Compare: 1993 No 87 s 214BC (pre-20 December 2007); 2007 No 111 s 104

Section 206G: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206G(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

206H Invoice and receipt required for election expenses of $100 or more

Every payment made in respect of any election expenses of a party, other than a payment that is less than $100, must be vouched by an invoice stating the particulars and by a receipt.

Compare: 1993 No 87 s 214BD (pre-20 December 2007); 2007 No 111 s 105

Section 206H: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

206I Return of party's election expenses

(1) Within 90 working days after polling day, a party secretary must file a return of the party's election expenses with the Electoral Commission.

(2) The return must be—

(a) in the form required by the Electoral Commission; and

(b) accompanied by an auditor's report obtained under section 206L.

Compare: 1993 No 87 s 214C(1) (pre-20 December 2007); 2007 No 111 s 106

Section 206I: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206I(1): replaced, on 25 March 2014, by section 31 of the Electoral Amendment Act 2014 (2014 No 8).

206IA Return of party's allocation expenses

(1) Within 90 days after polling day for a general election, a party secretary must file with the Electoral Commission a return of expenses incurred by the party that have been funded from the party's allocation.

(2) The return must be in a form approved by the Electoral Commission and include details of—

(a) the amount of the party's allocation; and

(b) all accounts sent by the party to the Electoral Commission under section 80B(1) of the Broadcasting Act 1989 in respect of the expenditure of the party's allocation.

(3) The return must be accompanied by an auditor's report obtained under section 206LA.

Section 206IA: inserted, on 21 March 2017, by section 101 of the Electoral Amendment Act 2017 (2017 No 9).

206J Appointment of auditor for party

(1) A party must appoint an auditor.

(2) On the registration of a party under section 67, the person named in the party's application under section 63(2)(c)(v) as the person who is to be appointed as the party's auditor is to be taken to have been appointed under subsection (1).

(3) A party must without delay appoint another auditor if the auditor appointed by the party under subsection (1) or taken to have been appointed under subsection (2)—

(a) does not, for any reason, commence to hold office; or

(b) ceases to hold office; or

(c) becomes ineligible to hold office.

(4) If at any time a party appoints a new auditor under subsection (3), the party must—

(a) notify the Electoral Commission; and

(b) send to the Electoral Commission—

(i) the name, address, and contact details of the new auditor; and

(ii) the new auditor's signed consent to the appointment.

Compare: 1993 No 87 ss 67(3)(f), 214D(1), (2A), (3) (pre-20 December 2007); 2007 No 111 s 10

Section 206J: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206J compare note: amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

206K Persons eligible to be appointed as auditor

A person is eligible to be appointed as an auditor under section 206J unless that person is—

(a) a constituency candidate; or

(b) a list candidate; or

(c) an employee or partner of a person referred to in paragraph (a) or (b); or

(d) an officer or employee of a party; or

(e) a body corporate that—

(i) is not a registered audit firm (within the meaning of the Auditor Regulation Act 2011); and

(ii) is not recognised as referred to in section 36(1)(f) or (g) of the Financial Reporting Act 2013; or

(f) a person who, by virtue of section 36(1) of the Financial Reporting Act 2013, may not be appointed or act as an auditor of an entity; or

(g) a Returning Officer.

Compare: 1993 No 87 s 214D(2) (pre-20 December 2007); 2007 No 111 s 12

Section 206K: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206K(e): replaced, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Section 206K(f): replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

206L Auditor's report on return of party's election expenses

(1) A party secretary must, before the Electoral Commission receives the return required by section 206I, obtain from the auditor appointed under section 206J a report on the return.

(2) The auditor must state in the report—

(a) the position shown by the return in respect of the requirement that the party's total election expenses not exceed the maximum amount prescribed by section 206C; and

(b) either—

(i) whether, in the auditor's opinion, the position stated under paragraph (a) is correct; or

(ii) that the auditor has been unable to form an opinion as to whether the position stated under paragraph (a) is correct.

(3) The auditor must make any examinations that the auditor considers necessary.

(4) The auditor must specify in the report any case in which—

(a) the auditor has not received from the party secretary all the information that the auditor requires to carry out his or her duties; or

(b) proper records of the party's election expenses have not, in the auditor's opinion, been kept by the party secretary.

(5) The auditor—

(a) must have access at all reasonable times to all records, documents, and accounts that relate to the party's election expenses and that are held by the party or the party secretary; and

(b) may require the party secretary to provide any information and explanations that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

Compare: 1993 No 87 s 214E (pre-20 December 2007); 2007 No 111 s 107

Section 206L: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206L(2)(a): amended, on 17 August 2011, by section 23 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

206LA Auditor's report on return of party's allocation expenses

(1) A party secretary must arrange for the auditor appointed under section 206J to prepare a report on the return required by section 206IA.

(2) The auditor must make any examinations that the auditor considers necessary.

(3) The auditor—

(a) must have access at all reasonable times to all records, documents, and accounts that relate to the expenses funded from the party's allocation; and

(b) may require the party secretary to provide any information and explanations that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

Section 206LA: inserted, on 21 March 2017, by section 102 of the Electoral Amendment Act 2017 (2017 No 9).

206M Nil return

If a party secretary considers that there is no relevant information to disclose under section 206I, the party secretary must file a nil return under that section.

Compare: 1993 No 87 s 214K (pre-20 December 2007); 2007 No 111 s 108

Section 206M: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

206N Offences relating to return of party's election expenses and return of party's allocation expenses

(1) A party secretary commits an offence and is liable on conviction to a fine not exceeding $40,000 who, without reasonable excuse, files a return during 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 (the **late period**).

(1A) A party secretary is guilty of a corrupt practice if the party secretary, without reasonable excuse,—

(a) files a return after the late period; or

(b) fails to file a return.

(2) A party secretary who files a return that is false in any material particular is guilty of—

(a) a corrupt practice if he or she filed the return knowing it to be false in any material particular; or

(b) an illegal practice in any other case unless the party secretary 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 that the information in the return was accurate.

(3) A person charged with an offence against subsection (2)(a) may be convicted of an offence against subsection (2)(b).

(4) In this section, **return** means—

(a) a return of election expenses required to be filed under section 206I:

(b) a return of allocation expenses required to be filed under section 206IA.

Compare: 1993 No 87 s 214C(2)–(4) (pre-20 December 2007); 2007 No 111 s 109

Section 206N: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206N heading: amended, on 21 March 2017, by section 103(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 206N(1): replaced, on 25 March 2014, by section 32 of the Electoral Amendment Act 2014 (2014 No 8).

Section 206N(1): amended, on 21 March 2017, by section 103(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 206N(1A): replaced, on 21 March 2017, by section 103(3) of the Electoral Amendment Act 2017 (2017 No 9).

Section 206N(2): amended, on 21 March 2017, by section 103(4) of the Electoral Amendment Act 2017 (2017 No 9).

Section 206N(4): inserted, on 21 March 2017, by section 103(5) of the Electoral Amendment Act 2017 (2017 No 9).

206O Obligation to retain records necessary to verify return of party's election expenses

(1) A party secretary must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable a return under section 206I 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 return or in relation to any matter to which the return relates.

(2) A party secretary 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.

Compare: 1993 No 87 s 214L (pre-20 December 2007); 2007 No 111 s 110

Section 206O: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206O(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

206P Duty of Electoral Commission

(1) If the Electoral Commission believes that any person has committed an offence specified in this subpart, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

Compare: 1993 No 87 s 214C(6) (pre-20 December 2007); 2007 No 111 s 111

Section 206P: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206P(2): added, on 1 January 2011, by section 14 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206Q Return of party's election expenses and return of party's allocation expenses to be publicly available

(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return and every accompanying auditor's report filed under section 206I or 206IA.

(2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return and report referred to in subsection (1).

(3) The Electoral Commission may make inspection under subsection (2) subject to the payment of any charges that may be made under the Official Information Act 1982.

Compare: 1993 No 87 s 214J(1), (2)(a) (pre-20 December 2007); 2007 No 111 s 112

Section 206Q: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 206Q heading: amended, on 21 March 2017, by section 104(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 206Q(1): amended, on 21 March 2017, by section 104(2) of the Electoral Amendment Act 2017 (2017 No 9).

Section 206Q compare note: amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

206R Unlawful use of public money not validated

Nothing in this subpart validates any use of public money that would otherwise be unlawful.

Compare: 1993 No 87 s 214B(5) (pre-20 December 2007)

Section 206R: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Subpart 2A—Election expenses of registered promoters

Subpart 2A: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206S Interpretation

(1) In this subpart,—

advertising expenses has the meaning given to it by section 3E

election advertisement has the meaning given to it by section 3A

election expenses, in relation to a registered promoter,—

(a) means the advertising expenses incurred in relation to an election advertisement that—

(i) is published, or continues to be published, during the regulated period; and

(ii) is promoted by the registered promoter; and

(b) includes, as required by section 40 of the Electoral Referendum Act 2010, any referendum expenses incurred in relation to an advertisement that comprises both—

(i) an election advertisement; and

(ii) a referendum advertisement (within the meaning of section 31 of the Electoral Referendum Act 2010)

registered promoter has the meaning given to it by section 204A.

(2) For the purposes of the definition of **election expenses**, it is immaterial whether an election expense is paid or incurred before, during, or after the regulated period.

Section 206S: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206T Persons who may incur election expenses in relation to election advertisement promoted by registered promoter

An election expense in relation to an election advertisement promoted by a registered promoter may only be incurred by—

(a) the registered promoter; or

(b) a person authorised by the registered promoter.

Section 206T: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206U Offence to incur unauthorised election expense

Every person is guilty of—

(a) a corrupt practice who wilfully contravenes section 206T; and

(b) an illegal practice who contravenes section 206T in any other case.

Compare: 2007 No 111 s 117(1)

Section 206U: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206V Maximum amount of registered promoter's total election expenses

(1) The total election expenses of a registered promoter in respect of any regulated period must not exceed $343,000 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A).

(2) The amount in subsection (1) is inclusive of goods and services tax.

Section 206V: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 206V(1): amended, on 1 July 2021, by clause 6 of the Electoral (Expenditure Limit) Order 2021 (LI 2021/125).

206W Apportionment of advertising expenses for publication of election advertisement promoted by registered promoter both before and during regulated period

(1) This section applies if an election advertisement that is promoted by a registered promoter—

(a) is published both before the commencement of the regulated period and during the regulated period; or

(b) is published before the commencement of the regulated period and continues to be published during the regulated period.

(2) If this section applies,—

(a) the election advertisement is deemed to have been published during the regulated period; but

(b) the advertising expenses for the publication of the election advertisement must be apportioned so that only a fair proportion of the expenses is attributed to being incurred during the regulated period.

(3) Only the advertising expenses attributed to being incurred during the regulated period in accordance with subsection (2) are election expenses.

Compare: 2007 No 111 s 119

Section 206W: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206X Offence to pay election expenses in excess of prescribed maximum

(1) This section applies to any registered promoter or other person who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any election expenses any sum in excess of the maximum amount prescribed by section 206V.

(2) The registered promoter or other person is guilty of—

(a) a corrupt practice if he or she knew the payment was in excess of the prescribed maximum amount; or

(b) an illegal practice in any other case, unless he or she proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the prescribed maximum amount.

(3) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing the maximum amount prescribed in section 206V is guilty of a corrupt practice.

Compare: 2007 No 111 s 122

Section 206X: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206Y Periods for claiming and paying registered promoter's election expenses

(1) A claim for any election expenses against a registered promoter is recoverable only if it is sent to the registered promoter within 20 working days after the day on which the declaration required by section 179(2) is made.

(2) A claim that is sent to a registered promoter in accordance with subsection (1) must be paid within 40 working days after the day on which that declaration is made, and not otherwise.

(3) A person who makes a payment in breach of this section is guilty of an illegal practice.

(4) This section is subject to sections 206Z and 206ZA.

Compare: 2007 No 111 s 82

Section 206Y: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206Z Procedure if claim disputed

(1) If a registered promoter, in the case of a claim for election expenses sent to a registered promoter within the period specified in section 206Y(1), disputes the claim or fails to pay the claim within the period of 40 working days specified in section 206Y(2), then—

(a) the claim is to be treated as a disputed claim; and

(b) the claimant may, if he or she thinks fit, within 20 working days after the expiry of that period of 40 working days, bring an action for the disputed claim in any court of competent jurisdiction.

(2) Any sum paid by the registered promoter in accordance with a judgment or order of the court in any such action is to be treated as paid within the period specified in section 206Y(2).

Compare: 2007 No 111 s 83

Section 206Z: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206ZA Leave to pay claim after time limitation

(1) On the application of a claimant or a registered promoter, the District Court may make an order granting leave to the registered promoter to pay—

(a) a claim for election expenses sent after the period specified in section 206Y(1); or

(b) a claim not paid in the period specified in section 206Y(2); or

(c) a disputed claim in respect of which an action was not brought within the period specified in section 206Z(1)(b).

(2) Any sum paid by the registered promoter in accordance with an order made under subsection (1) is to be treated as having been paid within the period specified in section 206Y(2).

Compare: 2007 No 111 s 84

Section 206ZA: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 206ZA(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

206ZB Invoice and receipt required for election expenses of $50 or more

(1) Every payment made in respect of any election expenses of a registered promoter must be vouched by an invoice stating the particulars, and by a receipt.

(2) Subsection (1) does not apply to a payment less than $50.

Section 206ZB: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206ZC Return of registered promoter's election expenses

(1) This section applies to a registered promoter whose total election expenses in respect of any regulated period exceed $100,000 (inclusive of goods and services tax).

(2) Within 70 working days after polling day, the registered promoter must file a return of election expenses with the Electoral Commission.

(3) If the registered promoter is not an individual or a company, the return must be filed by the registered promoter's representative who is duly authorised to file the return.

(4) A return filed under subsection (2) must be in the form required by the Electoral Commission.

Section 206ZC: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206ZD Electoral Commission may require auditor's report on return of registered promoter's election expenses

(1) If the Electoral Commission has reasonable grounds to believe that a return filed under section 206ZC may contain any false or misleading information, the Electoral Commission may require the registered promoter (at the registered promoter's expense) to obtain from an auditor a report on the return.

(2) The auditor must state in the report—

(a) the position shown by the return in respect of the requirement that the registered promoter's total election expenses must not exceed the maximum amount prescribed by section 206V; and

(b) either—

(i) whether, in the auditor's opinion, the position stated under paragraph (a) is correct; or

(ii) that the auditor has been unable to form an opinion as to whether the position stated under paragraph (a) is correct.

(3) The auditor must make any examinations that the auditor considers necessary.

(4) The auditor must specify in the report any case in which—

(a) the auditor has not received from the registered promoter all the information that the auditor requires to carry out his or her duties; or

(b) proper records of the registered promoter's election expenses have not, in the auditor's opinion, been kept by the registered promoter.

(5) The auditor—

(a) must have access at all reasonable times to all records, documents, and accounts that relate to the registered promoter's election expenses and that are held by the registered promoter; and

(b) may require the registered promoter to provide any information and explanation that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

Compare: 2007 No 111 s 128

Section 206ZD: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206ZE Offences relating to return of registered promoter's election expenses

(1) A registered promoter commits an offence and is liable on conviction to a fine not exceeding $40,000 who, without reasonable excuse, files a return of election expenses under section 206ZC during 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 (the **late period**).

(1A) A registered promoter is guilty of a corrupt practice who, without reasonable excuse,—

(a) files a return of election expenses under section 206ZC after the late period; or

(b) fails to file a return of election expenses under section 206ZC.

(2) A registered promoter who files a return under section 206ZC that is false in any material particular is guilty of—

(a) a corrupt practice if the registered promoter filed the return knowing it to be false in any material particular:

(b) an illegal practice in any other case unless the registered promoter 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 that the information was accurate.

(3) If the registered promoter is not an individual or a company, the registered promoter's representative who files the return in accordance with section 206ZC(3) is liable under subsections (1) and (2).

(4) Subsection (3) does not limit the liability of a registered promoter under subsection (1) or (2).

Compare: 2007 No 111 s 130

Section 206ZE: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 206ZE(1): replaced, on 25 March 2014, by section 33 of the Electoral Amendment Act 2014 (2014 No 8).

Section 206ZE(1A): inserted, on 25 March 2014, by section 33 of the Electoral Amendment Act 2014 (2014 No 8).

206ZF Obligation to retain records necessary to verify return of registered promoter's election expenses

(1) A registered promoter must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable a return filed under section 206ZC 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 return or in relation to any matter to which the return relates.

(2) A registered promoter 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.

Compare: 2007 No 111 s 131

Section 206ZF: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 206ZF(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

206ZG Duty of Electoral Commission

(1) If the Electoral Commission believes that any person has committed an offence specified in this subpart, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

Compare: 2007 No 111 s 132

Section 206ZG: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

206ZH Return of registered promoter's election expenses to be publicly available

(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return filed under section 206ZC.

(2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return filed under section 206ZC.

(3) The Electoral Commission may make inspection under subsection (2) subject to the payment of any charges that may be made under the Official Information Act 1982.

Compare: 2007 No 111 s 133

Section 206ZH: inserted, on 1 January 2011, by section 15 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Subpart 3—General provisions relating to donations

Subpart 3: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

207 Interpretation

(1) In this subpart, unless the context otherwise requires, **donation** means—

(a) a candidate donation; or

(b) a party donation.

(2) In this subpart and subparts 4 to 6 of this Part, unless the context otherwise requires,—

anonymous,—

(a) in relation to a candidate donation, means a donation that is made in such a way that the candidate who receives the donation—

(i) does not know the identity of the donor; and

(ii) could not, in the circumstances, reasonably be expected to know the identity of the donor:

(b) in relation to a party donation, means a donation that is made in such a way that the party secretary who receives the donation—

(i) does not know the identity of the donor; and

(ii) could not, in the circumstances, reasonably be expected to know the identity of the donor

candidate 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 by a New Zealand person to a candidate, or to any person on the candidate's behalf, under a contract or arrangement at a value less than their reasonable market value, the latter 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

(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

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

(iii) where credit is provided to a candidate on terms and conditions substantially more favourable than the commercial terms and conditions prevailing at the time for the same or similar credit, the value to the candidate of those more favourable terms and conditions; but

(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 by a New Zealand person 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; and

(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

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 one or more intermediaries, trustees, or nominees); and

(b) would have been a donation if it had been given directly to the candidate or party; and

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

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

party 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 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—

(a) includes,—

(i) where goods or services are provided by a New Zealand person to a party, or to any person on the party's behalf, under a contract or arrangement at a value less than their reasonable market value, the latter being a value that exceeds $1,500, the amount of the difference between the former value and the reasonable market value of those goods or services; and

(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

(ii) where goods or services are provided by a party under a contract or 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

(iii) where credit is provided to a party on terms and conditions substantially more favourable than the commercial terms and conditions prevailing at the time for the same or similar credit, the value to the party of those more favourable terms and conditions; but

(b) excludes—

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

(ii) goods or services provided by a New Zealand person free of charge to a party, or to any person on the party's behalf, that have a reasonable market value of $1,500 or less; and

(iia) 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

(iii) any candidate donation that is included in a return made by a candidate under section 209

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 or party.

(3) For the purposes of sections 207B, 207C, 207E, 207G, 207I, and 210C,—

(a) **donation** does not include a donation protected from disclosure (as defined in section 208); and

(b) **party donation** does not include a donation protected from disclosure (as defined in section 208).

