

JUNE 2011

Parliamentary Candidate Handbook

2011 General Election
and Referendum



June 2011

Dear Candidate

2011 General Election and Referendum on the voting system

The Electoral Commission is responsible for conducting parliamentary elections and referenda. We have prepared this handbook to explain your rights and obligations in the general election and referendum on New Zealand's voting system to be held on 26 November 2011.

On 1 January 2011 new rules came into force for candidate election advertising, expenditure, and donations. Please study these requirements carefully before undertaking any advertising or accepting any donations for your campaign. There are serious consequences for non-compliance including prosecution for corrupt or illegal practices. There are also rules in the Electoral Referendum Act 2010 that you need to be aware of if you want to advertise in relation to the referendum.

A detailed timetable of all key dates for the general election and referendum is set out in Appendix A and on www.elections.org.nz

If you have questions, please talk to your party secretary, your local Returning Officer or contact the Electoral Commission – we are happy to help.

Yours sincerely

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Chief Electoral Officer

Electoral Commission

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INTRODUCTION

This booklet is part of a series produced by the Electoral Commission.

The booklets are a general guide and reflect the Electoral Commission's interpretation of the law and how it intends to apply the law. The Electoral Commission welcomes the opportunity to discuss any areas that require clarification.

The booklets do not cover every aspect of electoral law and procedure. For further information, you should consult the Electoral Act 1993, the Electoral Regulations 1996, the Electoral Referendum Act 2010, your party organisation, or seek legal advice.

The Electoral Commission is also happy to discuss any specific questions that you have.

Other information available

Other booklets available for 2011 from the Electoral Commission or from www.elections.org.nz are:

Party Secretary Handbook – 2011 General Election and Referendum

Third Party Handbook – 2011 General Election and Referendum

Guidance for MPs - Election Advertising Rules

Information for Scrutineers

Voting in the 2011 General Election – The Easy Way

Going to be overseas on Election Day?

Unable to Get to a Polling Place on Election Day?

Forms

Forms are listed at Appendix G and can be obtained from your Returning Officer, direct from the Electoral Commission or can be downloaded from the elections website at www.elections.org.nz. You can deliver any form, notice or consent by hand, post or fax (but not by e-mail).

Contact details for the Electoral Commission:

Electoral Commission, PO Box 3220, Wellington

Level 9, 17-21 Whitmore Street, Wellington

Tel: 04 495 0030

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Websites: www.elections.org.nz
www.electionresults.govt.nz

PART 1: NOMINATION OF CANDIDATES

1.1 Introduction

There are two types of candidate under the MMP electoral system:

- electorate candidates who stand for election in electorates, and
- list candidates who are named on party lists and may be elected by reason of the party vote.

A candidate can stand for an electorate and be on a party list at the same election.

1.2 Candidate eligibility

To be a candidate you must:

- be enrolled as a voter,
- be a New Zealand citizen, and
- not be disqualified from enrolling.

The main grounds of disqualification for enrolment that could affect eligibility to be a candidate are:

- the person is a New Zealand citizen who is outside New Zealand and has not been in New Zealand within the last three years,
- the person has been sentenced to imprisonment.

There are exceptions to these rules: for example, in relation to public servants or members of the Defence Force who are on duty outside New Zealand, as well as members of their families.

There are other grounds of disqualification that affect a very small number of people. For more details see section 80 of the Electoral Act.

Bankruptcy is not a ground for disqualification.

If you were born overseas, you will be asked to provide evidence with your nomination that you are a New Zealand citizen (such as a certificate of citizenship or a copy of your New Zealand passport).

1.3 Where can candidates stand?

You may stand:

- in a different electorate from the one that you are enrolled in, or
- in an electorate and, at the same time, be on a party list, or
- in either a Maori or a general electorate seat irrespective of your race or ethnicity.

You may not stand for more than one electorate or be on more than one party list.

1.4 State servants, board members of Crown entities and directors of Crown companies – implications of nominations

The Electoral Commission does not treat the nominations of state servants, board members of Crown entities and directors of Crown companies any differently from the nominations of other candidates.

However, section 52 of the Electoral Act contains special rules for any candidates who are state servants. The term 'state servant' is widely defined as: public servants; other persons employed under the State Sector Act (although members of staff of a tertiary education institution teaching students preparing for examinations may continue to work and be paid); employees of the New Zealand Police; and members of the NZ Defence Force (other than non-regular forces).

To avoid the possibility of real or perceived conflicts of interest, the Electoral Act requires state servants who stand as candidates to take leave of absence from 1 November 2011 (nomination day) until 28 November 2011 (the first working day after election day).

An employer may require a state servant to take leave before 1 November 2011 (nomination day) if they believe the candidate's responsibilities as a state servant make this necessary. If elected, a state servant is deemed to have vacated their position.

Prospective candidates who are state servants are recommended to discuss their nomination with their employer and consult the guidelines issued by the State Services Commissioner (SSC) (refer www.ssc.govt.nz).

Similarly, we suggest that board members of Crown entities should consult the SSC and directors of Crown companies should consult the Crown Ownership Monitoring Unit.

1.5 Nominating electorate candidates

There are two ways to nominate electorate candidates:

1. Bulk nominations

This is where the secretary of a registered party nominates all the candidates representing the party by lodging a bulk nomination schedule with the Electoral Commission in Wellington. This is the simplest method for a registered party and most registered parties use it.

2. Individual nominations

This is where two voters enrolled in the electorate nominate a candidate by lodging an individual nomination paper with the Returning Officer for the electorate.

Nominations will be called for by newspaper advertisement and information will also be on www.elections.org.nz

A registered party can decide to use one method or the other but not both. An unregistered party may not use the bulk nomination method.

1.6 Nomination day

Nomination day is by law required to be in the period between 20 and 27 days before polling day. For the 2011 General Election nomination day is 1 November 2011.

1.7 Candidate name

A person can be nominated under the name on their birth certificate, the name conferred on them by means of an adoption order, a name they have adopted by deed poll, or a name which they have commonly been known by in the preceding 12 months. So for example, a candidate commonly known as Mike Young can use this name rather than their full legal name 'Michael'.

Titles and honorifics are not allowed.

1.8 Bulk nominations

Party secretaries lodge bulk nomination schedules directly with the Electoral Commission in Wellington. The legal deadline for lodging a schedule is noon on 31 October 2011 (the day before nomination day) although the Commission advises party secretaries to complete nomination procedures before that time if possible to avoid problems.

If a party decides to nominate its candidates by bulk nomination, Returning Officers will not accept individual nominations for candidates representing the party.

You will need to liaise with your party secretary about the following matters:

- the details you want included on the nomination schedule. The schedule records the electorate you will be contesting, your full name, the name you want to appear on the ballot paper if different to your full name (up to 30 characters in total), and the electorate in which you are enrolled,
- your consent to be a candidate. The consent must be on form **M-Cons**. This form is available from your party secretary who will include them with the bulk nomination, and
- the deposit to be lodged with the schedule. The party secretary must lodge a deposit of \$300 for every candidate listed on the schedule.

1.9 Individual nominations

This applies if you are:

- an electorate candidate who is representing a registered party that is not making a bulk nomination,
- a candidate for an unregistered political party,
- standing as an independent.

Two electors, enrolled to vote in the electorate where you wish to stand, must nominate you. You cannot nominate yourself.

Returning Officers can accept nominations from 27 October 2011 (6 days before nomination day).

Your nomination must be:

- on form **M40-Nom** (follow the checklist on the back of the form),
- lodged with a deposit of \$300 (money, bank draft or bank cheque). Personal cheques are not acceptable. The bank draft or bank cheque must be made out to "Electoral Commission Trust Account". See also paragraph 4.18 for information on returning deposits, and
- lodged with the Returning Officer by noon on nomination day.

The form is titled "ELECTIONS ELECTORAL COMMISSION Te Kaitiaki Take Kōwhiri" and "Candidate Nomination Paper". It is labeled "M40-Nom".

Part 1: To be completed by 2 nominators

To the Returning Officer of the _____ electorate.

First nominator
 Surname: _____
 First names: _____
 Residential Street Address: _____
 Suburb: _____
 Town or City: _____

Second nominator
 Surname: _____
 First names: _____
 Residential Street Address: _____
 Suburb: _____
 Town or City: _____

We, the nominators specified in this paper, being registered electors for the above-mentioned electorate, nominate for election to that electorate at the general election to be held on 26 November 2011

Person nominated as candidate
 Surname: _____
 First names: _____
 Residential Street Address: _____
 Suburb: _____
 Town or City: _____

(Signature 1st nominator) Date (Signature 2nd nominator) Date

Part 2: To be completed by the person being nominated

I consent to the nomination and confirm that I am qualified to be a candidate and to be elected a member of Parliament because – I am a New Zealand Citizen
 I am enrolled as an elector for the _____ electorate
 I am not disqualified from being enrolled.

The name I wish to appear on the Ballot Paper: _____
 (The name must be no more than 30 characters long)

Party name or independent: _____

My date of birth: _____
 My country of birth: _____ (If born overseas attach evidence of New Zealand citizenship)

Telephone: Day: () Evening: ()
 Email address: _____

Signature of person nominated _____ Date _____

For Official Use

Acceptance of Nomination
 I have accepted your nomination _____
 Signature of Returning Officer _____ Date _____

* If you have been wrongly removed from the electoral roll, attach to this nomination the statutory declaration required by s49 of the Electoral Act 1993.
 Reference: Section 141 of the Electoral Act 1993
 For further information refer to the booklet "Information for Parliamentary Candidates By-elections" issued by the Electoral Commission.
 Issued by the Electoral Commission, P O Box 3230, Wellington, Tl (04) 495 4030, Fax (04) 493 0031, Email electoral.commission@elections.govt.nz,
 Website: www.elections.govt.nz

While the deadline for submitting your nomination is noon on 1 November 2011 (nomination day), we recommend that you lodge it as soon as possible after nominations open on 27 October 2011. This will allow time for the Returning Officer to check your nomination to make sure it is in order. There is no power for the Returning Officer to extend the legal deadline of noon on nomination day, even by a few minutes. Discuss any difficulties you might have in physically getting your nomination and the deposit to the Returning Officer to see what arrangements, if any, might be made. But don't leave making such arrangements to the last minute or you might miss out.