Compare: 2007 No 111 s 21

Section 207: substituted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207(2) **candidate donation** paragraph (a)(i): amended, on 1 January 2020, by section 5(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **candidate donation** paragraph (a)(i): amended, on 1 January 2011, by section 16(1) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207(2) **candidate donation** paragraph (a)(ia): inserted, on 1 January 2020, by section 5(2) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **candidate donation** paragraph (b): substituted, on 1 January 2011, by section 16(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207(2) **candidate donation** paragraph (b)(ii): amended, on 1 January 2020, by section 5(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **candidate donation** paragraph (b)(iii): inserted, on 1 January 2020, by section 5(4) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **New Zealand person**: inserted, on 1 January 2020, by section 5(5) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **overseas person**: inserted, on 1 January 2020, by section 5(5) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **party donation** paragraph (a)(i): amended, on 1 January 2020, by section 5(6) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **party donation** paragraph (a)(i): amended, on 1 January 2011, by section 16(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207(2) **party donation** paragraph (a)(ia): inserted, on 1 January 2020, by section 5(7) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **party donation** paragraph (b)(ii): substituted, on 1 January 2011, by section 16(4) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207(2) **party donation** paragraph (b)(ii): amended, on 1 January 2020, by section 5(8) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **party donation** paragraph (b)(iia): inserted, on 1 January 2020, by section 5(9) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207(2) **party donation** paragraph (b)(iii): added, on 1 January 2011, by section 16(4) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

207A Donations and contributions include GST

All references to an amount or value of a donation or contribution are inclusive of any goods and services tax incurred by the donor or contributor in respect of the goods or service donated or contributed.

Compare: 2007 No 111 s 22

Section 207A: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

207B Donations to be transmitted to candidate or party secretary

(1) Every person to whom a candidate donation is given or sent must, within 10 working days after receiving the donation, transmit the donation to the candidate.

(2) Every person to whom a party donation is given or sent must, within 10 working days after receiving the donation, either—

(a) transmit the donation to the party secretary; or

(b) deposit the donation into a bank account nominated by the party secretary.

Compare: 2007 No 111 s 23

Section 207B: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207B(2): substituted, on 1 January 2011, by section 17 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

207C Contributors to be identified

(1) This section applies to a donation (other than an anonymous donation) that is funded from 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 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

(c) the total of all of the amounts disclosed under paragraph (b) in relation to the donation; and

(d) the total of all of the other contributions made in relation to the donation.

(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.

(3) *[Repealed]*

(4) 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.

(5) A party secretary must give back to the donor the entire amount of the donation, or its entire value, if the party secretary knows, or has reasonable grounds to believe, that the donor has failed to comply with subsection (2) in any respect.

(6) For the purposes of sections 209 and 210, any amount given back by a candidate under subsection (4), or by a party secretary under subsection (5), is taken not to have been received by the candidate or the party secretary, as the case may be.

Compare: 2007 No 111 s 24

Section 207C: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207C(1): amended, on 1 January 2011, by section 18(1) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207C(2): replaced, on 25 March 2014, by section 34 of the Electoral Amendment Act 2014 (2014 No 8).

Section 207C(2)(b): replaced, on 1 January 2020, by section 6(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207C(2)(c): amended, on 1 January 2020, by section 6(2) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207C(3): inserted, on 1 January 2020, by section 6(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207C(3): repealed, on 25 March 2014, by section 34 of the Electoral Amendment Act 2014 (2014 No 8).

207D Offence relating to contravention of section 207C

A donor who fails to comply with section 207C 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 $40,000.

Compare: 2007 No 111 s 25

Section 207D: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207D: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

207E Identity of donor to be disclosed by transmitter, if known

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

(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 207C applies to the donation and, if so, all information disclosed by the donor under subsections (2) and (3) 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: 2007 No 111 s 26

Section 207E: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207E(2): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

207F Offence relating to contravention of section 207E

A transmitter who fails to comply with section 207E 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 $40,000.

Compare: 2007 No 111 s 27

Section 207F: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207F: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

207G Disclosure of identity of donor

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

(2) If a candidate, list candidate, or any person involved in the administration of the affairs of a party knows the identity of the donor of an anonymous party donation exceeding $1,500, the candidate, list candidate, or person must disclose the identity of the donor to the party secretary.

Compare: 2007 No 111 s 28

Section 207G: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207G(1): amended, on 1 January 2011, by section 19 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207G(2): amended, on 1 January 2011, by section 19 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

207H Offence relating to contravention of section 207G

A person who fails to comply with section 207G with the intention of concealing the identity of the donor commits an offence and is liable on conviction to a fine not exceeding $40,000.

Compare: 2007 No 111 s 29

Section 207H: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207H: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

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.

Section 207I: replaced, on 1 January 2020, by section 7 of the Electoral Amendment Act 2019 (2019 No 72).

207J Offence relating to contravention of section 207I

(1) A person who enters into an agreement, arrangement, or understanding with any other person that has the effect of circumventing section 207I(1) or (2) is guilty of—

(a) a corrupt practice if the circumvention is wilful; or

(b) an illegal practice in any other case.

(2) A candidate or party secretary who contravenes section 207I is guilty of an illegal practice.

Compare: 2007 No 111 s 31

Section 207J: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

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.

Section 207JA: inserted, on 1 January 2020, by section 8 of the Electoral Amendment Act 2019 (2019 No 72).

207K Overseas donation or contribution may not exceed $50

(1) *[Repealed]*

(2) If a candidate receives from an overseas person a donation that either on its own or when aggregated with all other donations made by or on behalf of the same overseas person for use in the same campaign exceeds $50, the candidate must, within 20 working days of receipt of the donation,—

(a) return to the overseas person the total amount donated by the overseas person, or its value, less $50; or

(b) if this is not possible, pay the total amount donated by the overseas person, or its value, less $50 to the Electoral Commission.

(2A) If a party secretary receives from an overseas person a donation that either on its own or when aggregated with all other donations made by or on behalf of the same overseas person during the same year ending 31 December exceeds $50, the party secretary must, within 20 working days of receipt of the donation,—

(a) return to the overseas person the total amount donated by the overseas person, or its value, less $50; or

(b) if this is not possible, pay the total amount donated by the overseas person, or its value, less $50 to the Electoral Commission.

(3) If a candidate or party secretary receives, from a donor who is not an overseas person (as defined in subsection (1)), a donation funded from contributions that includes any contribution exceeding $50 made by or on behalf of an overseas person or any contributions made by or on behalf of the same overseas person that when aggregated exceed $50, the candidate or party secretary must, within 20 working days after notification of that fact under section 207C,—

(a) give back to the donor the amount of the donation, or its value; or

(b) if this is not possible, pay the amount of the donation, or its value, to the Electoral Commission.

(4) All amounts received by the Electoral Commission under subsection (2), (2A), or (3) must be paid into a Crown Bank Account.

Compare: 2007 No 111 s 32

Section 207K: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207K heading: substituted, on 1 January 2011, by section 21(1) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207K heading: amended, on 1 January 2020, by section 9(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(1): repealed, on 1 January 2020, by section 9(2) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(2): substituted, on 1 January 2011, by section 21(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207K(2): amended, on 1 January 2020, by section 9(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(2)(a): amended, on 1 January 2020, by section 9(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(2)(b): amended, on 1 January 2020, by section 9(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(2A): inserted, on 1 January 2011, by section 21(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 207K(2A): amended, on 1 January 2020, by section 9(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(2A)(a): amended, on 1 January 2020, by section 9(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(2A)(b): amended, on 1 January 2020, by section 9(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(3): amended, on 1 January 2020, by section 9(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(3): amended, on 25 March 2014, by section 35 of the Electoral Amendment Act 2014 (2014 No 8).

Section 207K(3)(b): substituted, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 207K(4): amended, on 1 January 2020, by section 9(4) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207K(4): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

207L Offence relating to contravention of section 207K

(1) A person who enters into an agreement, arrangement, or understanding with any other person that has the effect of circumventing section 207K(2), (2A), or (3) is guilty of—

(a) a corrupt practice if the circumvention is wilful; or

(b) an illegal practice in any other case.

(2) A candidate or party secretary who contravenes section 207K(2), (2A), or (3) is guilty of an illegal practice.

(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.

Compare: 2007 No 111 s 33

Section 207L: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207L(1): amended, on 1 January 2020, by section 10(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207L(2): amended, on 1 January 2020, by section 10(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 207L(3): inserted, on 1 January 2020, by section 10(2) of the Electoral Amendment Act 2019 (2019 No 72).

207LA Offence relating to splitting party donation or contribution to party donation

(1) A person is guilty of a corrupt practice who directs or procures, or is actively involved in directing or procuring, 2 or more bodies corporate to split between the bodies corporate a party donation in order to conceal the total amount of the

donation and avoid the donation's inclusion by the party secretary in the return of party donations under section 210(1)(a).

(2) A person is guilty of a corrupt practice who directs or procures, or is actively involved in directing or procuring, 2 or more bodies corporate to split between the bodies corporate a contribution to a party donation in order to conceal the total amount of the contribution and avoid the contribution's inclusion by the party secretary in the return of party donations under section 210(1)(b).

Section 207LA: inserted, on 1 January 2011, by section 22 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

207M Records of candidate donations

(1) A candidate must keep proper records of all candidate 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 $40,000.

Compare: 2007 No 111 s 34

Section 207M: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207M(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

207N Records of party donations

(1) A party secretary must keep proper records of all party donations received by him or her.

(2) A party secretary 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.

Compare: 2007 No 111 s 34

Section 207N: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 207N(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

207O Duty of Electoral Commission in relation to donations

(1) If the Electoral Commission believes that any person has committed an offence against this subpart or subparts 4 to 6 of this Part, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

Compare: 2007 No 111 ss 35, 36

Section 207O: substituted, on 1 January 2011, by section 23 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

207P Duty of Electoral Commission in relation to donations

[Repealed]

Section 207P: repealed, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Subpart 4—Donations protected from disclosure

Subpart 4: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

208 Interpretation

In this subpart, unless the context otherwise requires,—

authorised person has the meaning given to it by section 208F(3)

donation protected from disclosure means a donation made under section 208A(2) in accordance with section 208A(3).

Compare: 2007 No 111 s 37

Section 208: substituted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

208A Method of making donation protected from disclosure

(1) This section applies to any New Zealand person who intends to make a donation in excess of $1,500 to a party while preventing the disclosure of the person's identity to—

(a) the party concerned; and

(b) the public generally.

(2) A person to whom this section applies may send a donation in excess of $1,500 by way of a cheque, cash, or a bank draft to the Electoral Commission.

(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.

(4) The Electoral Commission may request the donor to provide any further information the Commission considers necessary to confirm the identity of the donor or other details provided by the donor, and the donor must take all reasonable steps to comply with such a request as soon as is practicable.

Compare: 2007 No 111 s 38

Section 208A: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 208A(1): amended, on 1 January 2020, by section 11(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 208A(1): amended, on 1 January 2011, by section 25 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 208A(2): amended, on 1 January 2011, by section 25 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 208A(3): replaced, on 1 January 2020, by section 11(2) of the Electoral Amendment Act 2019 (2019 No 72).

208B Limit on maximum amount of donations protected from disclosure

(1) The maximum amount that a party may be paid in donations made to the Electoral Commission for the benefit of that party during a specified period is 10% (excluding any interest paid under section 208E(2)) of the maximum amount of election expenses allowed under section 206C(1) to be incurred by a party that is listed in the part of the ballot paper that relates to the party vote and that has a candidate contesting every electoral district.

(2) The maximum amount that a party may be paid in donations made to the Electoral Commission for the benefit of the party from the same donor during any specified period is 15% (excluding any interest paid under section 208E(2)) of the amount that may be paid to that party under subsection (1).

(3) For the purposes of this section,—

(a) a **specified period** is—

(i) the period beginning on 9 November 2008 and ending with the close of the day before polling day for the next general election after that date; and

(ii) any subsequent period between polling day for one general election and polling day for the following general election:

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

Compare: 2007 No 111 s 39

Section 208B: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 208B(1): amended, on 17 August 2011, by section 24 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

208C Duty of Electoral Commission to provide advice on actual figures under section 208B

The Electoral Commission—

(a) must, as soon as practicable after the commencement of this Act, publish on its Internet site, and by any other means the Commission considers

appropriate, guidance specifying the relevant figures that constitute the maximum amounts referred to in section 208B(1) and (2); and

(b) may alter that guidance from time to time to reflect any changes in the relevant figures.

Compare: 2007 No 111 s 40

Section 208C: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

208D Duties of Electoral Commission on receipt of donation

(1) The Electoral Commission, on receiving a donation under section 208A(2), must pay it to the secretary of the party for whom it is intended, unless—

(a) the requirements of section 208A(3) or (4) have not been complied with; or

(b) payment of the donation would contravene a maximum amount referred to in section 208B; or

(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) If subsection (1)(a) or (c) applies, the Electoral Commission must,—

(a) if the name and contact details of the donor are known or can be readily ascertained, return the donation to the donor:

(b) in any other case, pay the donation into a Crown Bank Account.

(3) If subsection (1)(b) applies, the Electoral Commission must,—

(a) if the name and contact details of the donor are known or can be readily ascertained, return any portion of the donation that exceeds a maximum limit set out in section 208B to the donor:

(b) in any other case, pay any portion of the donation that exceeds a maximum limit set out in section 208B into a Crown Bank Account.

Compare: 2007 No 111 s 41

Section 208D: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 208D(1)(c): inserted, on 1 January 2020, by section 12(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 208D(2): amended, on 1 January 2020, by section 12(2) of the Electoral Amendment Act 2019 (2019 No 72).

208E Timing of payment to parties

(1) The Electoral Commission must pay all outstanding amounts due to a party under section 208D(1)—

(a) weekly, during the period between writ day and the return of the writ, at any general election:

(b) monthly, at any other time.

(2) If any interest is earned on a donation received under section 208A(2) for a party, that interest, so far as it can reasonably be calculated, must be added to—

(a) any sum paid by the Electoral Commission to the secretary of that party; or

(b) any sum returned by the Electoral Commission to the donor; or

(c) any sum paid by the Electoral Commission into a Crown Bank Account.

Compare: 2007 No 111 s 42

Section 208E: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

208F Offence of prohibited disclosure

(1) No person may disclose the name or other identifying details of a donor or contributor in respect of a donation made, or proposed to be made, under section 208A(2) in a manner that indicates or suggests that the person has made, or proposes to make, such a donation or contribution, to—

(a) any party secretary or person involved in the administration of the affairs of the party for whom the donation is intended; or

(b) any other person (other than an authorised person).

(2) Every person who contravenes subsection (1) without reasonable excuse is guilty of an illegal practice.

(3) In this section, **authorised person** means—

(a) a member or employee or other person engaged by the Electoral Commission:

(b) a donor or contributor and any officer, employee, relative, adviser, or agent of the donor or contributor:

(c) any other person to whom the identifying details must be supplied to enable the donation to be made (for example, an employee of a bank who processes a cheque by which the donation is made):

(d) any person to whom the identifying details must be supplied to comply with 1 or more of the Inland Revenue Acts (within the meaning of section 3(1) of the Tax Administration Act 1994):

(e) the Auditor-General:

(f) any other person entitled to the information in question in accordance with any search warrant, summons, or any process under rules of court, or in the course of any proceedings.

(4) Except as provided in this section, if there is any inconsistency between subsection (1) and any other enactment, subsection (1) prevails.

Compare: 2007 No 111 s 43

Section 208F: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

208G Duty of Electoral Commission to report

(1) The Electoral Commission must, in the manner required by subsection (2), report on—

(a) the total amounts received in donations under section 208A(2):

(b) the amounts paid to a party secretary under section 208D(1) during the period being reported on:

(c) the amount returned to donors under section 208D(2)(a) or (3)(a) during the period being reported on:

(d) the amount paid into a Crown Bank Account under section 208D(2)(b) or (3)(b) during the period being reported on.

(2) The Electoral Commission must report on the matters set out in subsection (1)—

(a) in each annual report, in relation to the financial year to which the report relates; and

(b) quarterly, by publication on the Commission's Internet site and by any other means the Commission considers appropriate, in respect of the preceding 3-month period.

Compare: 2007 No 111 s 44

Section 208G: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Subpart 5—Disclosure of candidates' donations

Subpart 5: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

209 Return of candidate donations

(1) A candidate must, at the same time as filing a return of election expenses under section 205K, file with the Electoral Commission a return setting out—

(a) the details specified in subsection (2) in respect of every candidate donation (other than a donation of the kind referred to in paragraphs (c) and (d)) received by him or her 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 section 207C applies to any donation and, if so, and to the extent known or ascertainable from the information supplied under that section, the details specified in subsection (3) in respect of every contribution received from a New Zealand person that, either on its own or when aggregated with other contributions made by or on behalf of the same contributor to the donation, exceeds $1,500 in sum or value; and

(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

(d) the details specified in subsection (5) in respect of every candidate donation received by him or her from an overseas person that, either on its own or when aggregated with all other donations made by or on behalf of the same overseas person for use in the same campaign, exceeds $50; and

(e) the details specified in subsection (5A) in respect of every contribution to a candidate donation received by him or her from an overseas person that, either on its own or when aggregated with other contributions made by the same overseas person to the donation, exceeds $50.

(2) The details referred to in subsection (1)(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.

(3) The details referred to in subsection (1)(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; and

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

(4) The details referred to in subsection (1)(c) are—

(a) the date the donation was received; and

(b) the amount of the donation; and

(c) the amount paid to the Electoral Commission under section 207I(1), and the date that payment was made.

(5) The details referred to in subsection (1)(d) are—

(a) the name of the overseas person; and

(b) the address of the overseas person; 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 each donation was received; and

(e) the amount returned to an overseas person or paid to the Electoral Commission under section 207K(2), and the date of that return or payment, as the case may be.

(5A) The details referred to in subsection (1)(e) are—

(a) the name of the overseas person; and

(b) the address of the overseas person; and

(c) the amount of the contribution or, in the case of aggregated contributions, the total amount of the aggregated contributions; and

(d) the date on which the related donation funded from the contribution was made; and

(e) the amount returned to the donor or paid to the Electoral Commission under section 207K(3), and the date of that return or payment, as the case may be.

(6) Every return filed under subsection (1) must be in the form required by the Electoral Commission.

Compare: 2007 No 111 s 45

Section 209: substituted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 209(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 209(1)(a): amended, on 1 January 2011, by section 26(1) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 209(1)(b): replaced, on 25 March 2014, by section 36(1) of the Electoral Amendment Act 2014 (2014 No 8).

Section 209(1)(b): amended, on 1 January 2020, by section 13(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 209(1)(c): replaced, on 1 January 2020, by section 13(2) of the Electoral Amendment Act 2019 (2019 No 72).

Section 209(1)(d): substituted, on 1 January 2011, by section 26(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 209(1)(d): amended, on 1 January 2020, by section 13(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 209(1)(e): added, on 1 January 2011, by section 26(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 209(1)(e): amended, on 1 January 2020, by section 13(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 209(1)(e): amended, on 25 March 2014, by section 36(2) of the Electoral Amendment Act 2014 (2014 No 8).

Section 209(2)(c): substituted, on 1 January 2011, by section 26(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 209(2)(d): substituted, on 1 January 2011, by section 26(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 209(3): replaced, on 25 March 2014, by section 36(3) of the Electoral Amendment Act 2014 (2014 No 8).

Section 209(4)(c): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 209(5): substituted, on 1 January 2011, by section 26(4) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 209(5A): inserted, on 1 January 2011, by section 26(4) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 209(5A)(c): amended, on 25 March 2014, by section 36(4) of the Electoral Amendment Act 2014 (2014 No 8).

Section 209(6): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

209A Nil return

If a candidate considers that there is no relevant information to disclose under section 209, the candidate must file a nil return under that section.

Compare: 2007 No 111 s 46

Section 209A: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

209B Offences relating to return of candidate donations

(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 donations under section 209 during 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 (the **late period**).

(1A) A candidate is guilty of a corrupt practice who, without reasonable excuse,—

(a) files a return of candidate donations under section 209 after the late period; or

(b) fails to file a return of candidate donations under section 209.

(2) A candidate who files a return under section 209 that is false in any material particular is guilty of—

(a) a corrupt practice if he or she 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) 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 that the information in the return was accurate.

Compare: 2007 No 111 s 48

Section 209B: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 209B(1): replaced, on 25 March 2014, by section 37 of the Electoral Amendment Act 2014 (2014 No 8).

Section 209B(1A): inserted, on 25 March 2014, by section 37 of the Electoral Amendment Act 2014 (2014 No 8).

209C Obligation to retain records necessary to verify return of candidate donations

(1) A candidate must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable a return under section 209 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 return or in relation to any matter to which the return relates.

(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.

Compare: 2007 No 111 s 47

Section 209C: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 209C(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

209D Return of candidate donations to be sent by Chief Electoral Officer to Electoral Commission

[Repealed]

Section 209D: repealed, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

209E Return of candidate donations to be publicly available

(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return filed under section 209.

(2) *[Repealed]*

(3) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return filed under section 209.

(4) The Electoral Commission may make inspection under subsection (3) subject to the payment of any charges that may be made under the Official Information Act 1982.

Compare: 2007 No 111 s 50

Section 209E: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 209E(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 209E(2): repealed, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 209E(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 209E(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Subpart 6—Disclosure of parties' donations

Subpart 6: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

210 Annual return of party donations

(1) A party secretary must file with the Electoral Commission, for each year, a return of party donations setting out—

(a) the details specified in subsection (2) for every party donation (other than a donation of the kind referred to in paragraphs (c) to (e)) received by him or her that, either on its own or when aggregated with all other donations made by or on behalf of the same donor during the year, exceeds $15,000 in sum or value; and

(b) whether section 207C applies to any donation and, if so, and to the extent known or ascertainable from the information supplied under that section, the details specified in subsection (3) in respect of every contribution received from a New Zealand person that, either on its own or when aggregated with other contributions made by or on behalf of the same contributor to the donation, or to other donations during the year, exceeds $15,000 in sum or value; and

(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; and

(d) the details specified in subsection (5) in respect of every party donation received by him or her from an overseas person that, either on its own or when aggregated with all other donations made by or on behalf of the same overseas person during the year, exceeds $50; and

(da) the details specified in subsection (5A) in respect of every contribution to a party donation received by him or her from an overseas person that, either on its own or when aggregated with other contributions made by the same overseas person to the donation, exceeds $50; and

(e) the details specified in subsection (6) in respect of every payment of donations received from the Electoral Commission under section 208D; and

(f) the details specified in subsection (6A) in respect of all other party donations received by him or her.

(2) The details referred to in subsection (1)(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.

(3) The details referred to in subsection (1)(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; and

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

(4) The details referred to in subsection (1)(c) are—

(a) the date the donation was received; and

(b) the amount of the donation; and

(c) the amount paid to the Electoral Commission under section 207I(2), and the date that payment was made.

(5) The details referred to in subsection (1)(d) are—

(a) the name of the overseas person; and

(b) the address of the overseas person; 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 each donation was received; and

(e) the amount returned to an overseas person or paid to the Electoral Commission under section 207K(2A), and the date of that return or payment, as the case may be.

(5A) The details referred to in subsection (1)(da) are—

(a) the name of the overseas person; and

(b) the address of the overseas person; and

(c) the amount of the contribution or, in the case of aggregated contributions, the total amount of the aggregated contributions; and

(d) the date on which the related donation funded from the contribution was made; and

(e) the amount returned to the donor or paid to the Electoral Commission under section 207K(3), and the date of that return or payment, as the case may be.

(6) The details referred to in subsection (1)(e) are—

(a) the date the payment was received; and

(b) the amount of the payment; and

(c) the amount of interest included in the payment.

(6A) The details referred to in subsection (1)(f) are—

(a) the number of anonymous party donations received of an amount not exceeding $1,500, and the total amount of all such donations:

(b) *[Repealed]*

(c) the number of all party donations received of an amount exceeding $1,500 but not exceeding $5,000, and the total amount of all such donations:

(d) the number of all party donations received of an amount exceeding $5,000 but not exceeding $15,000, and the total amount of all such donations.

(7) A return must—

(a) be filed by 30 April of the following year; and

(b) be in the form required by the Electoral Commission; and

(c) be accompanied by an auditor's report obtained under section 210A.

(8) Despite anything in subsection (1), if a party secretary is required to file under that subsection a return of party donations that relates to the year in which the party became registered, that return is to relate to the period beginning with the date of registration of the party and ending with 31 December of that year.

(9) In this section, **year** means the period of 12 months starting on 1 January and ending with the close of 31 December.

Compare: 2007 No 111 s 51

Section 210: substituted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 210(1): amended, on 25 March 2014, by section 38(1) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210(1)(a): amended, on 1 January 2011, by section 27(1) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(1)(b): replaced, on 25 March 2014, by section 38(2) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210(1)(b): amended, on 1 January 2020, by section 14(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 210(1)(c): replaced, on 1 January 2020, by section 14(2) of the Electoral Amendment Act 2019 (2019 No 72).

Section 210(1)(d): substituted, on 1 January 2011, by section 27(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(1)(d): amended, on 1 January 2020, by section 14(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 210(1)(da): inserted, on 1 January 2011, by section 27(3) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(1)(da): amended, on 1 January 2020, by section 14(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 210(1)(da): amended, on 25 March 2014, by section 38(3) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210(1)(e): amended, on 1 January 2011, by section 27(4) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(1)(f): added, on 1 January 2011, by section 27(4) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(2)(c): substituted, on 1 January 2011, by section 27(5) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(2)(d): substituted, on 1 January 2011, by section 27(5) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(3): replaced, on 25 March 2014, by section 38(4) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210(5): substituted, on 1 January 2011, by section 27(6) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(5A): inserted, on 1 January 2011, by section 27(6) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(5A)(c): amended, on 25 March 2014, by section 38(5) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210(6A): inserted, on 1 January 2011, by section 27(7) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210(6A)(b): repealed, on 1 January 2020, by section 14(4) of the Electoral Amendment Act 2019 (2019 No 72).

Section 210(7): replaced, on 25 March 2014, by section 38(6) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210(9): inserted, on 25 March 2014, by section 38(7) of the Electoral Amendment Act 2014 (2014 No 8).

210A Auditor's report on annual return of party donations

(1) A party secretary must, before the Electoral Commission receives the return required by section 210, obtain from the auditor appointed under section 206J a report on the return.

(2) The auditor must state in the report whether, in the auditor's opinion, the return fairly reflects the party donations received by the party secretary.

(3) The auditor must make any examinations that the auditor considers necessary.

(4) The auditor must specify in the report any case in which—

(a) the return does not, in the auditor's opinion, fairly reflect the party donations received by the party secretary:

(b) the auditor has not received from the party secretary all the information that the auditor requires to carry out his or her duties:

(c) proper records of party donations have not, in the auditor's opinion, been kept by the party secretary.

(5) The auditor—

(a) must have access at all reasonable times to all records, documents, and accounts that relate to the party donations and that are held by the party or the party secretary; and

(b) may require the party secretary to provide any information and explanations that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

Compare: 2007 No 111 s 52

Section 210A: substituted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

210B Nil return

If a party secretary considers that there is no relevant information to disclose under section 210, the party secretary must file a nil return under that section.

Compare: 2007 No 111 s 53

Section 210B: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

210C Return of party donation received from same donor exceeding $30,000

(1) A party secretary must file with the Electoral Commission a return in respect of every party donation that exceeds $30,000.

(2) A party secretary must file with the Electoral Commission a return in respect of every party donation that—

(a) the party secretary knows is from a donor who in the 12 months immediately preceding the date of receipt of the donation (the **last 12 months**) has made 1 or more previous donations; and

(b) when aggregated with all previous donations received from the donor in the last 12 months exceeds $30,000.

(3) If a return is made under subsection (2), the donations disclosed in that return must be disregarded when applying this section in relation to a party donation that is made after that return is filed.

(4) A return filed under subsection (1) must be in the form required by the Electoral Commission and set out—

(a) the name of the donor (if known); and

(b) the address of the donor (if known); and

(c) the amount of the donation; and

(d) the date the donation was received; and

(e) the following details in respect of every contribution to the donation made by or on behalf of the same contributor that exceeds $30,000:

(i) the name of the contributor; and

(ii) the address of the contributor; and

(iii) the amount of the contribution.

(5) A return filed under subsection (2) must be in the form required by the Electoral Commission and set out—

(a) the name of the donor; and

(b) the address of the donor; and

(c) the amount of the donation; and

(d) the amounts of all previous donations; and

(e) the date the donation was received; and

(f) the dates all previous donations were received.

(6) A return must be filed under subsection (1) or (2) within 10 working days of the donation being received by the party secretary.

Compare: 2007 No 111 s 54

Section 210C: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 210C heading: amended, on 1 January 2011, by section 28 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210C(1): amended, on 1 January 2011, by section 28 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210C(2)(b): amended, on 1 January 2011, by section 28 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 210C(4)(d): amended, on 25 March 2014, by section 39(1) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210C(4)(e): inserted, on 25 March 2014, by section 39(2) of the Electoral Amendment Act 2014 (2014 No 8).

210D Offences relating to return of party donations

(1) A party secretary commits an offence and is liable on conviction to a fine not exceeding $40,000 who, without reasonable excuse,—

(a) files a return of party donations under section 210 during the late period:

(b) files a return of party donations under section 210C during the late period.

(1A) A party secretary is guilty of a corrupt practice who, without reasonable excuse,—

(a) files a return of party donations under section 210 or 210C after the late period; or

(b) fails to file a return of party donations under—

(i) section 210:

(ii) section 210C.

(2) A party secretary who files a return under section 210 or 210C that is false in any material particular is guilty of—

(a) a corrupt practice if he or she filed the return knowing it to be false in any material particular; or

(b) an illegal practice in any other case unless the party secretary 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 that the information in the return was accurate.

(3) In this section, **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.

Compare: 2007 No 111 s 56

Section 210D: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 210D(1): replaced, on 25 March 2014, by section 40(1) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210D(1A): inserted, on 25 March 2014, by section 40(1) of the Electoral Amendment Act 2014 (2014 No 8).

Section 210D(3): inserted, on 25 March 2014, by section 40(2) of the Electoral Amendment Act 2014 (2014 No 8).

210E Obligation to retain records necessary to verify return of party donations

(1) A party secretary must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable returns under sections 210 and 210C 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.

(2) A party secretary 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.

Compare: 2007 No 111 s 55

Section 210E: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Section 210E(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

210F Return of party donations to be publicly available

(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, the following returns and reports:

(a) a return filed under section 210; and

(b) a report obtained under section 210A accompanying the return referred to in paragraph (a); and

(c) a return filed under section 210C.

(2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return and report referred to in subsection (1).

(3) The Electoral Commission may make inspection under subsection (2) subject to the payment of any charges that may be made under the Official Information Act 1982.

Compare: 2007 No 111 s 57

Section 210F: inserted, on 1 March 2009, by section 6 of the Electoral Amendment Act 2009 (2009 No 1).

Part 6B
Loans

Part 6B: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

211 Application of this Part

This Part applies to loans entered into on behalf of parties.

Section 211: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

Subpart 1—General provisions relating to loans

Subpart 1: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

212 Interpretation

In this Part,—

lender, in relation to a loan, means the person providing the loan

loan—

(a) means a written or an oral agreement or arrangement under which a lender lends money or agrees to lend money in the future at specified dates or on request or on the occurrence of a particular event; but

(b) does not include any money lent by a registered bank at a commercial interest rate

loan amount means—

(a) the amount of money lent by the lender under the loan; or

(b) where any money may be lent under the loan in the future, the maximum amount that may be owed at any one time; or

(c) the total of the amounts in paragraphs (a) and (b), in any case where the lender has provided, and may in the future provide, money under the loan

registered bank has the same meaning as in section 2(1) of the Reserve Bank of New Zealand Act 1989.

Section 212: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

213 Party secretary may enter into loan on behalf of party

(1) A party may enter into a loan only with the authorisation of the party secretary.

(2) Only the party secretary may enter into a loan on behalf of the party.

(3) If the party secretary enters into a loan that is not in writing, the party secretary must, as soon as is reasonably practicable, make a written record of the loan.

(4) A loan entered into in contravention of this section is an illegal contract for the purposes of subpart 5 of Part 2 of the Contract and Commercial Law Act 2017.

Section 213: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

Section 213(4): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

214 Offence to enter into unauthorised loan

A person is guilty of—

(a) a corrupt practice who wilfully contravenes section 213; and

(b) an illegal practice who contravenes section 213 in any other case.

Section 214: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214A Offence to enter into arrangement to circumvent section 213, 214C, or 214F

A person who enters into an agreement, arrangement, or understanding with any other person for the purpose of circumventing section 213, or for the purpose of circumventing the disclosure required by section 214C or 214F, is guilty of an illegal practice.

Section 214A: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214B Records of loans

(1) A party secretary must keep proper records of all loans entered into on behalf of the party.

(2) A party secretary 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.

Section 214B: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214BA Periods for claiming and paying expenses

[Repealed]

Section 214BA: repealed, on 20 December 2007, by section 21(2)(b) of the Electoral Amendment Act 2007 (2007 No 113).

214BB Procedure if claim disputed

[Repealed]

Section 214BB: repealed, on 20 December 2007, by section 21(2)(b) of the Electoral Amendment Act 2007 (2007 No 113).

214BC Leave to pay claim after time limited

[Repealed]

Section 214BC: repealed, on 20 December 2007, by section 21(2)(b) of the Electoral Amendment Act 2007 (2007 No 113).

214BD Payments to be vouched by bill

[Repealed]

Section 214BD: repealed, on 20 December 2007, by section 21(2)(b) of the Electoral Amendment Act 2007 (2007 No 113).

Subpart 2—Disclosure of loans

Subpart 2: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214C Annual return of loans

(1) A party secretary must file with the Electoral Commission, for each year, a return setting out—

(a) the details specified in subsection (2) in respect of—

(i) every loan entered into during the year that has a loan amount exceeding $15,000; and

(ii) every loan entered into in any previous year that—

(A) has a loan amount exceeding $15,000; and

(B) at the close of 31 December of the year for which the return is filed, has an unpaid balance exceeding $15,000; and

(b) the details specified in subsection (3) in respect of every loan entered into during the year that has a loan amount not exceeding $15,000, but which exceeds $15,000 when aggregated with—

(i) the loan amounts of all other loans provided by the same lender during the year; or

(ii) the unpaid balances of any loans provided by the same lender during any previous year; and

(c) the details specified in subsection (4) in respect of all other loans entered into during the year that each have loan amounts of not less than $1,500 and not more than $15,000.

(2) The details referred to in subsection (1)(a) 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) The details referred to in subsection (1)(b) are—

(a) the details specified in subsection (2); and

(b) the total of the aggregated loan amount.

(4) The details referred to in subsection (1)(c) are—

(a) the number of loans; and

(b) the total of the aggregated loan amounts.

(5) A return must—

(a) be filed by 30 April of the following year; and

(b) be in a form required by the Electoral Commission; and

(c) be accompanied by an auditor's report obtained under section 214D.

(6) In this section, **year** means the period of 12 months starting on 1 January and ending with the close of 31 December.

(7) Despite anything in subsection (1), if a party secretary is required to file under that subsection a return of party loans that relates to the year in which the party became registered, that return is to relate to the period beginning with the date of registration of the party and ending with 31 December of that year.

Section 214C: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214D Auditor's report on annual return of loans

(1) A party secretary must, before the Electoral Commission receives the return required by section 214C, obtain from the auditor appointed under section 206J a report on the return.

(2) The auditor must state in the report whether, in the auditor's opinion, the return fairly reflects the loans entered into by the party.

(3) The auditor must make any examinations that the auditor considers necessary.

(4) The auditor must specify in the report any case in which—

(a) the return does not, in the auditor's opinion, fairly reflect the loans entered into by or on behalf of the party:

(b) the auditor has not received from the party secretary all the information that the auditor requires to carry out his or her duties:

(c) proper records of loans entered into by or on behalf of the party have not, in the auditor's opinion, been kept by the party secretary.

(5) The auditor—

(a) must have access at all reasonable times to all records, documents, and accounts that relate to the loans entered into by or on behalf of the party and that are held by the party or the party secretary; and

(b) may require the party secretary to provide any information and explanation that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

Section 214D: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214E Nil return

If a party secretary considers that there is no relevant information to disclose under section 214C, the party secretary must file a nil return under that section.

Section 214E: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214F Return of loan provided by same lender exceeding $30,000

(1) A party secretary must file with the Electoral Commission a return in respect of every loan entered into that has a loan amount exceeding $30,000.

(2) A party secretary must file with the Electoral Commission a return in respect of every loan entered into—

(a) that is provided by a lender who, in the 12 months immediately preceding the date on which the loan was entered into (the **last 12 months**), has provided 1 or more other loans to the party (**previous loans**); and

(b) that exceeds $30,000 when the amount of the loan is aggregated with the loan amounts of all the previous loans.

(3) If a return is made under subsection (2), the loans disclosed in that return must be disregarded when applying this section in relation to a loan that is entered into by the party after that return is filed.

(4) A return filed under subsection (1) must be in the form required by the Electoral Commission and must set out—

(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.

(5) A return filed under subsection (2) must be in the form required by the Electoral Commission and must set out—

(a) the details specified in subsection (4) in respect of—

(i) the loan; and

(ii) all previous loans; and

(b) the total of the aggregated loan amount.

(6) A return must be filed under subsection (1) or (2) within 10 working days of the loan being entered into by the party.

Section 214F: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214G Offences relating to return of party loans

(1) A party secretary commits an offence and is liable on conviction to a fine not exceeding $40,000 who, without reasonable excuse,—

(a) files a return of party loans under section 214C during the late period:

(b) files a return of party loans under section 214F during the late period.

(2) A party secretary is guilty of a corrupt practice who, without reasonable excuse,—

(a) files a return of party loans under section 214C or 214F after the late period; or

(b) fails to file a return of party loans under—

(i) section 214C:

(ii) section 214F.

(3) A party secretary who files a return under section 214C or 214F that is false in any material particular is guilty of—

(a) a corrupt practice if he or she filed the return knowing it to be false in any material particular; or

(b) an illegal practice in any other case unless the party secretary 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 that the information in the return was accurate.

(4) A party secretary charged with an offence against subsection (3)(a) may be convicted of an offence against subsection (3)(b).

(5) In this section, **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.

Section 214G: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214H Duty of Electoral Commission

(1) If the Electoral Commission believes that any person has committed an offence specified in this Part, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

Section 214H: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214I Obligation to retain records necessary to verify return of party loans

(1) A party secretary must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable returns under sections 214C and 214F 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.

(2) A party secretary 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.

Section 214I: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214J Return of party loans to be publicly available

(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, the following returns and reports:

(a) a return filed under section 214C; and

(b) a report obtained under section 214D accompanying a return referred to in paragraph (a); and

(c) a return filed under section 214F.

(2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return and report referred to in subsection (1).

(3) The Electoral Commission may make inspection under subsection (2) subject to the payment of any charges that may be made under the Official Information Act 1982.

Section 214J: inserted, on 25 March 2014, by section 41 of the Electoral Amendment Act 2014 (2014 No 8).

214K Obligation to file nil returns

[Repealed]

Section 214K: repealed, on 20 December 2007, by section 21(2)(b) of the Electoral Amendment Act 2007 (2007 No 113).

214L Obligation to retain records necessary to verify returns

[Repealed]

Section 214L: repealed, on 20 December 2007, by section 21(2)(b) of the Electoral Amendment Act 2007 (2007 No 113).

Part 7
Corrupt and illegal practices

Corrupt practices

215 Personation

(1) Every person is guilty of a corrupt practice who commits, or aids or abets, counsels, or procures the commission of, the offence of personation.