Returning Officers will advertise the deadline for nominations in local newspapers. The information will also be on www.elections.org.nz

If you represent a party, the name of the party can appear under your name on the ballot paper. If you do not represent a party, the name 'Independent' will appear under your name. If the party is an unregistered party, you will need to provide evidence that the party exists (such as a party constitution) and evidence of your eligibility to represent that party (such as a letter from the party secretary).

If you are representing a party that is not contesting the party vote but the party has a logo registered with the Electoral Commission, you may request that the party logo appears by your name on the ballot paper. Please confirm this with the Returning Officer.

Candidates should note that the completed nomination forms are available for public inspection.

1.10 Nominating list candidates

Secretaries of registered parties must lodge party lists with the Electoral Commission no later than noon on nomination day.

If you are a list candidate, you should liaise with your party secretary about the following matters:

- your details to be recorded on the list. The list sets out the candidates in order of preference in the list, and includes their name, address and phone number, and
- providing your consent to be a list candidate. The consent must be on form **M-Cons**. These forms are available from your party secretary.

1.11 Withdrawing nominations or consents

If you were nominated through the bulk nomination procedure or consented to be included in a party list through your party secretary, but wish to withdraw, you must do so before the deadline. Consult your party secretary urgently. You may need to complete the withdrawal of nomination from bulk nomination schedule form (**M41-Cand Wd**).

If you were individually nominated directly to the local Returning Officer you must:

- complete form **M40-Wd** (obtainable from the Returning Officer),
- sign the form in the presence of a Justice of the Peace or solicitor, and
- return the signed form no later than noon on 1 November 2011 (nomination day).

A nomination cannot be withdrawn after noon on nomination day.

1.12 Death or incapacity of candidates

There are procedures in the Electoral Act that must be followed if a candidate dies or is incapacitated before nomination day, or between nomination day and the declaration of the official result.

If this happens to a candidate included in a party list or nominated in a bulk nomination schedule, the party secretary should urgently contact the Electoral Commission and fill in form **M40-Canc** (in the case of incapacity).

If the candidate is an individual nomination, the electors who nominated the candidate should urgently contact the Returning Officer and fill in form **M40-Canc** (in the case of incapacity).

1.13 Order of candidates on ballot paper

Electorate candidates are arranged alphabetically by surname on the right-hand side of the ballot paper with any registered logo to the right of the name (the electorate vote).

If the candidate's party is contesting the party vote, the name of the party is printed opposite the name of the candidate on the left-hand side of the ballot paper (the party vote).

If the candidate is an independent, the space on the left-hand side of the ballot paper, opposite the candidate's name, is left empty.

Parties contesting the party vote but not the electorate vote are listed alphabetically on the left-hand side of the ballot paper, after the other parties.

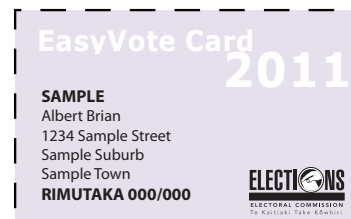
1.14 Media and public queries on nominations

Completed nomination forms are available for public inspection at the Returning Officer's headquarters. When all nominations and all party lists have been processed after nomination day we will publish the information on www.elections.org.nz. We do not publish biographical information on candidates or on their policies. Nor do we publish candidates' telephone numbers or e-mail addresses. It is common for the media to ask for the telephone numbers, in which case we will release them unless the party secretary or candidate tells us that they do not wish us to do so.

1.15 EasyVote pack for voters

About a week before polling day each enrolled voter will receive a personal information pack containing:

- an EasyVote card (or letter if enrolled late) to take to the Polling Place,
- details of the Polling Places and Advance Voting facilities,
- names of candidates for their electorate,
- party lists for those parties contesting the party vote,
- the contact details of the local Returning Officer,
- information about the referendum on our voting system.



It will be helpful if you encourage your supporters to use the EasyVote card. The card will save them time.

PART 2: APPOINTING SCRUTINEERS AND SPECIAL VOTING WITNESSES

2.1 Introduction

Scrutineers need to be well briefed on their rights and obligations – in particular that they must not communicate with voters.

A separate booklet, Information for Scrutineers, is available from the Electoral Commission, the Returning Officer, or www.elections.org.nz

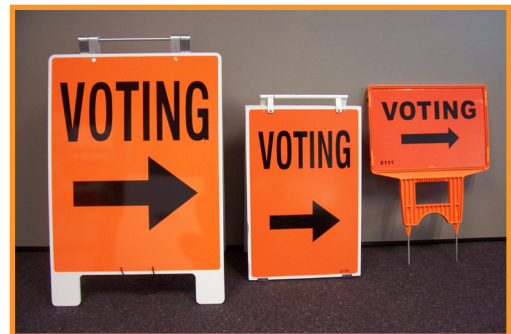
A candidate may not be appointed as a scrutineer.