(2) Every person commits the offence of personation who—

(a) votes as some other person, whether that person is living or dead or is a fictitious person; or

(b) having voted at any election, votes again at the same election; or

(c) having voted at an election in any district at a general election, votes at an election in another district at the same general election.

(3) For the purposes of this section, a person shall be deemed to have voted if he or she has applied for a ballot paper for himself or herself, or has applied to vote as a special voter, or has marked a ballot paper for himself or herself, whether validly or not.

(4) Where the Electoral Commission believes that any person has committed an offence against this section, the Electoral Commission shall report the facts on which that belief is based to the New Zealand Police.

Compare: 1956 No 107 s 140; 1983 No 104 s 24

Section 215(4): amended, on 21 March 2017, by section 105 of the Electoral Amendment Act 2017 (2017 No 9).

Section 215(4): amended, on 17 August 2011, by section 25 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

216 Bribery

(1) Every person is guilty of a corrupt practice who commits the offence of bribery.

(2) Every person commits the offence of bribery who, directly or indirectly, by himself or herself or by any other person on his or her behalf—

(a) gives any money or procures any office to or for any voter, or to or for any other person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting; or

(b) corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting; or

(c) makes any such gift or procurement as aforesaid to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person or candidates at an election or the vote of any voter,—

or who, upon or in consequence of any such gift or procurement as aforesaid, procures, or engages, promises, or endeavours to procure, the return of any person or candidates at any election or the vote of any voter.

(3) For the purposes of this section,—

(a) references to giving money shall include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure, any money or valuable consideration:

(b) references to procuring any office shall include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure, any office, place, or employment.

(4) Every person commits the offence of bribery who—

(a) advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or any part thereof shall be expended in bribery at any election; or

(b) knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

(5) The foregoing provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.

(6) A voter commits the offence of bribery if before or during an election he or she directly or indirectly, by himself or herself or by any other person on his or her behalf, receives, or agrees or contracts for, any money, gift, loan, or valuable consideration, office, place, or employment for himself or herself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(7) Every person commits the offence of bribery if after an election he or she directly or indirectly, by himself or herself or by any other person on his or her behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(8) In this section the term **voter** includes any person who has or claims to have a right to vote.

Compare: 1956 No 107 s 141

217 Treating

(1) Every person is guilty of a corrupt practice who commits the offence of treating.

(2) Every person commits the offence of treating who corruptly, by himself or herself or by any other person on his or her behalf, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any food, drink, entertainment, or provision to or for any person—

(a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or

(b) for the purpose of procuring himself or herself to be elected; or

(c) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every person commits the offence of treating who, being the holder of a licence for the sale by retail of alcohol (within the meaning of section 5(1) of the Sale and Supply of Alcohol Act 2012), knowingly supplies any food, drink, entertainment, or provision—

(a) to any person where the supply thereof is demanded for the purpose of treating, or for any corrupt or illegal practice; or

(b) to any persons, whether electors or not, for the purpose of procuring the return of a candidate or candidates at an election, and without receiving payment for it at the time when it is supplied.

(4) Every elector who corruptly accepts or takes any such food, drink, entertainment, or provision also commits the offence of treating.

(5) Notwithstanding anything in this section, the provision of a light supper after any election meeting shall be deemed not to constitute the offence of treating.

Compare: 1956 No 107 s 142; 1975 No 28 s 41

Section 217(3): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

218 Undue influence

(1) Every person is guilty of a corrupt practice who commits the offence of undue influence.

(2) Every person commits the offence of undue influence who—

(a) directly or indirectly, by himself or herself or by any other person on his or her behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or herself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person, in order to induce or compel that person to vote for or against a particular candidate or party or to vote or refrain from voting, or on account of that person having voted for or against a particular candidate or having voted or refrained from voting; or

(b) by abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free exercise of the franchise of an elector, or thereby compels, induces, or prevails upon an elector either to vote or to refrain from voting.

Compare: 1956 No 107 s 143

Illegal practices

219 Payments for exhibition of election notices

(1) No payment or contract for payment may be made to any elector on account of the exhibition of, or the use of any house, land, building, or premises for the exhibition of, any address, poster, or notice that promotes or procures the election of a candidate or candidates at an election.

(2) Subsection (1) does not apply if it is the ordinary business of an elector to exhibit for payment posters and advertisements and the payment or contract is made in the ordinary course of that business.

(3) If any payment or contract for payment is knowingly made in contravention of this section before, during, or after an election, the person making the payment or contract and, if he or she knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract is guilty of an illegal practice.

Compare: 1993 No 87 s 219 (pre-20 December 2007)

Section 219: substituted, on 1 March 2009, by section 7 of the Electoral Amendment Act 2009 (2009 No 1).

Section 219 compare note: amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

220 Providing money for illegal purposes

Where any person knowingly provides money for any purpose which is contrary to the provisions of this Act, or for any election expenses incurred in excess of the maximum amount allowed by this Act, or for repaying any money expended in any such payment or expenses, that person is guilty of an illegal practice.

Compare: 1956 No 107 s 147

Section 220: amended, on 1 March 2009, by section 14 of the Electoral Amendment Act 2009 (2009 No 1).

Section 220: amended, on 20 December 2007, by section 23 of the Electoral Amendment Act 2007 (2007 No 113).

221 Advertisements for candidates and political parties

[Repealed]

Section 221: repealed, on 1 January 2011, by section 30 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

221A Electoral advertisements

(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) Subsection (1) does not apply to any advertisement published or broadcast, or caused or permitted to be published or broadcast, in any medium, by the Electoral Commission, or any other agency charged with responsibilities in relation to the conduct of any official publicity or information campaign to be conducted on behalf of the Government of New Zealand and relating to electoral matters or the conduct of any general election or by-election and which either contains a statement indicating that the advertisement has been authorised by that officer or agency, or contains a symbol indicating that the advertisement has been authorised by that officer or agency.

(3) Every person is guilty of an illegal practice who wilfully contravenes any provision of subsection (1).

(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.

Section 221A: inserted, on 6 December 1995, by section 82 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 221A(1): replaced, on 1 January 2020, by section 17(1) of the Electoral Amendment Act 2019 (2019 No 72).

Section 221A(2): amended, on 1 January 2020, by section 17(2) of the Electoral Amendment Act 2019 (2019 No 72).

Section 221A(2): amended, on 1 July 2012, by section 52(15) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 221A(2): amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 221A(4): replaced, on 1 January 2020, by section 17(3) of the Electoral Amendment Act 2019 (2019 No 72).

Section 221A(5): inserted, on 1 January 2020, by section 17(3) of the Electoral Amendment Act 2019 (2019 No 72).

221B Display of advertisement of a specified kind

(1) During the period beginning 9 weeks before polling day and ending with the close of the day before polling day, the display of an advertisement of a specified kind is not subject to—

(a) any prohibition or restriction imposed in any other enactment or bylaw, or imposed by any local authority, that applies in relation to the period when an advertisement of a specified kind may be displayed; or

(b) any prohibition or restriction imposed in any bylaw, or imposed by any local authority, that applies in relation to the content or language used in an advertisement of a specified kind.

(2) In this section, **advertisement of a specified kind** means an advertisement displayed in a public place or on private property that does not exceed 3 square metres in size and that—

(a) encourages or persuades, or appears to encourage or persuade, voters to vote for a party registered under Part 4; or

(b) is used, or appears to be used, to promote or procure the election of a candidate; but

(c) does not include—

(i) an advertisement published in any newspaper, periodical, or handbill, or in any poster less than 150 square centimetres in size; or

(ii) an advertisement broadcast by any television station or by any electronic means of communication.

(3) Nothing in this section limits or prevents the display before polling day of any advertisement relating to an election that complies with any prohibition or restriction imposed in any enactment or bylaw, or imposed by any local authority.

Compare: 1993 No 87 s 221B (pre-20 December 2007)

Section 221B: substituted, on 1 March 2009, by section 9 of the Electoral Amendment Act 2009 (2009 No 1).

Section 221B(1): amended, on 21 March 2017, by section 106 of the Electoral Amendment Act 2017 (2017 No 9).

222 Procurement of voting by unqualified voters

Every person is guilty of an illegal practice who induces or procures to vote at any election any person whom he or she knows at the time to be disqualified or prohibited, whether under this Act or otherwise, from voting at that election.

Compare: 1956 No 107 s 148

General provisions

223 Cinematograph films

(1) For the purposes of this Act, the exhibition of any cinematograph film shall not be deemed to constitute bribery or treating or an illegal practice, and any payment or contract for payment in respect of any such exhibition shall not be deemed to constitute an illegal practice notwithstanding that the film may be wholly or mainly an advertisement.

(2) For the purposes of this section, the expression **cinematograph film** or **film** includes any screen advertisement of any description.

Compare: 1956 No 107 s 149

224 Punishment for corrupt or illegal practice

(1) Every person who is guilty of any corrupt practice is liable on conviction to either or both of the following:

(a) a term of imprisonment not exceeding 2 years:

(b) a fine not exceeding—

(i) $100,000 in the case of a person who is a constituency candidate, party secretary, or registered promoter and who is convicted of any corrupt practice under Part 6A; or

(ii) $40,000 in any other case.

(2) Every person who is guilty of any illegal practice is liable on conviction to a fine not exceeding—

(a) $40,000 in the case of a person who is a constituency candidate, party secretary, or registered promoter and who is convicted of any illegal practice under Part 6AA or 6A; or

(b) $40,000 in the case of a person who is an unregistered promoter and who is convicted of any illegal practice under section 204B or 204D; or

(c) $10,000 in any other case.

(3) Subsection (1) does not apply in relation to a corrupt practice under—

(a) section 201; or

(b) section 43 of the Citizens Initiated Referenda Act 1993.

Compare: 1993 No 87 s 224 (pre-20 December 2007); 2007 No 111 ss 142, 143

Section 224: substituted, on 1 March 2009, by section 10 of the Electoral Amendment Act 2009 (2009 No 1).

Section 224(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 224(1)(b)(i): amended, on 1 January 2011, by section 32(1) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 224(2): substituted, on 1 January 2011, by section 32(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 224(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 224 compare note: amended, on 1 October 2010, by section 14 of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

225 Persons charged with corrupt practice may be found guilty of illegal practice

Any person charged with a corrupt practice may, if the circumstances warrant that finding, be found guilty of an illegal practice; and any person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

Compare: 1956 No 107 s 151

226 Time limit for prosecutions

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a prosecution under any of the following provisions must be commenced within 6 months of the date on which the return was required to be filed:

(a) section 205N(1):

(b) section 206N(1):

(c) section 209B(1):

(d) section 210D(1)(a):

(e) section 214G(1)(a).

(1A) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a prosecution under section 206ZE(1), 210D(1)(b), or 214G(1)(b) 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.

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a prosecution against any person for a corrupt practice or an illegal practice 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 corrupt practice or illegal practice was committed.

Compare: 1993 No 87 s 226 (pre-20 December 2007); 2007 No 111 s 140

Section 226: substituted, on 1 March 2009, by section 11 of the Electoral Amendment Act 2009 (2009 No 1).

Section 226(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 226(1)(d): substituted, on 1 January 2011, by section 33(1) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 226(1)(e): inserted, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 226(1A): inserted, on 1 January 2011, by section 33(2) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 226(1A): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 226(1A): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 226(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

226A Power to issue search warrants in respect of illegal practice

[Repealed]

Section 226A: repealed, on 1 March 2009, by section 12 of the Electoral Amendment Act 2009 (2009 No 1).

227 Punishment for disqualified person voting

If any person, while his or her name is on the Corrupt Practices List for any district, votes or applies for a ballot paper or applies to vote as a special voter at any election in that or any other district, he or she shall, notwithstanding that

his or her name may be on the main roll or any supplementary roll, be liable on conviction to a fine not exceeding $4,000, and his or her vote shall be void.

Compare: 1956 No 107 s 153; 1990 No 1 s 77

Section 227: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

228 Reversal of disqualification procured through perjury

Where the name of any person is entered on the Corrupt Practices List for any district by reason of any conviction or any report by the High Court, and any witness who gave evidence against that person in the proceedings resulting in that conviction or report is convicted of perjury in respect of that evidence, that person may apply to the High Court, and that court, if satisfied that the conviction or report so far as it relates to that person was based on perjury, may order that the name of that person be removed from the Corrupt Practices List.

Compare: 1956 No 107 s 154

Part 8
Election petitions

229 Method of questioning election

(1) No election and no return to the House of Representatives shall be questioned except by a petition complaining of an unlawful election or unlawful return (in this Act referred to as an **election petition**) presented in accordance with this Part.

(2) A petition complaining of no return shall be deemed to be an election petition, and the High Court or the Court of Appeal may make such order thereon as the court thinks expedient for compelling a return to be made or may allow the petition to be heard as provided with respect to ordinary election petitions.

(3) An election petition relating to the return of a member of Parliament representing an electoral district or the failure to present a return at an election for a member of Parliament representing an electoral district shall be presented to the High Court and determined in accordance with sections 230 to 257.

(4) An election petition relating to the allocation of seats by the Electoral Commission under sections 191 to 193 may be presented to the Court of Appeal in accordance with sections 258 to 262.

Compare: 1956 No 107 s 155; 1986 No 116 s 6

Section 229(4): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

230 Election petitions to High Court

(1) An election petition to which section 229(3) applies may be presented to the High Court by 1 or more of the following persons:

(a) a person who voted or had a right to vote at the election:

(b) a person claiming to have had a right to be elected or returned at the election:

(c) a person alleging himself or herself to have been a constituency candidate at the election.

(2) The member whose election or return is complained of shall be the respondent to the petition, and, if the petition complains of the conduct of the Electoral Commission, the Electoral Commission must also be a respondent.

(3) The petition shall be in such form and state such matters as are prescribed by rules of court, and be signed by the petitioner or all the petitioners if more than 1.

(4) The petition shall be presented by filing it in the registry of the High Court nearest to the place where the election was held. The Registrar of the court shall forthwith send a copy of the petition to the Electoral Commission.

(5) The petition shall be served as nearly as may be in the manner in which a statement of claim is served, or in such other manner as may be prescribed by rules of court.

Compare: 1956 No 107 s 156; 1980 No 29 s 5(8)

Section 230(2): amended, on 21 March 2017, by section 107(1) of the Electoral Amendment Act 2017 (2017 No 9).

Section 230(4): amended, on 21 March 2017, by section 107(2) of the Electoral Amendment Act 2017 (2017 No 9).

231 Time for presentation of election petition

(1) Subject to the provisions of this section, an election petition shall be presented within 28 days after the day on which the Electoral Commission has publicly notified the result of the poll.

(2) If the petition questions the election or return upon an allegation of a corrupt practice and specifically alleges a payment of money or other reward to have been made by the member or on his or her account or with his or her knowledge and consent since the day of the said declaration in pursuance or furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of the payment.

(3) For the purposes of this section, an allegation that an election is avoided under section 238 shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

Compare: 1956 No 107 s 157; 1975 No 28 s 45

Section 231(1): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 231(1): amended, on 6 December 1995, by section 84 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Section 231(2): amended, on 6 December 1995, by section 84 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

232 Security for costs

(1) At the time of presenting an election petition or within 3 days after the expiration of the time limited for the presentation of the petition, the petitioner shall give security to the satisfaction of the Registrar of the court for all costs that may become payable by the petitioner to any witness summoned on the petitioner's behalf or to any respondent.

(2) The security shall be an amount of $1,000, and shall be given by recognisance to the Crown entered into by any number of sureties not exceeding 5 or by a deposit of money, or partly in one way and partly in the other.

(3) If no security is given as required by this section, no further proceedings shall be taken on the petition.

Compare: 1956 No 107 s 158

233 More than 1 petition relating to same election

Where more petitions than 1 are presented relating to the same election or return, all those petitions shall be dealt with as 1 petition.

Compare: 1956 No 107 s 159

234 Rules of court

(1) Rules of court may be made in the manner prescribed by Senior Courts Act 2016 for the purposes of this Part.

(2) All rules made under this section shall be laid before the House of Representatives not later than the 16th sitting day of the House of Representatives after the day on which they are made.

Compare: 1956 No 107 s 160; 1986 No 116 s 7

Section 234(1): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Trial of election petition

235 Court and place of trial

(1) Every election petition to which section 229(3) applies shall be tried by the High Court, and the trial shall take place before 3 Judges of the court to be named by the Chief Justice.

(2) If any such Judge, before the conclusion of the trial, becomes unable to act, the Chief Justice shall name another Judge to act in his or her place.

(3) The place of trial shall be at the registry of the court where the petition is filed:

provided that the High Court, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, may appoint such other place for the trial as appears most convenient.

Compare: 1956 No 107 s 161

236 Trial of petition

(1) An election petition to which section 229(3) applies shall be tried in open court without a jury, and notice of the time and place of trial shall be given not less than 14 days before the day of trial.

(2) The court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.

(3) The trial of an election petition shall be proceeded with notwithstanding that the respondent may have become disqualified as a member of Parliament, or that Parliament may have been prorogued.

(4) Subject to this Act, the court shall have jurisdiction to inquire into and adjudicate on any matter relating to the petition in such manner as the court thinks fit, and, in particular, may at any time during the trial direct a recount or scrutiny of some or all of the votes given at the election, and shall disallow the vote of every person proved to have been guilty of any corrupt practice, or whose name has been wrongly placed or retained on the roll.

(5) Notwithstanding subsection (4), the vote of any person who on polling day was entitled to be registered as an elector of the district shall not be disallowed on the ground that his or her name has been wrongly placed or retained on the roll.

(6) Notwithstanding subsection (4), where an elector—

(a) has been registered as an elector of the district by an error on the part of an official; and

(b) has exercised his or her vote in respect of that district in good faith without notice of the error,—

his or her vote shall not be disallowed by reason only of that error.

(7) On the trial of an election petition, unless the court otherwise directs, any charge of a corrupt or illegal practice may be gone into, and evidence in relation thereto received before any proof has been given that any candidate was aware of or consenting to the corrupt or illegal practice.

(8) On the trial of an election petition to which section 229(3) applies complaining of an unlawful election or return and claiming the seat for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if the respondent had presented a petition against the election of that person.

Compare: 1956 No 107 s 162

237 Avoidance of election of candidate guilty of corrupt practice

Where a candidate who has been elected at any election is proved at the trial of an election petition to which section 229(3) applies to have been guilty of any corrupt practice at the election, his or her election shall be void.

Compare: 1956 No 107 s 163

238 Avoidance of election for general corruption

(1) Where it is reported by the High Court on the trial of an election petition that corrupt or illegal practices committed in relation to the election for the purpose of promoting or procuring the election of any constituency candidate or constituency candidates thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, the constituency candidate's election, if the candidate has been elected and is a respondent, shall be void.

(2) Except under this section, an election shall not be liable to be avoided by reason of the general prevalence of corrupt or illegal practices.

Compare: 1956 No 107 s 164

239 Votes to be struck off for corrupt practices

Where, on the trial of an election petition to which section 229(3) applies claiming the seat for any person, a constituency candidate is reported by the High Court to have been proved guilty of bribery, treating, or undue influence in respect of any person who voted at the election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been received by the candidate 1 vote for every person who voted at the election and is reported to have been proved to have been so bribed, treated, or unduly influenced.

Compare: 1956 No 107 s 165

240 Real justice to be observed

On the trial of any election petition,—

(a) the court shall be guided by the substantial merits and justice of the case without regard to legal forms or technicalities:

(b) the court may admit such evidence as in its opinion may assist it to deal effectively with the case, notwithstanding that the evidence may not otherwise be admissible in the High Court.

Compare: 1956 No 107 s 166

241 Irregularities not to invalidate election

No election shall be declared invalid by reason of—

(a) any failure to comply with the times prescribed for doing any act; or

(b) any omission or irregularity in filling out any form prescribed by this Act or by regulations made thereunder; or

(c) any want or defect in the appointment of any official or scrutineer; or

(d) any absence of, or mistake or omission or breach of duty by, any official, whether before, during, or after the polling—

if the court is satisfied that the election was so conducted as to be substantially in compliance with the law as to elections, and that the failure, omission, irregularity, want, defect, absence, mistake, or breach did not affect the result of the election.

Compare: 1956 No 107 s 167

242 Decision of court to be final

All decisions of the High Court under this Part shall be final and conclusive and without appeal, and shall not be questioned in any way.

Compare: 1956 No 107 s 168

243 Certificate of court as to result of election

At the conclusion of the trial of an election petition to which section 229(3) applies, the court shall determine whether the member whose election or return is complained of, or any and what other person, was duly elected or returned, or whether the election was void, and shall forthwith certify in writing the determination to the Speaker, and the determination so certified shall be final to all intents and purposes.

Compare: 1956 No 107 s 169

243A Orders to be made by court after determination under section 243 if list seats allocated

(1) This section applies if, at the conclusion of the trial of an election petition,—

(a) the court determines, under section 243, that the candidate who was duly elected was not declared elected under section 179(2) and the candidate who was declared elected under section 179(2) was not duly elected; and

(b) an allocation of seats by the Electoral Commission under sections 191 to 193 has been made.

(2) If this section applies, the court must—

(a) make an order that any declaration of election made pursuant to section 193(5) is invalid so far as it relates to the election of any specified candidate and that the election of any specified candidate is void; and

(b) order that the Electoral Commission repeat any or all of the procedures prescribed by sections 191 to 193 and make a further declaration under section 193(5); and

(c) immediately certify in writing to the Speaker the orders made under paragraphs (a) and (b).

(3) The orders certified under subsection (2)(c) are final for all purposes.

Section 243A: inserted, on 25 March 2014, by section 42 of the Electoral Amendment Act 2014 (2014 No 8).

244 Report of court as to corrupt or illegal practices

(1) Where, in an election petition to which section 229(3) applies, any charge is made of any corrupt or illegal practice having been committed at the election, the court shall, in addition to giving a certificate and at the same time, report in writing to the Speaker as follows:

(a) whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any constituency candidate at the election, and the nature of the corrupt or illegal practice:

(b) whether any of the constituency candidates has been guilty by his or her agents of any corrupt or illegal practice in reference to the election:

(c) the names of all persons proved at the trial to have been guilty of any corrupt or illegal practice and whether they have received certificates of indemnity:

(d) whether there is reason to believe that corrupt or illegal practices have extensively prevailed at the election.

(2) In the case of someone who is not a party to the petition nor a constituency candidate on behalf of whom the seat is claimed by the petition, the court, before reporting him or her to have been proved guilty of any corrupt or illegal practice, shall first cause notice to be given to him or her, and if he or she appears in pursuance of the notice, shall give him or her an opportunity of being heard and of calling evidence in his or her defence to show why he or she should not be so reported.

(3) For the purposes of this Act, if it is reported by the court that a corrupt or illegal practice was committed with the knowledge and consent of a constituency candidate, he or she shall be treated as having been reported to have been proved guilty of that corrupt or illegal practice.

(4) If a constituency candidate is reported to have been guilty by his or her agents of treating, undue influence, or any illegal practice, and the court further reports—

(a) that no corrupt or illegal practice was committed at the election by the constituency candidate with his or her knowledge or consent, and that the offences mentioned in the report were committed without the sanction or connivance of the constituency candidate; and

(b) that all reasonable means for preventing the commission of corrupt and illegal practices at the election were taken by and on behalf of the constituency candidate; and

(c) that the offences mentioned in the report were of a trivial, unimportant, and limited character; and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of the constituency candidate and of his or her agents,—

the constituency candidate shall not be treated for the purposes of this Act as having been reported to have been proved guilty of the offences mentioned in the report.

Compare: 1956 No 107 s 170

245 Special report

At the same time as the court gives its certificate at the conclusion of the trial of an election petition to which section 229(3) applies, the court may make a special report to the Speaker as to any matters arising in the course of the trial an account of which, in the judgment of the court, ought to be submitted to the House of Representatives.

Compare: 1956 No 107 s 171

246 Signature and effect of certificate and report

(1) The certificate and any report of the court at the conclusion of the trial of an election petition shall be signed by at least 2 of the Judges presiding at the trial.

(2) On being informed by the Speaker of the certificate and any report of the court, the House of Representatives shall order the same to be entered in the Journals of the House, and shall give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying out the determination, as the circumstances may require.

(3) Where the court makes a special report, the House may make such order in respect of that report as the House thinks proper.

Compare: 1956 No 107 s 172

Witnesses

247 Summons and examination of witnesses

(1) Witnesses may be summoned and sworn on the trial of an election petition to which section 229(3) applies in the same manner, as nearly as circumstances admit, as in the trial of an ordinary action.

(2) The High Court may by order require any person who appears to the court to have been concerned in the election to attend as a witness.

(2A) Section 42 of the Senior Courts Act 2016 applies to a person who refuses or fails to comply with an order to attend as a witness.

(3) The court may examine any person so required to attend or any person in court, although he or she is not called or examined by any party to the petition.

(4) After the examination of a witness as aforesaid by the court, he or she may be cross-examined by or on behalf of the petitioner and respondent, or either of them.

Compare: 1956 No 107 s 173

Section 247(2): amended, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Section 247(2A): inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

248 Certificate of indemnity to witness

(1) A person called as a witness on the trial of an election petition to which section 229(3) applies shall not be excused from answering any question relating to any offence at or connected with the election on the ground that the answer thereto may incriminate or tend to incriminate himself or herself, or on the ground of privilege:

provided that—

(a) an answer by a person to a question put by or before the court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against that person in any proceeding, civil or criminal:

(b) a witness who answers truly all questions which he or she is required by the court to answer shall be entitled to receive a certificate of indemnity, stating that he or she has so answered.

(2) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against that person for any offence committed by that person at or in connection with the election previously to the date of the certificate, the court having cognisance of the case shall on production of the certificate stay the proceeding, and may in its discretion award to the said person such costs as he or she has been put to in the proceeding.

(3) Nothing in this section shall be deemed to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceedings to enforce any such incapacity (other than a criminal prosecution).

Compare: 1956 No 107 s 174

249 Expenses of witnesses

(1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition to which section 229(3) applies, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him or her by the court.

(2) Any such expenses, if the witness was called and examined by the court, shall be deemed to be part of the expenses of the court, and in other cases shall be deemed to be costs of the petition.

Compare: 1956 No 107 s 175

Costs

250 Costs of petition

(1) All costs of and incidental to the presentation of an election petition to which section 229(3) applies, and to the proceedings consequent thereon, except such as are by this Act otherwise provided for shall be defrayed by the parties to the petition in such manner and in such proportions as the High Court may determine; and, in particular, any costs which, in the opinion of the court, have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or of the respondent, and any needless expenses incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom they were caused or incurred, whether those parties are or are not on the whole successful.

(2) If a petitioner fails for 6 months after demand to pay to any person summoned as a witness on the petitioner's behalf, or to the respondent, any sum certified to be due to that person for costs, and the failure is within 1 year after the demand proved to the satisfaction of the High Court, every person who has under this Act entered into a recognisance relating to the petition shall be held to have made default in the recognisance, and it shall be dealt with in the manner provided by section 21 of the Crown Proceedings Act 1950.

(3) For the purposes of subsection (2), sections 21 and 23 and Schedule 3 of the Crown Proceedings Act 1950 continue to apply as if they had not been amended by Part 9 of the Statutes Amendment Act 2018.

Compare: 1956 No 107 s 176

Section 250(3): inserted, on 8 September 2018, by section 40(2) of the Statutes Amendment Act 2018 (2018 No 27).

251 Costs payable by persons proved guilty of corrupt or illegal practices

(1) Where on the trial of an election petition to which section 229(3) applies it appears to the court that any person has been guilty of any corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceedings before the court in relation to that offence or to that person to be paid by that person to such other person or persons as the court thinks fit.

(2) All costs so ordered to be paid may be recovered as a debt due by the person by whom they are ordered to be paid to the person or persons to whom they are ordered to be paid.

Compare: 1956 No 107 s 177

Withdrawal and abatement of petitions

252 Withdrawal of petition

(1) A petitioner shall not withdraw an election petition to which section 229(3) applies without the leave of the High Court upon special application to be made in the prescribed manner.

(2) No such application shall be made until the prescribed notice of the intention to make it has been given in the district to which the petition relates.

(3) Where there are more petitioners than 1, an application to withdraw the petition shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

Compare: 1956 No 107 s 178

253 Substitution of new petitioner

(1) On the hearing of an application for leave to withdraw a petition, any person who might in the first instance have presented the petition may apply to the court to be substituted as a petitioner.

(2) The court may, if it thinks fit, substitute any such applicant as petitioner, and may, if the proposed withdrawal is in the opinion of the court the result of any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs incurred by the substituted petitioner, and that to the extent of the sum named in the security the original petitioner shall be liable to pay the costs of the substituted petitioner.

(3) If the court does not so direct, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner within 3 days after the order of substitution.

(4) Subject as aforesaid, a substituted petitioner shall as nearly as may be stand in the same position and be subject to the same liabilities as the original petitioner.

Compare: 1956 No 107 s 179

254 Report on withdrawal

In every case of the withdrawal of an election petition to which section 229(3) applies, the High Court shall make a report to the Speaker stating whether in its opinion the withdrawal of the petition was the result of any corrupt arrangement or in consideration of the withdrawal of any other election petition and, if so, the circumstances attending the withdrawal.

Compare: 1956 No 107 s 180

255 Abatement of petition

(1) An election petition to which section 229(3) applies shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement of a petition shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.

(3) On the abatement of a petition, notice of the abatement shall be given in the prescribed manner; and, within 28 days after the notice is given, any person who might have been a petitioner in respect of the election may apply to the High Court in the prescribed manner to be substituted as a petitioner. On any such application the High Court may, if it thinks fit, substitute the applicant accordingly.

(4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

Compare: 1956 No 107 s 181

General provisions

256 Withdrawal and substitution of respondents before trial

(1) If, before the trial of an election petition to which section 229(3) applies, a respondent other than the Electoral Commission—

(a) dies; or

(b) gives the prescribed notice that he or she does not intend to oppose the petition; or

(c) loses his or her seat by reason of the House of Representatives resolving that the seat is vacant,—

notice thereof shall be given in the prescribed manner; and, within 28 days after the notice is given, any person who might have been a petitioner in respect of the election may apply to the High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed 3.

(2) A respondent who has given the prescribed notice that he or she does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon, and shall not sit or vote in the House of Representatives until that House has been informed of the report on the petition.

(3) Where a respondent has given the prescribed notice as aforesaid, the court shall report that fact to the Speaker.

Compare: 1956 No 107 s 182

Section 256(1): amended, on 21 March 2017, by section 108 of the Electoral Amendment Act 2017 (2017 No 9).

257 Submission of report to Attorney-General

Where the High Court reports that certain persons named have been proved at the trial of an election petition to have been guilty of any corrupt or illegal practice, the report shall be given to the Attorney-General.

Compare: 1956 No 107 s 183

258 Electoral petitions to Court of Appeal

(1) An electoral petition relating to the allocation of seats under sections 191 to 193 may be presented to the Court of Appeal by a secretary of a political party whose party was listed in the part of the ballot paper that relates to the party vote.

(2) The petition may seek a review of the procedures and methods used to allocate seats to political parties under sections 191 to 193, and the return of members of Parliament consequential upon that allocation.

(3) The respondents shall be the other political parties named in the part of the ballot paper that relates to the party vote, and, if the conduct of the Electoral Commission is complained of, the Electoral Commission.

(4) Subject to subsections (1) to (3), the petition shall be in such form and state such matters as are prescribed by rules of court, and be signed by the petitioner or all the petitioners if more than 1.

(5) The petition shall be presented by filing it in the Registry of the Court of Appeal. The Registrar of the court shall forthwith send a copy of the petition to the Electoral Commission.

(6) The petition shall be served as nearly as may be in the manner in which a statement of claim is served, or in such other manner as may be prescribed by rules of court.

Section 258(1): amended, on 1 July 1996, by section 7 of the Electoral Amendment Act (No 2) 1996 (1996 No 54).

Section 258(3): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 258(3): amended, on 1 July 1996, by section 7 of the Electoral Amendment Act (No 2) 1996 (1996 No 54).

Section 258(5): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

259 Time for presentation of an election petition to Court of Appeal

An election petition under section 258 shall be presented within 28 days of the date of the declaration made under section 193(5) by the Electoral Commission.

Section 259: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 259: amended, on 6 December 1995, by section 85 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

260 Matters excluded from challenge

On the hearing of a petition presented pursuant to section 258, no decision shall be subject to challenge on the grounds—

(a) that the vote of any elector should have been disallowed because he or she was not qualified to vote in the electoral district in respect of which he or she cast his or her vote; or

(b) that the vote of any voter that was disallowed should have been allowed; or

(c) that a candidate or candidates, or the agent of any candidate, was engaged in a corrupt or illegal practice; or

(d) that corrupt or illegal practices prevailed at the election.

261 Provisions applied

Where any petition is presented under section 258, the provisions of sections 232 to 235, subsections (1) to (3) and (8) of section 236, sections 240 to 242, sections 245 to 250, and section 252 (other than subsection (2)) shall apply, with any necessary modifications, as if references to the High Court were references to the Court of Appeal.

Section 261: amended, on 1 July 1996, by section 8(a) of the Electoral Amendment Act (No 2) 1996 (1996 No 54).

Section 261: amended, on 1 July 1996, by section 8(b) of the Electoral Amendment Act (No 2) 1996 (1996 No 54).

262 Certificate of court as to result of petitions

At the conclusion of the trial of an election petition to which section 258 applies, the Court of Appeal shall—

(a) determine whether the procedures used to allocate seats to political parties under sections 191 to 193 were correct:

(b) determine whether the return of members of Parliament consequential upon the allocation under sections 191 to 193 is valid:

(c) make such orders as are necessary to correct any error or invalidity, including—

(i) an order that any declaration of election made pursuant to section 193(5), so far as it relates to any candidate named in the order, is invalid and the election of that candidate void:

(ii) an order that any candidate not named in a declaration of election made pursuant to section 193(5) is elected as a member of Parliament:

(iii) an order requiring the Electoral Commission to repeat any or all of the procedures prescribed by sections 191 to 193:

(d) forthwith certify in writing its determination to the Speaker and the determination so certified shall be final to all intents and purposes.

Section 262(c)(iii): amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Part 9
Miscellaneous provisions

263 Service of notices

(1) Any notice under this Act may be served on any person by delivering it to that person, and may be delivered to that person either personally or by leaving it at his or her place of residence as stated on the roll or by posting it by registered letter addressed to him or her at that place of residence.

(2) A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

(3) Where any notice is sent by registered letter addressed to any person at his or her place of residence as stated on the roll, with a special request that the letter be returned to the sender at the expiration of 15 days if the person to whom the letter is addressed cannot be found, the return of the letter by a person registered as a postal operator under the Postal Services Act 1998 must be treated as sufficient proof that the person has quitted that place of residence.

(4) **Registered letter** includes any service that—

(a) provides a system of recorded delivery; and

(b) is similar in nature to a registered post service provided by a person registered as a postal operator under the Postal Services Act 1998.

Compare: 1956 No 107 s 184

Section 263(3): amended, on 1 July 2012, by section 51(1) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263(4): inserted, on 1 July 2012, by section 51(2) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

263A Disclosure of immigration information for matching purposes

(1) In this section,—

immigration information, in relation to any person, means—

(a) information concerning—

(i) any person who the chief executive of the responsible department believes is unlawfully in New Zealand; or

(ii) any person who is lawfully in New Zealand but only by virtue of being the holder of a temporary entry class visa of whatever type; and

(b) information that, in relation to any person described in paragraph (a)(i) or (ii), is as follows:

(i) the person's full name:

(ii) any aliases known to be used by that person:

(iii) the person's date of birth:

(iv) the person's address (if known):

(v) the expiry date of any visa held by the person

responsible department means the department of State that is, with the authority of the Prime Minister, responsible for the administration of the Immigration Act 2009.

(2) The purpose of this section is to facilitate the disclosure of information from the responsible department to the Electoral Commission for the purposes of—

(a) verifying, for the purposes of this Act, that any person who is, or has applied to be, registered as an elector of an electoral district is qualified to be registered as an elector of that electoral district:

(b) verifying that a person who is, or has applied to be, registered as an elector is a person who the chief executive of the responsible department believes to be either—

(i) a person who is unlawfully in New Zealand; or

(ii) a person who is lawfully in New Zealand but only by virtue of being the holder of a temporary entry class visa of whatever type.

(3) For the purposes of this section, any officer or employee or agent of the responsible department authorised in that behalf by the chief executive of that department may, at the request of the Electoral Commission, supply to the Electoral Commission any immigration information held by that department.

(4) If, in relation to any person, immigration information is supplied to the Electoral Commission pursuant to subsection (3), the Electoral Commission may cause a comparison of that information to be made with any information that is held by the Electoral Commission and that relates to that person.

(5) Subsection (6) applies in respect of a person if the result of a comparison carried out under subsection (4) indicates that the person has applied to be (but is not yet) registered as an elector, or is on the electoral roll, and is—

(a) a person who the chief executive of the responsible department believes is unlawfully in New Zealand; or

(b) a person who is lawfully in New Zealand, but only by virtue of being the holder of a temporary entry class visa of whatever type.

(6) If this subsection applies in respect of a person, the Electoral Commission must,—

(a) if the person has applied to be (but is not yet) registered as an elector for the district, follow the procedure specified in section 87; or

(b) if the person is registered as an elector for the district and the name of the person is on the roll for the district, object under section 96 to the name of that person being on the roll for the district.

(7) On or after 1 December 2020, no information may be disclosed under this section except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

Section 263A: substituted, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 263A(2): amended, on 1 July 2012, by section 52(18)(g) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263A(2)(a): amended, on 17 August 2011, by section 26(1) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263A(2)(b): amended, on 17 August 2011, by section 26(2) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263A(3): amended, on 1 July 2012, by section 52(18)(g) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263A(4): amended, on 1 July 2012, by section 52(18)(g) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263A(5): replaced, on 21 March 2017, by section 109 of the Electoral Amendment Act 2017 (2017 No 9).

Section 263A(6): replaced, on 21 March 2017, by section 109 of the Electoral Amendment Act 2017 (2017 No 9).

Section 263A(7): inserted, on 1 December 2020, by section 190 of the Privacy Act 2020 (2020 No 31).

263B Disclosure of personal information for enrolment purposes

(1) The purpose of this section is to facilitate the disclosure of information described in subsection (2) by a specified agency to the Electoral Commission only for the purposes of—

(a) identifying persons who are qualified to apply to register as an elector but who have not yet registered; and

(b) encouraging those persons identified to register as an elector; and

(c) updating and ensuring the accuracy of the particulars of persons whose names are on the roll.

(2) The information referred to in subsection (1) is the following information relating to any person of or over the age of 17 years:

(a) the person's full name:

(b) the person's date of birth:

(c) the person's address of residence (if known):

(d) the person's postal address (if known and if different from the address of residence in paragraph (c)):

(e) the person's preferred honorific (if known):

(f) the date at which the information in paragraphs (a) to (e) held by the agency was last provided to the agency.

(3) For the purposes of this section, a **specified agency** means—

(a) the department for the time being responsible for the administration of the Social Security Act 2018; and

(b) the Registrar of Motor Vehicles; and

(c) the New Zealand Transport Agency; and

(d) the Department of Internal Affairs.