2.2 Role of scrutineers

Candidates may appoint scrutineers to observe the conduct of the election in the following situations:

Polling places

Scrutineers may observe the issue of votes during polling day and the preliminary count in polling places after 7pm. The number of scrutineers for a candidate in a polling place at any one time must not exceed the number of issuing officers designated for the polling place.



Scrutineers may:

- require an issuing officer to question a voter who the scrutineer suspects of impersonation or double voting,
- communicate to party officials the names of persons who have voted in the polling place,
- observe the preliminary count.

Scrutineers must not talk to voters or help with the count.

If scrutineers have any concerns about the conduct of an election in a polling place they should raise them with the polling place manager.

Early count of advance votes

One scrutineer per candidate can attend the early count of advance votes at the Returning Officer's headquarters which commences at 2pm on polling day. Scrutineers may not leave the secured counting area in the Returning Officer's headquarters before the poll closes at 7pm without the Returning Officer's permission.

Special vote declarations

Scrutineers may attend the office of the Registrar of Electors to observe the checking of special vote declarations against the electoral rolls. Only one scrutineer per candidate may attend at any given time.

Scrutiny of the rolls and the official count

One scrutineer per candidate may attend the scrutiny of the rolls and the official count at the Returning Officer's headquarters unless the Returning Officer allows more.

Judicial recount

Candidates may appoint a scrutineer to attend a judicial recount of electorate votes. The provision is for one scrutineer per candidate unless the Judge allows more.

Hospitals and rest homes

Local party organisations may, with the approval of the person in charge of a hospital or rest home, appoint scrutineers to accompany an electoral official issuing "hospital votes" on or before polling day.

2.3 Appointing scrutineers

Before being allowed to serve as a scrutineer, all scrutineers must make a declaration that they will not compromise the secrecy of the poll. The declaration must be on form **E20-S Dec** (obtainable from the Returning Officer) and must be made before the Returning Officer, Justice of the Peace, a solicitor, a polling place manager, or an issuing officer. Only the Returning Officer, Justices of the Peace and solicitors can witness the declaration by scrutineers for the early count of the advance vote.

Scrutineer appointments must be in writing and signed by the candidate. Scrutineers should be provided with a copy of their written appointment to produce to electoral officials. The appointment form can be an original, fax or photocopy. It must specify the polling place that the scrutineer has been appointed to. It must also specify if a person is being appointed for the early count, special vote declarations scrutiny and/or the official count.

The Electoral Commission has an optional form that you can use for appointing scrutineers (***Scrutineer App-Cand***).

2.4 Special voting witnesses

Candidates may nominate people to be authorised by the Returning Officer as witnesses of special voting declarations. These people may then witness the declarations of voters who cannot get to a polling place on polling day.

The Returning Officer may:

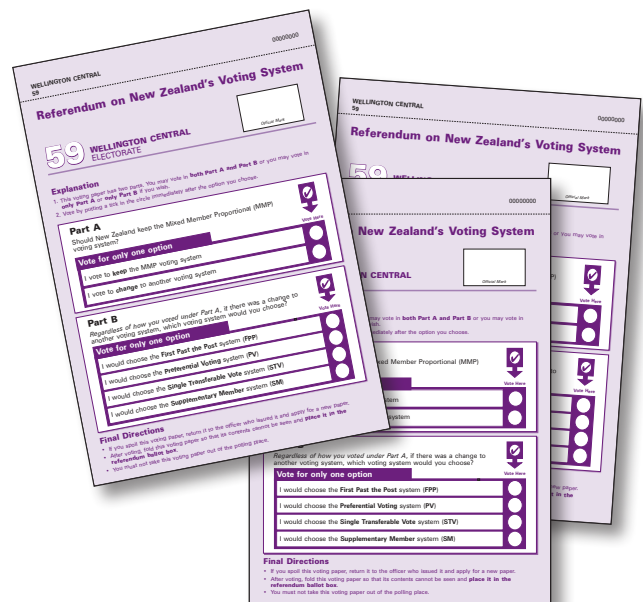
- reject a candidate's nomination but must give reasons for doing so, or
- revoke an approval if the person nominated does not comply with the rules for witnessing special vote declarations.

The Returning Officer will not approve special voting witnesses unless they have been trained to the Returning Officer's satisfaction. This is to avoid voters being disenfranchised by incorrect procedures.

2.5 The Referendum

The Electoral Referendum Act does not provide for separate scrutineers to be appointed to observe the referendum process in polling places. However, candidate and party scrutineers will be observing the issuing of referendum voting papers because the referendum voting paper will be issued to the voter at the same time as the Parliamentary paper. If scrutineers have any concerns about the referendum voting process they can raise them with the Manager of the Polling Place.

Justices of the Peace will act as independent observers of the early count of advance referendum votes and the official count for the referendum conducted in the Returning Officer's headquarters. Further information about the process for determining the referendum results can be found in Part 7.



PART 3: ELECTION CAMPAIGNING

3.1 Introduction

There are detailed rules in the Electoral Act 1993, the Electoral Referendum Act 2010 and the Broadcasting Act 1989 on what candidates can and cannot do when campaigning. The key messages are:

Election advertisements published at any time, in any medium, must contain a promoter statement.