(4) For the purposes of this section, any officer or employee or agent of a specified agency, authorised by the chief executive of that agency, may from time to time, at the request of the Electoral Commission, supply to the Electoral Commission any of the information described in subsection (2) held by that agency,—

(a) in the case of the department for the time being responsible for the administration of the Social Security Act 2018, in relation to any—

(i) beneficiary; or

(ii) student; or

(iii) borrower (as that term is defined in section 4(1) of the Student Loan Scheme Act 2011):

(b) in the case of the Registrar of Motor Vehicles, in relation to motor vehicle registration:

(c) in the case of the New Zealand Transport Agency, in relation to driver licences:

(d) in the case of the Department of Internal Affairs, in relation to any persons—

(i) who obtain New Zealand citizenship under the Citizenship Act 1977; or

(ii) by whom, or on whose behalf, an application is made under the Passports Act 1992 for the issue or renewal of a New Zealand passport.

(5) If, in relation to any person, information is supplied to the Electoral Commission under subsection (4), the Electoral Commission may cause a comparison of that information to be made with any information that is held by the Electoral Commission and that relates to that person.

(5A) On or after 1 December 2020, no information may be disclosed under this section except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(6) In this section, **Registrar of Motor Vehicles** has the same meaning as **Registrar** in section 233(1) of the Land Transport Act 1998.

Section 263B: inserted, on 28 February 2002, by section 97 of the Electoral Amendment Act 2002 (2002 No 1).

Section 263B(1): amended, on 1 July 2012, by section 52(18)(h) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263B(3)(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 263B(3)(b): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 263B(3)(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 263B(4): amended, on 1 July 2012, by section 52(18)(h) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263B(4)(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 263B(4)(a)(iii): amended, on 1 April 2012, by section 223 of the Student Loan Scheme Act 2011 (2011 No 62).

Section 263B(4)(b): amended, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

Section 263B(4)(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 263B(4)(d): substituted, on 17 August 2011, by section 27 of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263B(5): amended, on 1 July 2012, by section 52(18)(h) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 263B(5A): inserted, on 1 December 2020, by section 190 of the Privacy Act 2020 (2020 No 31).

Section 263B(6): inserted, on 25 March 2014, by section 45 of the Electoral Amendment Act 2014 (2014 No 8).

264 Review by select committee

(1) The House of Representatives shall, as soon as practicable after 1 April 2000, appoint a select committee to consider the following matters:

(a) the effect of sections 35 and 36 on the operation of the electoral system:

(b) the provisions of this Act dealing with Maori representation:

(c) whether there should be a further referendum on changes to the electoral system.

(2) The select committee appointed under subsection (1) shall report to the House of Representatives before 1 June 2002 and shall include in its report a statement indicating—

(a) whether, in its view, there should be changes to sections 35 and 36; and

(b) whether, in its view, there should be changes to the provisions of this Act dealing with Maori representation; and

(c) whether in its view there should be a further referendum on changes to the electoral system, and, if so, the nature of the proposals to be put to voters and the timing of such a referendum.

265 Registrars of Electors exempt from court fees

Registrars of Electors shall be exempt from the payment of any court fees in respect of any proceedings under this Act.

Compare: 1956 No 107 s 186; 1980 No 29 s 5(6)

266 Validation of irregularities

Where anything is omitted to be done or cannot be done at the time required by or under this Act, or is done before or after that time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under this Act, the Governor-General may, by Order in Council published in the *Gazette*, at any time before or after the time within which the thing is required to be done, extend that time, or validate anything so done before or after the time required or so irregularly done in matter of form, or make other provision for the case as he or she thinks fit:

provided that this section shall not apply with respect to the presentation of an election petition or to the giving of security for costs in relation to an election petition.

Compare: 1956 No 107 s 187

Section 266: amended, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

266A Expenditure limits to be adjusted each year by Order in Council

(1) The Governor-General must, by Order in Council made on the recommendation of the Minister, in the manner provided in subsections (2) to (6), adjust the amounts specified in the following provisions:

(a) section 204B(1)(d) (which relates to the maximum amount of advertising expenses that may be incurred by an unregistered promoter):

(b) section 205C (which relates to the maximum amount of a candidate's election expenses):

(c) section 206C (which relates to the maximum amount of a party's election expenses):

(d) section 206V (which relates to the maximum amount of a registered promoter's election expenses).

(2) The first Order in Council must—

(a) come into force on 1 July 2011; and

(b) adjust the amount referred to in section 206C(1)(a) to reflect the movement between the CPI for the quarter ending 30 September 2010 and the CPI for the quarter ending 31 March 2011.

(3) Every subsequent Order in Council must—

(a) come into force on every following 1 July; and

(b) adjust the amounts referred to in subsection (1) to reflect the movement between the CPI for the quarter ending 31 March of the previous year and the CPI for the quarter ending 31 March of the current year.

(4) If after adjustment in accordance with subsection (3)(b) any of the amounts specified in the following sections is not a whole number of hundred dollars, the adjusted amount must be rounded up to the next whole hundred dollars:

(a) section 204B(1)(d):

(b) section 205C(1)(a) and (b):

(c) section 206C(1)(b) and (2).

(5) If after adjustment in accordance with subsection (2)(b) or (3)(b) the amount specified in section 206C(1)(a) or 206V is not a whole number of thousand dollars, the adjusted amount must be rounded up to the next whole thousand dollars.

(6) If an adjusted amount has been rounded up in accordance with subsection (4) or (5), the adjustment to that amount made the following year must be based on the adjusted amount as it was before it was rounded up.

(6A) If in any year a regulated period for a general election or a by-election commences before 1 July and ends on or after that date,—

(a) the adjustments to the amounts referred to in subsection (1) made by the Order in Council that commences on 1 July of that year do not apply in respect of that election or by-election; and

(b) the adjustments to the amounts referred to in subsection (1) made by the Order in Council of the previous year apply to that election or by-election.

(7) In this section **CPI** means the Consumers Price Index All Groups published by Statistics New Zealand.

Compare: 2007 No 111 s 134

Section 266A: inserted, on 1 January 2011, by section 34 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 266A(6A): inserted, on 25 March 2014, by section 43 of the Electoral Amendment Act 2014 (2014 No 8).

267 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) prescribing forms for the purposes of this Act:

(b) prescribing fees, or a scale of fees, for the supply of computer-compiled lists and electronic storage media by the Electoral Commission to any person under section 114, and for the giving of remote access by electronic means under that section:

(c) prescribing criteria, in addition to those specified in section 111E(3)(a) to (d), of which the Minister of Justice and the Minister of Maori Affairs must be satisfied in relation to a particular person or body of persons before designating it under section 111E:

(ca) defining iwi organisation and other Maori organisation for the purposes of sections 111A to 111F:

(d) prescribing the time at which, and the manner in which, special voters may vote (whether at a polling place or not and whether in or outside New Zealand):

(e) prescribing conditions upon or subject to which special voters may vote:

(f) prescribing different methods of voting for different classes of special voters:

(g) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act:

(h) prescribing penalties for offences against regulations made under this Act, not exceeding imprisonment for a term of 3 months or a fine of $1,000 or both:

(i) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Compare: 1956 No 107 s 188; 1990 No 1 s 78(1)

Section 267(b): substituted, on 28 February 2002, by section 98 of the Electoral Amendment Act 2002 (2002 No 1).

Section 267(b): amended, on 1 July 2012, by section 52(17)(t) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 267(c): substituted, on 28 February 2002, by section 98 of the Electoral Amendment Act 2002 (2002 No 1).

Section 267(ca): inserted, on 28 February 2002, by section 98 of the Electoral Amendment Act 2002 (2002 No 1).

267A Regulations relating to advertisement of a specified kind

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make regulations regulating—

(a) all or any of the following matters in relation to an advertisement of a specified kind:

(i) design:

(ii) layout:

(iii) shape:

(iv) colour:

(b) the procedures to be followed by any person before displaying an advertisement of a specified kind.

(2) Regulations made under subsection (1)(a)—

(a) may be made only for the purpose of ensuring that an advertisement of a specified kind does not endanger the safety of road users; and

(b) apply only during the period beginning 9 weeks before polling day and ending with the close of the day before polling day.

(3) Regulations made under subsection (1) may—

(a) impose different requirements for an advertisement of a specified kind depending on how it is published:

(b) override or modify any other enactment and any bylaw or other instrument.

(4) In this section, **advertisement of a specified kind** has the same meaning as in section 221B(2).

(5) This section is subject to section 267B.

Compare: 1993 No 87 s 267A (pre-20 December 2007)

Section 267A: substituted, on 1 March 2009, by section 13 of the Electoral Amendment Act 2009 (2009 No 1).

Section 267A(2)(b): amended, on 21 March 2017, by section 110 of the Electoral Amendment Act 2017 (2017 No 9).

267B Requirements before Minister can recommend that regulations be made

(1) The Minister may not recommend the making of any regulations under section 267A(1)(a) unless—

(a) the Minister has consulted with the Minister who is for the time being responsible for the administration of the Land Transport Act 1998; and

(b) the Minister is satisfied that the regulations do not restrict the rights of candidates and political parties any more than is reasonably necessary to ensure that an advertisement of a specified kind does not endanger the safety of road users; and

(c) the recommendation is agreed by at least half of the parliamentary leaders of all political parties represented in Parliament; and

(d) the members of Parliament of the political parties whose parliamentary leaders agree with the Minister's recommendation comprise at least 75% of all members of Parliament.

(2) The Minister may not recommend the making of any regulations under section 267A(1)(b) unless—

(a) the Minister has consulted with the Minister of Local Government; and

(b) the recommendation is agreed by at least half of the parliamentary leaders of all political parties represented in Parliament; and

(c) the members of Parliament of the political parties whose parliamentary leaders agree with the Minister's recommendation comprise at least 75% of all members of Parliament.

Compare: 1993 No 87 s 267B (pre-20 December 2007)

Section 267B: substituted, on 1 March 2009, by section 13 of the Electoral Amendment Act 2009 (2009 No 1).

268 Restriction on amendment or repeal of certain provisions

(1) This section applies to the following provisions (hereinafter referred to as **reserved provisions**), namely,—

(a) section 17(1) of the Constitution Act 1986, relating to the term of Parliament:

(b) section 28, relating to the Representation Commission:

(c) section 35, and the definition of the term General electoral population in section 3(1), relating to the division of New Zealand into electoral districts after each census:

(d) section 36, relating to the allowance for the adjustment of the quota:

(e) section 74, and the definition of the term adult in section 3(1), and section 60(f), so far as those provisions prescribe 18 years as the minimum age for persons qualified to be registered as electors or to vote:

(f) section 168, relating to the method of voting.

(2) No reserved provision shall be repealed or amended unless the proposal for the amendment or repeal—

(a) is passed by a majority of 75% of all the members of the House of Representatives; or

(b) has been carried by a majority of the valid votes cast at a poll of the electors of the General and Maori electoral districts:

provided that this section shall not apply to the repeal of any reserved provision by a consolidating Act in which that provision is re-enacted without amendment and this section is re-enacted without amendment so as to apply to that provision as re-enacted.

Compare: 1956 No 107 s 189; 1975 No 28 s 6(2)(e); 1986 No 116 s 8

Transitional provisions

269 Membership of Representation Commission

(1) Every person who held office as a member of the Representation Commission under section 15(2)(e) or section 15(2)(f) or section 15(3)(b) of the Electoral Act 1956 immediately before the commencement of this section shall be deemed to have been appointed as a member of the Commission under section 28(2)(e) or section 28(2)(f) or section 28(3)(b) of this Act, as the case may require.

(2) For the purpose of enabling the Representation Commission to divide New Zealand into electoral districts on the first occasion after this Act is passed, the Minister shall, as soon as is practicable after the commencement of this section, specify a period of 2 months during which any Maori may exercise the option given by section 76.

(3) Following the report of the Electoral Commission under section 77(6), the Government Statistician shall prepare a report on the General electoral population and the Maori electoral population in accordance with the provisions of this Act, based on the results of the periodical census conducted in the year 1991, and the report of the Electoral Commission made pursuant to section 77(6), and shall report the results of the census and his or her calculation of the electoral populations to the Surveyor-General and to the other members of the Commission.

(4) Upon the receipt of that report, the Surveyor-General shall prepare maps showing the distribution of the population and provisional boundaries for the General electoral districts and the Maori electoral districts and shall then call a meeting of the Commission.

(5) The report so made by the Government Statistician, and the maps so prepared by the Surveyor-General, shall be sufficient evidence as to the General electoral population and the Maori electoral population of New Zealand or of the North Island or of the South Island or of any district.

(6) In relation to the first occasion on which, after the commencement of this section, New Zealand is, under this Act, divided into electoral districts, section 35(3)(f)(i) shall not apply.

Section 269(3): amended, on 1 July 2012, by section 52(18)(i) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

270 Electoral districts, electoral rolls, general elections, and by-elections

(1) Every General electoral district and every Maori electoral district in existence under the Electoral Act 1956 immediately before the commencement of this section shall remain in existence until such districts are replaced by new electoral districts in accordance with the provisions of sections 40 and 45.

(2) Every electoral roll in force under the Electoral Act 1956 immediately before the commencement of this section shall continue in force until replaced by new electoral rolls in accordance with the provisions of sections 101 to 103.

(3) For the purposes of any general election of members of Parliament conducted following a dissolution of Parliament that takes place before the gazetting of the notice required by section 40(1)(b) or section 45(9)(b) on the first occasion when the gazetting of such a notice is required to take place under the provisions of this Act, that general election shall be conducted in accordance with the provisions of the Electoral Act 1956, notwithstanding its repeal by the provisions of this Act.

(4) For the purposes of any by-election that takes place before the first general election that is conducted in accordance with the provisions of this Act, the electoral district in respect of which that election is conducted shall be the relevant electoral district that was in existence immediately before the commencement of this section, and the provisions of this Act, including subsections (2) to (4) of section 102, shall apply accordingly and with any necessary modifications, in respect of the conduct of that election.

(5) Any person who immediately before the commencement of this section held the position of—

(a) Clerk of the Writs; or

(b) Deputy Clerk of the Writs; or

(c) Chief Electoral Officer; or

(d) Deputy Chief Electoral Officer; or

(e) Returning Officer; or

(f) Deputy Chief Registrar of Electors; or

(g) Registrar of Electors—

shall, without further appointment, be deemed, as from the commencement of this section, to have been duly appointed under this Act.

Amendment to Constitution Act 1986

271 Term of Parliament

Amendment(s) incorporated in the Act(s).

Amendment to Civil List Act 1979

272 Questioned elections of members of Parliament

Amendment(s) incorporated in the Act(s).

Amendment to Remuneration Authority Act 1977

Heading: amended, on 1 April 2003, pursuant to section 3(3) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

273 Officers whose remuneration is to be determined by Remuneration Authority

Amendment(s) incorporated in the Act(s).

Section 273 heading: amended, on 1 April 2003, pursuant to section 3(3) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Amendments to Local Elections and Polls Act 1976

[Repealed]

Heading: repealed, on 1 July 2001, pursuant to section 151 of the Local Electoral Act 2001 (2001 No 35).

274 Residential electoral roll

[Repealed]

Section 274: repealed, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

275 Supply of information by Chief Registrar of Electors

[Repealed]

Section 275: repealed, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

276 Application for registration as parliamentary elector

[Repealed]

Section 276: repealed, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

277 Completion of roll

[Repealed]

Section 277: repealed, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

278 Amendments to roll

[Repealed]

Section 278: repealed, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

279 Roll for by-election or poll

[Repealed]

Section 279: repealed, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

280 Special voters

[Repealed]

Section 280: repealed, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

281 Election to fill extraordinary vacancy in local authority

[Repealed]

Section 281: repealed, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Amendment to Ombudsmen Act 1975

[Repealed]

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

282 Organisations to which Ombudsmen Act 1975 applies

[Repealed]

Section 282: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Amendments to Public Finance Act 1989

[Repealed]

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

283 Crown entities

[Repealed]

Section 283: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Repeals

284 Repeals

The enactments specified in Schedule 3 are hereby repealed.

Schedule 1AA
Transitional, savings, and related provisions

s 3AA

Schedule 1AA: inserted, on 21 March 2017, by section 111 of the Electoral Amendment Act 2017 (2017 No 9).

Part 1
Provisions relating to Electoral Amendment Act 2017

1 Appointment of Registrar or Deputy Registrar

Any appointment of a Registrar or Deputy Registrar made before the commencement of this clause continues but may be revoked as if it had been made under section 22 (as replaced by section 7 of the Electoral Amendment Act 2017).

2 Notice of change of place of residence given but not dealt with

An applicant who gives notice under section 89C(2) before the commencement of this clause and whose notice has not, by the close of the day before the commencement of this clause, been dealt with under section 89C(5), (6), or (13), is for the purposes of section 89(1) an applicant for registration as an elector.

Schedule 1AA clause 2: inserted, on 1 May 2017, by section 112 of the Electoral Amendment Act 2017 (2017 No 9).

Part 2
Provisions relating to Electoral (Registration of Sentenced Prisoners) Amendment Act 2020

Schedule 1AA Part 2: inserted, on 30 June 2020, by section 9 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

3 Interpretation

In this Part,—

Act means the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020

specified prisoner means a prisoner who—

(a) is received into a prison before the commencement of the Act to serve a sentence of imprisonment; and

(b) is not, after the commencement of the Act, disqualified under section 80(1)(d) for registration as an elector.

Schedule 1AA clause 3: inserted, on 30 June 2020, by section 9 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

4 Prison manager to assist specified prisoners to register as electors

A prison manager must, as soon as is reasonably practicable after the commencement of the Act, comply with sections 86A and 86B in respect of a specified prisoner as if the specified prisoner were a prisoner referred to in section 86A being received into the prison.

Schedule 1AA clause 4: inserted, on 30 June 2020, by section 9 of the Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26).

Schedule 1
Provisions relating to Electoral Commission

s 14

1 Conflict of interest disclosure rules do not apply to additional members who hold office for purposes of jurisdiction under Part 6 of Broadcasting Act 1989

[Repealed]

Schedule 1 clause 1: repealed, on 20 December 2007, by section 26 of the Electoral Amendment Act 2007 (2007 No 113).

2 Travelling allowances and expenses

[Repealed]

Schedule 1 clause 2: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

2A Meetings of Commission

[Repealed]

Schedule 1 clause 2A: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

3 Staff

The chief executive of the Electoral Commission may, under delegation from the Board, appoint any officers and employees (including acting or temporary or casual officers and employees) as may be necessary for carrying this Act into effect.

Schedule 1 clause 3: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

4 Superannuation or retiring allowances

(1) For the purposes of providing superannuation or retiring allowances for the chief executive, the Commission may, out of the funds of the Commission, make payment to or subsidise any retirement scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013).

(2) Notwithstanding anything in this Act, any person who, immediately before being appointed as the chief executive or, as the case may be, becoming an officer or employee of the Electoral Commission, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 shall be deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as that person continues to hold office as the chief executive or, as the case may be, to be an officer or employee of the Commission; and that Act shall apply to that person in all respects as if that person's service as the chief

executive or, as the case may be, as such an officer or employee were Government service.

(3) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (2) entitles any such person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

(4) For the purpose of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2), to a person who holds office as the chief executive or, as the case may be, is in the service of the Electoral Commission as an officer or employee and (in any such case) is a contributor to the Government Superannuation Fund, the term **controlling authority**, in relation to any such person, means the chief executive.

Schedule 1 clause 4(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 4(1): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

5 Application of certain Acts to Commission and staff

[Repealed]

Schedule 1 clause 5: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

6 Services for Commission

[Repealed]

Schedule 1 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

7 Funds of Commission

[Repealed]

Schedule 1 clause 7: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

8 Bank accounts

[Repealed]

Schedule 1 clause 8: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

9 Investment of money

[Repealed]

Schedule 1 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

10 Commission not to borrow without consent of Minister of Finance

[Repealed]

Schedule 1 clause 10: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11 Seal

[Repealed]

Schedule 1 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

12 Exemption from income tax

The income of the Commission shall be exempt from income tax.

13 Crown entity

[Repealed]

Schedule 1 clause 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

14 Commission may state case for opinion of High Court

(1) The Commission may, at any time, state a case for the opinion of the High Court on any question of law arising in any matter before it.

(2) The High Court may order the removal into the Court of Appeal of any case stated for the opinion of the High Court under this section.

(3) The High Court or the Court of Appeal, as the case may be, must hear and determine the question, and must remit the case with its opinion to the Commission.

Schedule 1 clause 14: added, on 28 February 2002, by section 99 of the Electoral Amendment Act 2002 (2002 No 1).

Schedule 2
Forms

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Form 1
Declaration by Returning Officer or polling place official or electoral official or scrutineer

[Repealed]

ss 26, 159(3), 160(4), 172(5), 174F(3), 175(3), 183(4)

Schedule 2 form 1: repealed, on 21 March 2017, by section 113 of the Electoral Amendment Act 2017 (2017 No 9).

Form 2
Warrant for issue of writs for general election

[Repealed]

s 125

Schedule 2 form 2: repealed, on 28 February 2002, by section 100(2) of the Electoral Amendment Act 2002 (2002 No 1).

Form 3
Writ for general election Governor-General

s 125

To the Electoral Commission:

Pursuant to section 125 of the Electoral Act 1993, I authorise and require the Electoral Commission to make all necessary arrangements for the conduct of a general election.

The last day and time for the nomination of constituency candidates is noon on [*date*].

Polling day is Saturday, [*date*].

An Electoral Commissioner, on behalf of the Electoral Commission, is required to endorse on this writ the name of every constituency candidate who is elected, and then return the writ to the Clerk of the House of Representatives on or before [*date*].

Signed by Her Excellency the Governor-General at [*place*] on [*date*].

Schedule 2 form 3: substituted, on 28 February 2002, by section 100(3) of the Electoral Amendment Act 2002 (2002 No 1).

Schedule 2 form 3: amended, on 25 March 2014, by section 44(1) of the Electoral Amendment Act 2014 (2014 No 8).

Schedule 2 form 3: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Schedule 2 form 3: amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Form 4
Form of list to be submitted by political parties
[Repealed]

s 127(2)

Schedule 2 form 4: repealed, on 21 March 2017, by section 113 of the Electoral Amendment Act 2017 (2017 No 9).

Form 4A
Notice of withdrawal of party list
[Repealed]

s 128C(1)

Schedule 2 form 4A: repealed, on 21 March 2017, by section 113 of the Electoral Amendment Act 2017 (2017 No 9).

Form 5
Form of consent to inclusion of name on party list
[Repealed]

s 127(5)

Schedule 2 form 5: repealed, on 17 May 2005, by section 3(3) of the Electoral Amendment Act 2005 (2005 No 50).

Form 6
Writ for by-election

s 129(2)(c)

To the Electoral Commission:

Pursuant to section 129 of the Electoral Act 1993, I authorise and require the Electoral Commission to make all necessary arrangements for the conduct of a by-election in the [*insert district*] Electoral District.

The last day and time for the nomination of constituency candidates is noon on [*date*].

Polling day is Saturday, [*date*].

An Electoral Commissioner, on behalf of the Electoral Commission, is required to endorse on this writ the name of the constituency candidate who is elected, and then return the writ to the Clerk of the House of Representatives on or before [*date*].

Signed by Her Excellency, the Governor-General at [*place*] on [*date*].

Schedule 2 form 6: substituted, on 28 February 2002, by section 100(4) of the Electoral Amendment Act 2002 (2002 No 1).

Schedule 2 form 6: amended, on 25 March 2014, by section 44(2) of the Electoral Amendment Act 2014 (2014 No 8).

Schedule 2 form 6: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Schedule 2 form 6: amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Form 7
Warrant to supply vacancy

s 134

To the Electoral Commission:

Pursuant to the Electoral Act 1993, I hereby authorise and direct the Electoral Commission to proceed forthwith to supply a member of Parliament to fill a vacancy created by the [*specify reason for vacancy*] of [*specify name of previous member*].

Signed by Her Excellency, the Governor-General at [*place*] on [*date*].

Schedule 2 form 7: amended, on 25 March 2014, by section 44(3) of the Electoral Amendment Act 2014 (2014 No 8).

Schedule 2 form 7: amended, on 1 October 2010, by section 32(1)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Schedule 2 form 7: amended, on 1 October 2010, by section 32(2)(a) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Schedule 2 form 7: amended, on 28 February 2002, by section 100(5) of the Electoral Amendment Act 2002 (2002 No 1).

Form 8
Notice of nomination day and polling day
[Repealed]

s 142

Schedule 2 form 8: repealed, on 28 February 2002, by section 100(6) of the Electoral Amendment Act 2002 (2002 No 1).

Form 9
Nomination paper
[Repealed]

s 143

Schedule 2 form 9: repealed, on 28 February 2002, by section 100(6) of the Electoral Amendment Act 2002 (2002 No 1).

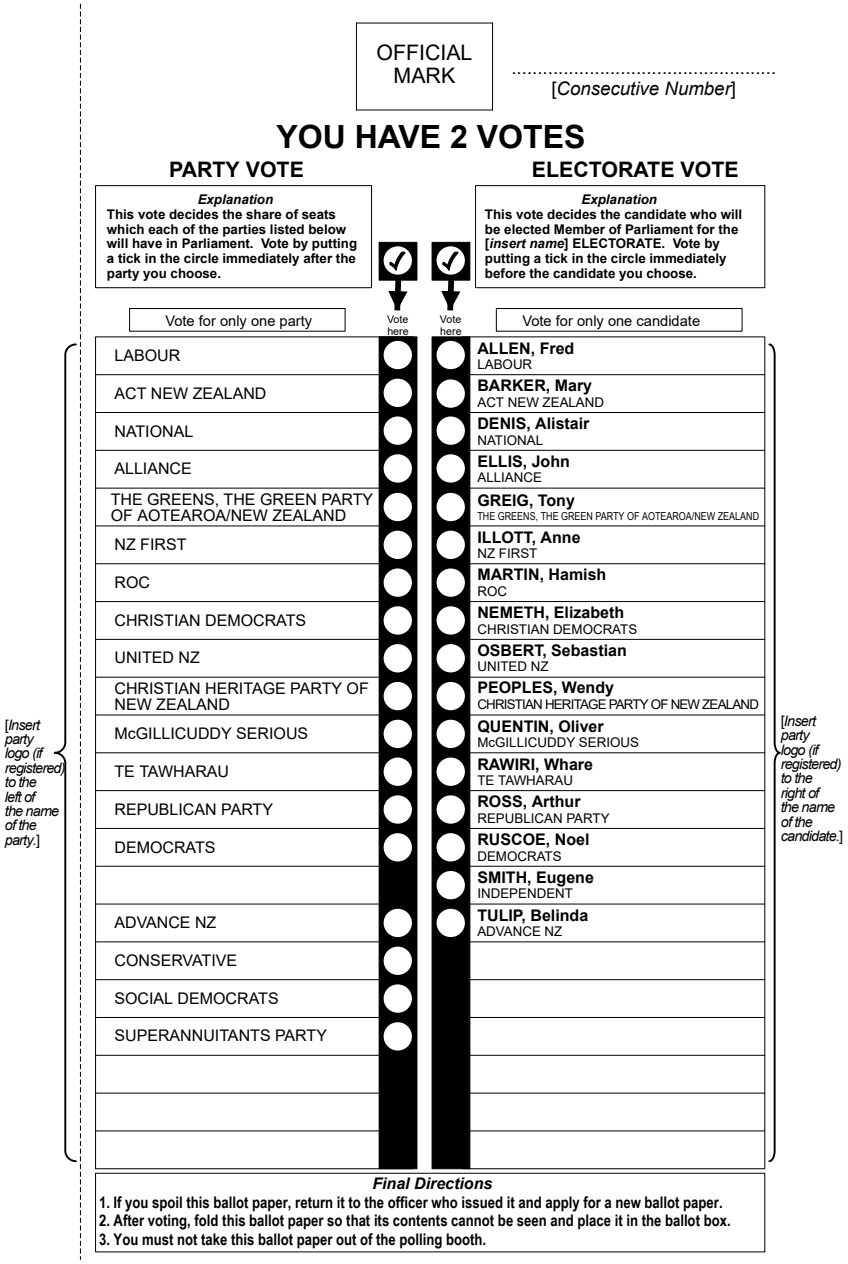
Form 10
Notice of withdrawal of nomination
[Repealed]

s 146

Schedule 2 form 10: repealed, on 21 March 2017, by section 113 of the Electoral Amendment Act 2017 (2017 No 9).

Form 11
Ballot paper for general election

s 150



Notes*

1. As to the insertion of names of political parties, see ss 150(6)(d), 150(10), and 151 of the Act.
2. As to the insertion of the word "INDEPENDENT", see s 150(8) of the Act.

*Not to be printed as part of the form.

Schedule 2 form 11: substituted, on 6 December 1995, by section 89 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Form 12
Ballot paper for by-election

s 150(18)

OFFICIAL MARK

OFFICIAL MARK

.....
[*Consecutive number*]

Election of member of Parliament for the [insert name] Electorate

Directions

Vote by putting a tick in the circle immediately before the name of the candidate you choose.

Vote Here

Vote for only one candidate

ARNOLD, Kristeena Wendy Jane
LABOUR

BABBINGTON, Santaana
NEW ZEALAND PARTY

CAPSTEEN, Timothy John Albert
CITIZENS AGAINST POLITICAL PARTIES

CHRISTENSEN, Cristopher
INDEPENDENT

HIGGINSON, Florence Joan
McGILLICUDDY SERIOUS

NIGHTINGALE, Kenneth
DEMOCRATS

O'SULLIVAN, Samantha
NATIONAL

PHILLIPS, Joshua
NEW LABOUR

SEARANKE, John
MANA MOTUHAKE

SHAW, Denis
IMPERIAL BRITISH CONSERVATIVE

[*Insert party logo (if registered) to the right of the name of the candidate.*]

Final Directions
1. If you spoil this ballot paper, return it to the officer who issued it and apply for a new ballot paper.
2. After voting, fold this ballot paper so that its contents cannot be seen and place it in the ballot box.
3. You must not take this ballot paper out of the polling booth.

Notes*

1. As to the insertion of names of political parties, see ss 150(6)(d), 150(10), and 151 of the Act.

2. As to the insertion of the word "INDEPENDENT", see s 150(8) of the Act.

*Not to be printed as part of the form.

Schedule 2 form 12: substituted, on 6 December 1995, by section 90 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Form 13
Counterfoil

s 150(14)

Consecutive No .....

No on Roll:
(To be entered here only)

Page No	Line No

Initials of
Issuing Officer

Schedule 2 form 13: substituted, on 6 December 1995, by section 91 of the Electoral Amendment Act (No 2) 1995 (1995 No 61).

Form 14
Declaration of result of poll
[Repealed]

s 179

Schedule 2 form 14: repealed, on 21 March 2017, by section 113 of the Electoral Amendment Act 2017 (2017 No 9).

Form 15
Working sheet in relation to candidates whose names are included in party lists
[Repealed]

s 191(3)

Schedule 2 form 15: repealed, on 21 March 2017, by section 113 of the Electoral Amendment Act 2017 (2017 No 9).

Form 16
Return of election expenses and election donations
[Repealed]

s 210

Schedule 2 form 16: repealed, on 28 February 2002, by section 100(8) of the Electoral Amendment Act 2002 (2002 No 1).

Form 17
Return of electorate donations
[Repealed]

s 214H(1)(b)

Schedule 2 form 17: repealed, on 28 February 2002, by section 100(8) of the Electoral Amendment Act 2002 (2002 No 1).

Schedule 3
Enactments repealed

s 284

Acts and Regulations Publication Act 1989 (1989 No 142) (RS Vol 26, p 358)
Amendment(s) incorporated in the Act(s).

Area Health Boards Amendment Act 1986 (1986 No 16)
Amendment(s) incorporated in the Act(s).

Criminal Justice Act 1985 (1985 No 120)
Amendment(s) incorporated in the Act(s).

Electoral Act 1956 (1956 No 109) (RS Vol 26, p 173)

Electoral Amendment Act 1960 (1960 No 4) (RS Vol 26, p 333)

Electoral Amendment Act 1965 (1965 No 17) (RS Vol 26, p 333)

Electoral Amendment Act 1967 (1967 No 149) (RS Vol 26, p 333)

Electoral Amendment Act 1971 (1971 No 67) (RS Vol 26, p 334)

Electoral Amendment Act 1974 (1974 No 54) (RS Vol 26, p 335)

Electoral Amendment Act 1975 (1975 No 28) (RS Vol 26, p 335)

Electoral Amendment Act 1976 (1976 No 46) (RS Vol 26, p 339)

Electoral Amendment Act 1977 (1977 No 128) (RS Vol 26, p 340)

Electoral Amendment Act 1979 (1979 No 12) (RS Vol 26, p 341)

Electoral Amendment Act 1980 (1980 No 29) (RS Vol 26, p 341)

Electoral Amendment Act 1981 (1981 No 120) (RS Vol 26, p 346)

Electoral Amendment Act 1983 (1983 No 104) (RS Vol 26, p 351)

Electoral Amendment Act 1985 (1985 No 149) (RS Vol 26, p 353)

Electoral Amendment Act (No 2) 1985 (1985 No 150) (RS Vol 26, p 355)

Electoral Amendment Act (No 2) 1986 (1986 No 116) (RS Vol 26, p 356)

Electoral Amendment Act (No 2) 1987 (1987 No 87) (RS Vol 26, p 357)

Electoral Amendment Act 1989 (1989 No 31) (RS Vol 26, p 357)

Electoral Amendment Act 1990 (1990 No 1) (RS Vol 26, p 359)

Electoral Amendment Act 1991 (1991 No 68)

Electoral Amendment Act 1992 (1992 No 36)

Electoral Amendment Act 1993 (1993 No 98)

Foreign Affairs Act 1988 (1988 No 159)

Amendment(s) incorporated in the Act(s).

Immigration Act 1987 (1987 No 74)

Amendment(s) incorporated in the Act(s).

New Zealand Trade Development Board Act 1988 (1988 No 160)

Amendment(s) incorporated in the Act(s).

Public Finance Act 1989 (1989 No 44)

Amendment(s) incorporated in the Act(s).

State-Owned Enterprises Act 1986 (1986 No 124)

Amendment(s) incorporated in the Act(s).

Schedule 3 **Electoral Amendment Act 1993**: inserted, on 26 August 1993, by section 31 of the Electoral Amendment Act 1993 (1993 No 98).

Electoral Amendment Act 2009

Public Act	2009 No 1
Date of assent	24 February 2009
Commencement	see section 2

1 Title

This Act is the Electoral Amendment Act 2009.

2 Commencement

This Act comes into force on 1 March 2009.

3 Principal Act amended

This Act amends the Electoral Act 1993.

Part 2
Repeal, consequential amendments, and transitional and savings provisions

Subpart 2—Transitional and savings provisions

17 Continuation of obligations and rights arising from election expenses in respect of 2008 general election

(1) This section applies where, in respect of the 2008 general election, a person would, but for the repeal of the Electoral Finance Act 2007 by section 15 of this Act,—

(a) be subject to a duty, liability, or restriction under any of the following provisions of the Electoral Finance Act 2007:

(i) sections 82 and 85 to 92 (which relate to candidates' election expenses):

(ii) sections 102 and 105 to 112 (which relate to parties' election expenses):

(iii) sections 123 and 126 to 133 (which relate to third parties' election expenses); or

(b) be entitled to seek relief under sections 83, 84, 103, 104, 124, and 125 of the Electoral Finance Act 2007 (which provide for the commencement of proceedings in respect of unpaid election expenses); or

(c) be entitled to inspect a copy of a return under sections 92, 112, and 133 of the Electoral Finance Act 2007 (which provide for the publication and inspection of returns of election expenses filed for candidates, parties, and third parties).

(2) The duty, liability, restriction, or entitlement must be complied with or recognised, as the case may be, and for that purpose the Electoral Finance Act 2007 continues in force as if it had not been repealed.

(3) This section has effect despite section 15 of this Act.

18 Continuation of obligations and rights arising under the Electoral Finance Act 2007 in respect of donations

(1) This section applies where, in respect of a candidate donation, party donation, or third party donation made before the commencement of this Act, a person would, but for the repeal of the Electoral Finance Act 2007 by section 15 of this Act,—

(a) be subject to a duty or liability under any of the following provisions of the Electoral Finance Act 2007:

(i) sections 23 to 36 (which are general provisions relating to donations):

(ii) sections 38 to 44 (which relate to donations protected from disclosure):

(iii) sections 45 to 50 (which relate to the disclosure of candidate donations):

(iv) sections 51 to 57 (which relate to the disclosure of party donations):

(v) sections 58 to 62 (which relate to the disclosure of third party donations); or

(b) be entitled to have a donation returned under either of the following provisions of the Electoral Finance Act 2007:

(i) section 32 (which relates to the return of an overseas donation):

(ii) section 41 (which relates to the return of a donation protected from disclosure); or

(c) be entitled to inspect a copy of a return under sections 50, 57, and 62 of the Electoral Finance Act 2007 (which provide for the publication and inspection of returns of donations filed for candidates, parties, and third parties).

(2) The duty, liability, or entitlement must be complied with or recognised, as the case may be, and for that purpose the Electoral Finance Act 2007 continues in force as if it had not been repealed.

(3) This section has effect despite section 15 of this Act.

19 Annual return of party donations for year ending 31 December 2008

(1) A party secretary is not required by section 210 of the principal Act to file by 30 April 2009 an annual return of party donations for the year ending 31 December 2008.

(2) Subsection (1) does not affect the obligations arising under section 51 of the Electoral Finance Act 2007 as continued by section 18 of this Act.

20 Annual return of party donations for year ending 31 December 2009

(1) A return of party donations filed by a party secretary under section 210 of the principal Act for the year ending 31 December 2009 must include in the details required by that section any party donation that—

(a) was received by the party financial agent during the period beginning on 1 January 2009 and ending on 28 February 2009; and

(b) would otherwise have been required to be included in a return under section 51 of the Electoral Finance Act 2007 as continued by section 18 of this Act.

(2) Despite section 18 of this Act, a party financial agent is not required to file by 30 April 2010 an annual return of party donations under section 51 of the Electoral Finance Act 2007 for the year ending 31 December 2009.

(3) In this section, **party financial agent** means the financial agent of a party appointed under section 7 of the Electoral Finance Act 2007.

21 Transitional provision relating to section 210C of principal Act

Until 1 March 2010, section 210C(3) of the principal Act must be read as if the reference to subsection (2) of that section was a reference to subsection (2) of that section or section 54(2) of the Electoral Finance Act 2007.

22 Saving of section 19 of Interpretation Act 1999

Sections 17 and 18 of this Act do not limit section 19 of the Interpretation Act 1999 (which enables the investigation and prosecution of offences committed under the Electoral Finance Act 2007 before it was repealed).

24 Expiry of section 23

Section 23 expires on the close of 1 March 2011 and on the close of that date is repealed.

Electoral (Administration) Amendment Act 2010

Public Act	2010 No 26
Date of assent	21 May 2010
Commencement	see section 2

1 Title

This Act is the Electoral (Administration) Amendment Act 2010.

2 Commencement

(1) The following provisions come into force on 1 October 2010:

(a) the provisions in subpart 2 of Part 1:

(b) the provisions in subpart 2 of Part 2.

(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Electoral Act 1993.