Special rules apply for broadcasting election programmes on radio and television.

Other people cannot promote a candidate or party at any time without their written authorisation.

An election advertisement can be published at any time except on polling day.

Campaigning on polling day is a criminal offence.

This part of the handbook explains these rules in more detail.

Part 4 explains a candidate's obligations concerning election expense and donations.

Part 5 focuses on referendum advertising and expenses.

3.2 All election advertising must contain a promoter statement

All election advertisements irrespective of when they are published must state the name and address of the person that has initiated or instigated them ('the promoter'). *[See section 204F of the Electoral Act].*

To meet the requirements of the Electoral Act, promoter statements must include the name and address of the promoter and make it clear who has initiated or instigated the advertisement.

The form of words recommended by the Electoral Commission are:

'Promoted or Authorised by [name], [relevant full street address].'

Failing to include a promoter statement is an offence and subject to a fine of up to \$40,000.

The requirement for a promoter statement applies to all forms of election advertising in any medium. If the election advertisement is published in visual form, the promoter statement must

be clearly displayed in the advertisement. If the election advertisement is published only in an audible form, the promoter statement must be no less audible than the other content of the advertisement.

Whether a promoter statement has been clearly displayed will need to be determined on a case by case basis taking into account the type of advertisement that is published.

In the Electoral Commission's view, this does not require that a person be able to read the promoter statement from where an election advertisement is intended to be viewed, for example on a billboard while driving. However, if a person inspects an election advertisement he or she should be able to read the promoter statement.

Given that most websites allow the user to change the font size, as long as the promoter statement is included and is readable, the size is unlikely to mean that the promoter statement is not clearly visible. Where the website or webpage is an election advertisement, a promoter statement does not need to be included in each picture, article or entry on the site, provided the promoter statement is contained on the home page or the page that contains the election advertising.

The Electoral Commission advises parties to include a promoter statement on their party lapel badges as they may be considered to be an election advertisement (see Part 6 for further information about party lapel badges).

3.3 Candidate election advertisements

Candidate advertisements promoted by a candidate need to include a promoter statement that features the candidate's name and address.

The address can be the full street address of either the place where the candidate usually lives or any other place where the candidate can usually be contacted between the hours of 9am and 5pm on any working day. A Post Office box or website address is insufficient.

The Electoral Act does not define what is meant by 'any other place where he or she can usually be contacted between the hours of 9am and 5pm on any working day'.

The Electoral Commission's view is that this can include for example:

- the candidate's campaign office address,
- the candidate's party headquarters address, or
- if the candidate is an MP, the MP's parliamentary or out-of-Parliament address,

provided that this is where he or she can usually be contacted between the hours of 9am and 5pm on any working day. You do not always have to be physically at this address during these hours but it must be an address from where you can be contacted within a reasonable period of time. Candidates may need to consult their employer before including a work address on any election advertising.

As well as promoting yourself, you may promote the party vote with the written authorisation of your party secretary, but the costs then have to be apportioned between your election expense return and the party's expense return. You should consult your party secretary in that situation. [See sections 204H, 205EA and 206CC of the Electoral Act].

If a candidate promotes an advertisement that is both a candidate and party advertisement, only one promoter statement is required. In this case, the candidate is the promoter and the advertisement will only need to include the name and address of the candidate.

Similarly, advertising undertaken by your party that may reasonably be regarded as promoting your candidacy will require your written authorisation and disclosure in your election expense return. Candidate advertisements promoted by your party must include the party secretary's name and address in the promoter statement.

Third parties cannot promote a candidate without their written authorisation. For more information see paragraph 3.7.



3.4 What is an election advertisement?

An election advertisement is an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to:

- vote or not to vote for a constituency candidate (whether or not the name of the candidate is stated),
- vote or not to vote for a party (whether or not the name of the party is stated),
- vote or not to vote for a type of candidate or party described by reference to views or positions that are, or are not, held or taken (whether or not the name of the candidate or party are stated). [See section 3A of the Electoral Act].

The Electoral Act does not define 'advertisement' but, because the definition of 'election advertisement' covers an advertisement 'in any medium', the Electoral Commission considers that the term 'advertisement' should be interpreted broadly. For example, it is not limited to traditional forms of advertising such as newspapers, posters, billboards, leaflets and radio and TV broadcasting. The Electoral Commission's view is that if material is open to an interpretation that it is an 'election advertisement', a promoter statement should be included.

The test is whether the advertisement can 'reasonably' be regarded as encouraging or persuading voters to vote, or not to vote, for a party or candidate.

This is an objective test. It is based on content and context regardless of whether the advertisement includes the name of a party or candidate, or whether the encouragement or persuasion to vote, or not to vote, is direct or indirect.

Election advertisements that may reasonably be regarded as encouraging or persuading voters to vote, or not to vote, for a constituency candidate (whether or not the name of the candidate is stated) are called candidate advertisements. Election advertisements that may reasonably be regarded as encouraging or persuading voters to vote, or not to vote, for a party (whether or not the name of the party) are called party advertisements.

All requirements in respect of election advertisements apply to:

- election advertisements published in New Zealand even if the promoter is outside of New Zealand, and
- election advertisements published outside of New Zealand where the promoter is in New Zealand. *[See section 3F of the Electoral Act].*

Publish means to bring to the notice of a person in any manner, excluding addressing one or more persons face to face. *[See section 3D of the Electoral Act].*

3.5 What is not an 'election advertisement'?

The legislation makes it clear that the following are not election advertisements:

- editorial content,
- personal political views online,
- a Member of Parliament's contact details.

Editorial content

There is an exemption for the editorial content of a periodical, a radio or television programme, or news media Internet site. The Electoral Act does not define 'editorial content' but the Electoral Commission's view is that it includes any part of the publication except advertising or advertorial. A periodical is a newspaper, magazine, or journal established for purposes unrelated to the election, that has been published at regular intervals and that is available to the public.

Personal political views online

There is an exemption for the publication of personal political views by an individual on the Internet or other electronic medium, provided the individual does not make or receive payment for publishing those views. Individuals expressing personal political views on social media such as Facebook and Twitter are covered by this exemption and will not need to include a promoter statement.

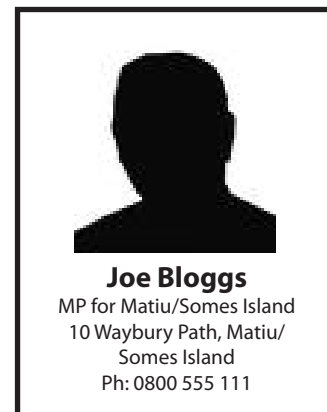
This exception does not extend to political views expressed on behalf of a party because the exemption is restricted to the publication of personal views by an individual.

Where content posted on a Facebook or Twitter page that is an election advertisement is 'liked' or 'retweeted' by another person, it is the Electoral Commission's view that the individual content appearing elsewhere on Facebook or Twitter will not require a promoter statement if it appears on those other pages as the expression of personal political views by an individual who does not make or receive payment in respect of the publication of those views.

Member of Parliament's contact details

There is also an exemption for the publication by members of Parliament of contact information. For the exemption to apply, contact information published within the regulated period must:

- be published by the member in the course of performing his or her duties as a member of Parliament,
- have been funded by the Parliamentary Service,
- have been routinely published in the same medium, no more often, and to no greater extent than, and in the same form and style as it was published before the regulated period, and
- not be combined or associated with an election advertisement.



The contact information must include all of the following:

- the member's name,
- the member's contact details, which can be a telephone number, physical or postal address, and/or e-mail address, and
- the name of the electoral district that they represent or the fact that they are a list member.

The contact information may also include one or more of the following:

- a photo of the member,
- a party name,
- a party logo,
- the member's constituency clinic times,
- the website address for the member or the member's party.

To fit within the exemption the proposed publication cannot include anything other than 'contact information' as outlined above. This exemption is only available to current MPs.

3.6 Other parliamentary publicity

A member of Parliament standing as a candidate in the election may need to seek advice from the Electoral Commission on whether other parliamentary publications or signage are election advertisements.

The advice of the Electoral Commission may also be taken into account by the Parliamentary Service when determining whether to meet the cost of advertising during the regulated period. For information about what publicity can be paid for using parliamentary funds, please refer to the Parliamentary Service Publicity Guidelines which are available from the Parliamentary Service.

Whether publicity is candidate advertising must be determined on a case by case basis by looking at an advertisement as a whole. At one end of the spectrum, advertising expressly seeking support for a candidate is covered by the definition of candidate advertisement. At the other, advertising an MP's contact details or a factual account of activities and events in the electorate are unlikely to be considered to be candidate advertisements.

When considering a particular item of publicity, the following are some of the factors which indicate that it may be a 'candidate advertisement':

- references that directly or indirectly evaluate an MP and/or their party's effectiveness/success during the parliamentary term or previously, whether or not referenced to any other party or candidate,
- references in the communication to the election itself,
- references, direct or indirect, to an MP's and/or their party's policy platform for the election, or what they will do if elected or re-elected,
- references to a candidate who is not an existing MP, and
- formatting or branding of a communication in a manner similar to the party's own election campaign material.

The Electoral Act does not provide for apportionment of costs between publicity that contains election advertising and an MP's parliamentary publicity. If the effect of any part of an item of publicity can be reasonably regarded as encouraging or persuading voters to vote for a candidate or not vote for another candidate, then the item as a whole will be regarded as a candidate advertisement, with the total costs being attributable as an election expense.

For example, an advertisement which contains both material that can reasonably be regarded as encouraging or persuading voters to vote for a candidate and factual information, such as an MP's contact details, is likely to be regarded as a candidate advertisement and the total costs of the advertisement attributed as an election expense.

Care needs to be taken to ensure that election advertisements published at any time are

appropriately authorised and contain the required promoter statement. Candidate election expenses can only be incurred by or with the authorisation of the candidate and party election expenses can only be incurred by or with the authorisation of the party secretary.