Part 2
Consequential amendments and transitional provisions

15 Interpretation

In this Part, unless the context requires otherwise,—

existing Chief Electoral Officer means the Chief Electoral Officer appointed under section 18 of the principal Act

existing Electoral Commission means the Electoral Commission established by section 4 of the principal Act

new Electoral Commission means the Electoral Commission established by section 4B of the principal Act as inserted by section 4 of this Act

previous employer, in relation to a transferred employee, means the employer of that employee immediately before 1 October 2010

transferred employee means a person who,—

(a) immediately before 1 October 2010, was employed by the Ministry of Justice or the existing Electoral Commission; and

(b) is transferred to the new Electoral Commission under section 20 or 23.

Subpart 1—Provisions coming into force on day after Royal assent

16 New Electoral Commission may perform certain functions before 1 October 2010

Until the close of 30 September 2010, the new Electoral Commission may perform only those functions that are necessary or desirable to bring, or in connection with bringing, the principal Act as amended by this Act into operation.

17 Statement of intent

The existing Electoral Commission is not required to produce a statement of intent for the financial year commencing 1 July 2010.

18 References to Electoral Commission

(1) Until the close of 30 September 2010, any reference to the Electoral Commission—

(a) in sections 4B to 4J of the principal Act must be read as a reference to the Electoral Commission established by section 4B of the principal Act; and

(b) in the following enactments must be read as a reference to both the Electoral Commission established by section 4 of the principal Act and the Electoral Commission established by section 4B of the principal Act:

(i) Schedule 1 of the Crown Entities Act 2004:

(ii) Part 2 of Schedule 1 of the Ombudsmen Act 1975:

(iii) Schedule 4 of the Remuneration Authority Act 1977; and

(c) in any other enactment must be read as a reference to the Electoral Commission established by section 4 of the principal Act.

(2) On and from 1 October 2010, any reference to the Electoral Commission in any enactment must be read as a reference to the Electoral Commission established by section 4B of the principal Act.

19 Assets and liabilities of existing Electoral Commission

On 1 October 2010, all assets, records, liabilities, and debts of the existing Electoral Commission vest in the new Electoral Commission.

20 Employees of existing Electoral Commission

(1) On 1 October 2010, all employees of the existing Electoral Commission are transferred to the new Electoral Commission.

(2) Subsection (1) does not apply to any employee who does not consent to being transferred.

21 References to Chief Electoral Officer

(1) Until the close of 30 September 2010, any reference to the Chief Electoral Officer, other than a reference in section 4D of the principal Act, must be read as a reference to the Chief Electoral Officer appointed under section 18 of the principal Act.

(2) On and from 1 October 2010,—

(a) the references to the Chief Electoral Officer in sections 28(2)(c) and 33(4) of the principal Act must be read as references to the Chief Electoral Officer appointed under section 4D(1)(a) of the principal Act; and

(b) any other reference to the Chief Electoral Officer in any enactment must be read as a reference to the Electoral Commission established by section 4B of the principal Act.

22 Assets and liabilities of Chief Electoral Office

(1) The Secretary for Justice must identify all assets, records, liabilities, and debts of the Ministry of Justice that, immediately before 1 October 2010, are assets, records, liabilities, and debts used or incurred by the Chief Electoral Office of the Ministry of Justice.

(2) On 1 October 2010, the assets, records, liabilities, and debts identified by the Secretary for Justice under subsection (1) vest in the new Electoral Commission.

23 Employees of Ministry of Justice

(1) The Secretary for Justice must identify all permanent employees of the Ministry of Justice who, immediately before 1 October 2010, are appointed to positions within the Chief Electoral Office of the Ministry of Justice.

(2) On 1 October 2010, the employees identified by the Secretary for Justice under subsection (1) are transferred to the new Electoral Commission.

(3) Subsection (2) does not apply to—

(a) the existing Chief Electoral Officer; or

(b) any person appointed as Deputy Chief Electoral Officer under section 19 of the principal Act; or

(c) any employee who does not consent to being transferred.

24 Terms and conditions of transferred employees

(1) The employment of a transferred employee must be on terms and conditions no less favourable to the transferred employee than those applying to the employee immediately before 1 October 2010.

(2) Subsection (1)—

(a) continues to apply to the terms and conditions of employment of a transferred employee until those terms and conditions are varied by agree-

ment between the transferred employee and the new Electoral Commission; but

(b) does not apply to a transferred employee who receives any subsequent appointment with the new Electoral Commission.

25 Continuity of employment

(1) Every transferred employee becomes an employee of the new Electoral Commission on 1 October 2010.

(2) However, for the purposes of this Act and every enactment, law, determination, contract, and agreement relating to the employment of the transferred employee,—

(a) the contract of employment of that employee is deemed to have been unbroken; and

(b) that employee's period of service with his or her previous employer, and every other period of service of that employee that is recognised as continuous service by his or her previous employer, is deemed to have been a period of service with the new Electoral Commission.

26 Restriction of compensation for technical redundancy

(1) An employee of the existing Electoral Commission or the Ministry of Justice is not entitled to receive any payment or other benefit from the existing Electoral Commission or the Ministry of Justice on the ground that his or her position with that employer has ceased to exist if—

(a) the position ceases to exist as a result of amendments made by this Act; and

(b) in connection with the transfer of employees under this Act,—

(i) the transfer of the employee would result in substantially equivalent employment in the new Electoral Commission (whether or not the employee consents to the transfer); or

(ii) the employee consents to a transfer that will result in other employment in the new Electoral Commission.

(2) **Substantially equivalent employment** to the employee's employment with his or her previous employer is employment in the new Electoral Commission that is—

(a) in substantially the same position; and

(b) on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and

(c) on terms that treat the period of service with the previous employer (and any other service recognised by the previous employer as continuous

service) as if it were continuous service with the new Electoral Commission.

Subpart 2—Provisions coming into force on 1 October 2010

28 Existing Electoral Commission disestablished

(1) The existing Electoral Commission is disestablished.

(2) Any member of the existing Electoral Commission holding office under section 8(1)(a) or (b) of the principal Act (as in force immediately before its repeal by section 7 of this Act) ceases to hold office.

(3) Any appointment of a member of the existing Electoral Commission made under section 8(1)(c) or (d) of the principal Act (as in force immediately before its repeal by section 7 of this Act) is revoked.

(4) Any appointment of a deputy of a member of the existing Electoral Commission made under section 11A(2) of the principal Act (as in force immediately before its repeal by section 8 of this Act) is revoked.

29 Appointment of existing Chief Electoral Officer revoked

The appointment of the existing Chief Electoral Officer is revoked.

30 Enforcement of existing rights

(1) This section applies to—

(a) any matter or thing commenced under any enactment by the existing Electoral Commission or the existing Chief Electoral Officer and not completed by 1 October 2010; and

(b) any proceedings commenced by or against the existing Electoral Commission, or by or against the Crown in respect of any act or omission of the existing Chief Electoral Officer, relating to an existing right, interest, title, immunity, or duty and not completed by 1 October 2010.

(2) Any matter, thing, or proceedings to which this section applies may be continued, completed, or enforced by or against the new Electoral Commission.

31 Responsibility for reports and accounts of existing Electoral Commission from 1 July 2010

(1) The new Electoral Commission must include in its annual report for the year ending 30 June 2011 the information in respect of the existing Electoral Commission for the period commencing 1 July 2010 and ending on 30 September 2010 that the existing Electoral Commission would have had to include in its annual report under section 151 of the Crown Entities Act 2004 had it continued in existence.

(2) To avoid doubt, the new Electoral Commission may, if it so decides, present the information referred to in subsection (1) in a combined form for the whole of the financial year ended 30 June 2011.

(3) For the purposes of subsection (1), section 45J(1) of the Public Finance Act 1989 does not apply to the existing Electoral Commission in respect of the period commencing 1 July 2010 and ending on 30 September 2010.

Electoral (Disqualification of Sentenced Prisoners) Amendment Act 2010

Public Act	2010 No 128
Date of assent	15 December 2010
Commencement	see section 2

1 Title

This Act is the Electoral (Disqualification of Sentenced Prisoners) Amendment Act 2010.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Electoral Act 1993.

6 Existing status under section 80(1)(d) of principal Act not affected

To avoid doubt,—

(a) a person who is disqualified for registration as an elector by section 80(1)(d) of the principal Act immediately before the commencement of this Act continues to be disqualified for registration as an elector as if this Act had not been enacted; and

(b) a person who is not disqualified for registration as an elector by section 80(1)(d) of the principal Act immediately before the commencement of this Act is not disqualified for registration as an elector by that section (as substituted) immediately after the commencement of this Act on the ground of an existing sentence of imprisonment; and

(c) section 4 of this Act does not override section 17 of the Interpretation Act 1999.

Electoral (Finance Reform and Advance Voting) Amendment Act 2010

Public Act	2010 No 137
Date of assent	20 December 2010
Commencement	see section 2

1 Title

This Act is the Electoral (Finance Reform and Advance Voting) Amendment Act 2010.

2 Commencement

This Act comes into force on 1 January 2011.

Part 2
Transitional provisions and consequential amendments to other enactments

35 Provision relating to donations and contributions received before 1 January 2011

For the avoidance of doubt,—

(a) any provision in this Act that amends the principal Act in respect of the amount of a donation or contribution does not apply to any donation or contribution received before 1 January 2011; and

(b) section 210(6A) of the principal Act (as inserted by section 27(7) of this Act) does not apply to any donation received before 1 January 2011.

36 Transitional elections

(1) In this section, a **transitional election** is—

(a) a general election in respect of which—

(i) polling day is a date after the commencement day but before 31 March 2011; and

(ii) the regulated period would, had this Act been in force, have commenced before the commencement day:

(b) a by-election in respect of which the regulated period would, had this Act been in force, have commenced before the commencement day.

(2) In the case of a transitional election, the provisions of the Electoral Act 1993 apply as if this Act had not been enacted.

(3) In this section, **commencement day** means the day on which this Act comes into force.

Electoral (Administration) Amendment Act 2011

Public Act	2011 No 57
Date of assent	16 August 2011
Commencement	see section 2

1 Title

This Act is the Electoral (Administration) Amendment Act 2011.

2 Commencement

(1) The following come into force on 1 July 2012:

(a) subpart 2 of Part 1:

(b) subpart 2 of Part 2.

(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Electoral Act 1993.

Part 2
Consequential amendments and transitional provisions

Subpart 1—Provisions coming into force on day after assent

Transitional provisions relating to abolition of Chief Registrar of Electors

39 Office of Chief Registrar of Electors abolished

At the close of 30 June 2012,—

(a) the office of Chief Registrar of Electors under section 21(1) of the principal Act is abolished and ceases to be held by the incumbent; and

(b) the office of Deputy Chief Registrar of Electors under section 21(3) of the principal Act is abolished and ceases to be held by any person appointed to it; and

(c) all delegations (if any) under section 21(4) to (9) of the principal Act cease to have effect.

40 No compensation for loss of office

No person is entitled to compensation or any other payment or benefit in respect of—

(a) a person ceasing under section 39(a) or (b) to hold office as the Chief, or Deputy Chief, Registrar of Electors; or

(b) a delegation ceasing under section 39(c) to have effect.

Compare: 2007 No 25 Schedule 1 cl 9

41 Crown-owned assets (other than intellectual property) and records that Chief Registrar controls or possesses

(1) The Secretary for Justice must identify all assets and records that, at the close of 30 June 2012, are Crown-owned assets or records controlled or possessed by or on behalf of the Chief Registrar of Electors.

(2) Assets and records identified under subsection (1) (other than intellectual property) must be treated as having been vested in the Electoral Commission on 1 July 2012.

42 Liabilities for expenses after 30 June 2012

(1) The Secretary for Justice must identify—

(a) the expenses (incurred after 30 June 2012 arising from commitments before 18 August 2009) to be paid under section 44; and

(b) the expenses (incurred after 30 June 2012 arising from commitments after 17 August 2009 and before 1 July 2012) to be paid under section 45.

(2) Liabilities in respect of expenses identified under subsection (1)(a) must be treated as having been vested in the Electoral Commission on 1 July 2012.

(3) Liabilities in respect of expenses identified under subsection (1)(b) must be treated as having been vested on 1 July 2012 in—

(a) the Crown, if the Minister of Finance under section 45 approves them being paid by the Crown; or

(b) the Electoral Commission, if the Minister of Finance under section 45 approves them being paid by the Electoral Commission.

43 Expenses before 1 July 2012 (whether from commitments before, on, or after 17 August 2009)

Expenses incurred before 1 July 2012 by New Zealand Post Limited in the administration of Part 5 of the principal Act (regardless of whether those expenses arise from commitments New Zealand Post Limited entered into before, on, or after 17 August 2009) must, despite the repeal (by section 32 of this Act) of section 23 of the principal Act, be paid out of public money appropriated by Parliament.

44 Expenses after 30 June 2012 from commitments before 18 August 2009

Expenses incurred after 30 June 2012 by New Zealand Post Limited in the administration of Part 5 of the principal Act and arising from commitments New Zealand Post Limited entered into before 18 August 2009 must be paid by the Electoral Commission out of public money appropriated by Parliament.

45 Expenses after 30 June 2012 from commitments after 17 August 2009 and before 1 July 2012

Expenses incurred after 30 June 2012 by New Zealand Post Limited in the administration of Part 5 of the principal Act and arising from commitments New Zealand Post Limited entered into after 17 August 2009 and before 1 July 2012 may, with the approval of the Minister of Finance, be paid by the Crown or by the Electoral Commission (in either case) out of public money appropriated by Parliament.

46 Matters incomplete on 1 July 2012

A matter or thing commenced under any enactment by the Chief Registrar of Electors and not completed before 1 July 2012 may be completed by the Electoral Commission.

Compare: 1999 No 85 s 18

47 Proceedings incomplete on 1 July 2012

Proceedings relating to an existing right, interest, title, immunity, or duty, commenced by or against (or commenced by or against the Crown in respect of an act or omission of) the Chief Registrar of Electors, and not completed before 1 July 2012 may be completed by the Electoral Commission.

Compare: 1999 No 85 ss 17, 18

48 Transitional or savings regulations

(1) The Governor-General may, by Order in Council, make regulations providing for any transitional or savings matters concerning the coming into force of all or any of the provisions of this Act.

(2) Regulations under this section must not be inconsistent with this Act.

(3) Regulations under this section are a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Compare: 2004 No 115 s 199

Section 48(3): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Electoral Amendment Act 2014

Public Act	2014 No 8
Date of assent	24 March 2014
Commencement	see section 2

1 Title

This Act is the Electoral Amendment Act 2014.

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

46 Transitional provision for party logos registered before commencement date

(1) If the logo of a political party was registered before the commencement date and on that date the political party is a registered political party, the logo of that party is deemed to be registered under section 71F.

(2) If the logo of a political party was registered before the commencement date and on that date the political party is not a registered political party, the Electoral Commission must cancel the registration of the party logo.

(3) If the Electoral Commission cancels the registration of a party logo under subsection (2), the Electoral Commission must, where practicable, give written notice of the cancellation to the secretary of the political party.

(4) In this section, **commencement date** means the date on which this section comes into force.

47 Transitional provision for loans entered into on behalf of parties before commencement date

(1) Nothing in Part 6B applies in respect of any loan entered into on behalf of a party before the commencement date.

(2) To avoid doubt, nothing in section 214C or 214F relating to aggregations of loans applies to any loan entered into on behalf of a party before the commencement date.

(3) In this section, **commencement date** means the date of commencement of this section.

Reprints notes

1 General

This is a reprint of the Electoral Act 1993 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 Legal status

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 Editorial and format changes

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also http://www.pco.parliament.govt.nz/editorial-conventions/.

4 Amendments incorporated in this reprint

Electoral (Expenditure Limit) Order 2021 (LI 2021/125)

Public Service Act 2020 (2020 No 40): section 135

Education and Training Act 2020 (2020 No 38): section 668

Electoral (Registration of Sentenced Prisoners) Amendment Act (No 2) 2020 (2020 No 34)

Privacy Act 2020 (2020 No 31): sections 190, 217

Electoral (Registration of Sentenced Prisoners) Amendment Act 2020 (2020 No 26)

Election Access Fund Act 2020 (2020 No 4): sections 12, 13

Electoral Amendment Act 2020 (2020 No 2): Part 1

Electoral Amendment Act 2019 (2019 No 72)

Contempt of Court Act 2019 (2019 No 44): section 29

Local Electoral Matters Act 2019 (2019 No 7): Part 2

Family Violence Act 2018 (2018 No 46): section 259(1)

Electoral (Integrity) Amendment Act 2018 (2018 No 39)

Social Security Act 2018 (2018 No 32): section 459

Statutes Amendment Act 2018 (2018 No 27): section 40

Electoral Amendment Act 2017 (2017 No 9)

Broadcasting (Election Programmes and Election Advertising) Amendment Act 2017 (2017 No 8): Part 2

Contract and Commercial Law Act 2017 (2017 No 5): section 347

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b)

Financial Reporting Amendment Act 2014 (2014 No 64): section 17

Electoral Amendment Act 2014 (2014 No 8)

Electoral Amendment Act 2013 (2013 No 115)

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126

Members of Parliament (Remuneration and Services) Act 2013 (2013 No 93): section 66

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Sale and Supply of Alcohol Act 2012 (2012 No 120): section 417(1)

Legislation Act 2012 (2012 No 119): section 77(3)

Criminal Procedure Act 2011 (2011 No 81): section 413

Student Loan Scheme Act 2011 (2011 No 62): section 223

Electoral (Administration) Amendment Act 2011 (2011 No 57)

Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137)

Electoral Amendment Act 2010 (2010 No 63)

Electoral (Administration) Amendment Act 2010 (2010 No 26)

Immigration Act 2009 (2009 No 51): section 406(1)

Electoral Amendment Act 2009 (2009 No 1)

Policing Act 2008 (2008 No 72): section 130(1)

Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)

Electoral Amendment Act 2007 (2007 No 113)

Electoral Amendment Act 2005 (2005 No 50)

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Crown Entities Act 2004 (2004 No 115): section 200

State Sector Amendment Act (No 2) 2004 (2004 No 114): section 19(1)

Civil Union Act 2004 (2004 No 102): section 46

Electoral Amendment Act 2004 (2004 No 99)

Corrections Act 2004 (2004 No 50): section 206

Holidays Act 2003 (2003 No 129): section 91(2)

Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115): section 51

Supreme Court Act 2003 (2003 No 53): section 48(1)

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)

New Zealand Trade and Enterprise Act 2003 (2003 No 27): section 84

Local Electoral Amendment Act 2002 (2002 No 85): section 52

Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54): sections 3(3), 4(1)

Electoral Amendment Act 2002 (2002 No 1)

Electoral (Integrity) Amendment Act 2001 (2001 No 105)

Health and Disability Services (Safety) Act 2001 (2001 No 93): section 58(1)

Local Electoral Act 2001 (2001 No 35): section 151

New Zealand Public Health and Disability Act 2000 (2000 No 91): section 111(1)

Harassment Act 1997 (1997 No 92): section 45

Births, Deaths, and Marriages Registration Amendment Act 1997 (1997 No 35): section 7

State Sector Amendment Act 1997 (1997 No 8): section 5

Electoral Amendment Act (No 3) 1996 (1996 No 154)

Survey Amendment Act 1996 (1996 No 55): section 5

Electoral Amendment Act (No 2) 1996 (1996 No 54)

Domestic Violence Act 1995 (1995 No 86): section 132

Electoral Amendment Act (No 2) 1995 (1995 No 61)

Electoral Amendment Act 1995 (1995 No 60)

Births, Deaths, and Marriages Registration Act 1995 (1995 No 16): section 96

Electoral Amendment Act 1993 (1993 No 98): section 31

Public Finance Act 1989 (1989 No 44): section 65R(3)

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