Further information for MPs is available in the Electoral Commission's publication '*Guidance for MPs - Election Advertising Rules.*'

3.7 Election advertisements promoted by third parties

Third parties (persons or groups other than candidates and parties, or persons involved in the administration of the affairs of a candidate or party) can promote candidate advertisements but certain rules apply, including:

- a promoter statement must be included on all third party election advertising so that the public can see who is responsible for the advertisement,
- where an election advertisement is promoted by a third party they will need to register as a promoter with the Electoral Commission if they spend more than \$12,000 on election advertisements during the period beginning 26 August 2011 and ending at the close of 25 November 2011 (the regulated period for the 2011 General Election and Referendum),
- advertisements promoting your candidacy published by a third party must have your written authorisation. An advertisement promoting the election of one or more candidates must be authorised by each of the candidates. Advertising promoting both a candidate and a party must be authorised by both the candidate and the party secretary,
- the costs of any third party advertisements published during the regulated period that you have authorised will count towards your candidate election expenses and will need to be disclosed in your return of election expenses and donations (see Part 4) as well as counting towards the third party's advertising expenses.

For further information about the rules concerning advertising by third parties see the Electoral Commission's publication '*Third Party Handbook- 2011 General Election and Referendum.*'

3.8 Requesting an advisory opinion from the Electoral Commission

You can ask the Electoral Commission for advice on whether, in its opinion, an advertisement constitutes an 'election advertisement' under the law. The opinion of the Electoral Commission is not legally binding but reflects the Electoral Commission's interpretation of the law. A Court of law may reach a different view. You may wish to seek your own legal advice. The Commission's view is that relying in good faith on an advisory opinion is likely to be relevant to determining whether a person had acted wilfully or taken all reasonable steps to ensure an offence was not committed but that, of course, would be a matter for the Courts to determine.

To request an advisory opinion please complete form **M41-Adv Op** (available from www.elections.org.nz). You will also need to provide the Commission with a copy of the advertisement and any relevant background information such as the details of when and how it is to be published.

The Commission will treat the proposed advertisement, any supporting material, and the advice given to the requestor as confidential until the day after the day for the return of the writ for the election. Advisory opinions will then be made available on request, subject to the Official information Act 1982. This does not prohibit the requestor from releasing the advice at any time. *[See section 204I of the Electoral Act].*

3.9 Party logos

The presence of your party logo in your advertising does not in itself make it a party advertisement if the size and relative prominence of the logo is consistent with the purpose of identifying you as a candidate for the party and could not be seen as going beyond that. It will come down to matters such as the context, size, and relative prominence of the logo and whether in the circumstances the presence of the party logo can reasonably be regarded as encouraging or persuading voters to vote for the party *[see section 3A of the Electoral Act].*

If it is a party advertisement it will also require written authorisation from the party secretary.

3.10 References to websites

If advertising contains a website reference, you need to consider whether the website contains material that could be election advertising. Depending on how the website is being used in the advertisement, the content of the website may be considered in determining whether the advertisement is a candidate advertisement, party advertisement, or both, for the purposes of the Act.

3.11 Radio or television advertising

There are separate rules applying to radio or television advertising as distinct from other forms of advertising. *[See Part 6 of the Broadcasting Act 1989].*

Electorate candidates may advertise on radio or television to promote their election as an electorate candidate. The cost of an advertisement is an election expense of the candidate. Candidates cannot share television or radio advertising with another candidate or candidates. Candidates may include information about the party they represent and its policies, for the purpose of promoting their own election. But they cannot attack the policies of other parties or candidates.

Candidates' broadcasts must not encourage voters to give their party vote to the party since this would constitute a party broadcast to which special rules apply.



For example, a radio or television advertisement could say:

“Tick Joe Bloggs, your Y Party candidate for Wellington Central.”

It must not say:

“Tick Joe Bloggs, your Y Party candidate for Wellington Central, and give the Y Party your party vote.”

Candidate advertisements may only be broadcast on television or radio within the period beginning with 26 October 2011 (writ day) and ending with the close of 25 November 2011 (the day before polling day).

Party political broadcasting is governed by a separate regime from candidates. Parties may only use time and money allocated by the Electoral Commission.

All broadcasts of election advertisements must include a promoter statement (see section 3.2 above).

3.12 Press and other advertising

Expenditure on press advertising and other forms of promotion such as hoardings are election expenses.

3.13 Canvassing and surveys

The rules relating to the requirement for a promoter statement and election expenses apply to election advertisements that are ‘published’. However, the definition of publish expressly excludes addressing one or more persons face to face. This means that face to face canvassing activities are exempt from the requirement for a promoter statement and do not need to be considered in terms of election expenses.

Telephone canvassing and surveys are subject to these rules. The Electoral Act includes an express exemption for surveys and opinion polls from the definition of election expenses. However, this does not mean that surveys are automatically exempt per se, which is often a source of confusion. Be aware that the Courts have found that if a survey goes beyond merely eliciting voters’ views and can reasonably be regarded as encouraging or persuading voters to vote or not vote for a constituency candidate or political party (often referred to as push polling) then it will be an election advertisement.

If survey questions promote you or your party’s policies or ask questions in a leading way and direct the answers, then the survey is likely to be an election advertisement and needs to comply with the election advertising rules.

The Electoral Commission is happy to review a proposed script or survey and provide a view on whether or not it is an election advertisement, candidate advertisement and/or party advertisement.



3.14 Websites and social media



Where a website, including Facebook, Twitter or other social media, is used by a candidate, party or third party and the exemption for personal political views discussed in paragraph 3.5 does not apply, the promoter of the advertisement will need to include a promoter statement.

Where the website or webpage is an election advertisement, a promoter statement does not need to be included in each picture, article or entry on the site, provided the promoter statement is contained on the home page or the page that contains the election advertising.

Where you pay for an election advertisement to appear unsolicited on another person's web page, for example, a banner advertisement on Facebook, a promoter statement must be included on the advertisement itself. You cannot rely on a link back to another page which contains a promoter statement.

3.15 Broadcasting Standards Authority and Advertising Standards Authority

Election programmes on television and radio (which includes advertisements and opening and closing addresses) come within the jurisdiction of the Broadcasting Standards Authority (BSA). Election programmes must comply with the Election Programme Code which is available on the BSA website (www.bsa.govt.nz). Complaints are made directly to the Broadcasting Standards Authority (online at www.bsa.govt.nz or PO Box 9213, Wellington). For advice on the Code contact the BSA (telephone 0800 366 996 or email info@bsa.govt.nz).

The content of advertising in other media (including websites) comes within the jurisdiction of the Advertising Standards Authority (ASA). Advertising must comply with the ASA Codes of Practice. The codes are available on the ASA website (www.asa.co.nz).



Complaints can be made to the Advertising Standards Complaints Board (telephone 04 472 7852 or email asa@asa.co.nz).

3.16 Electoral signs

Local authorities are responsible for regulating when, where and how signs, including election signs can be displayed. Candidates and parties should consult with their local authority about the rules in their area before putting up any election signs.

The Electoral Act 1993 allows for election signs up to three square metres in size to be put up in the two months before polling day. This provision overrides any more restrictive local authority rules about sizing and timing of the display of signs.

Any local authority rules about things like application procedures and the location and density of signs still apply. Larger signs may be put up if the local authority rules allow. Signs may be

put up earlier if local authority rules allow.

You must not pay an elector of a district for providing a place to exhibit a sign or hoarding in that district unless it is in the course of the elector's business.

It is an offence under the Electoral Act to display election signs on election day. There is no other restriction in the Act on when electoral signs may be displayed.

You do not have to account for the costs of the framework used to support a hoarding as an election expenses (see Part 4 for more information on what are election expenses).

3.17 Using schoolrooms for election meetings

Electorate and list candidates are entitled to hold election meetings in public schoolrooms free of charge (apart from the cost of lighting, cleaning and repairing any damage). Three days notice must be given to the governing body of the school. Applications must be granted on a "first come first served" basis.

3.18 Treating

Treating is the provision of food, drink, and entertainment to persons with the intention of corruptly influencing their vote and is a criminal offence. *[See section 217 of the Electoral Act for a full description].*

The consequences of being found guilty of treating are:

- you lose your seat if you have been elected,
- you are not eligible to register as an elector for 3 years, and
- you may be sentenced to two years in prison and a \$40,000 fine.



The Electoral Act states that the provision of a light supper after an election meeting does not constitute the offence of treating. The provision of a cup of tea or coffee and a light snack after a campaign meeting, therefore, is not treating.

You should be cautious about providing refreshments that do not clearly fall within the above exception to avoid complaints being made during the election campaign that you have breached the treating provisions.

3.19 Advance voting

Advance voting for those who are unable to get to a polling place on polling day will be available from 9 November 2011 (17 days before polling day) up to 25 November 2011 (the day before polling day). The prohibitions applying to electioneering on polling day do not apply during the advance voting period (for further information about the restrictions on election day refer to Part 6). However, parties and candidates are asked to exercise restraint in the vicinity of

advance voting facilities to avoid complaints during and after the election campaign. (Locations will be published on www.elections.org.nz).

3.20 Contact with public servants

Public servants serve the government of the day. In order to maintain the confidence of successive governments, they must act and be seen to act apolitically. Therefore, public servants, whether in national, regional or local offices, must not comment on:

- party political matters, or
- the merits of policy, or
- alternatives to policy.

If you have questions on these matters you should address them to Ministers.

You, like any other member of the public, may get information from public servants under the Official Information Act.

You can get more detailed information on contact with public servants from the State Services Commissioner's website: www.ssc.govt.nz

PART 4: ELECTION EXPENSES AND DONATIONS

4.1 Introduction

Amendments to the Electoral Act on 1 January 2011 made a number of changes to the obligations and requirements on candidates regarding election expenses and donations.

Candidates no longer need to appoint a financial agent for the purposes of candidate expenses and donations.

ELECTION EXPENSES

4.2 Expenditure limit

An electorate candidate's election expenses during the regulated period must not exceed \$25,000 (including GST). It is a serious offence to spend more than this.



The regulated period for the 2011 General Election will start on Friday 26 August 2011 and will end on the close of 25 November 2011 (the day before polling day).

If you are representing a registered party, you should stay in touch with your party secretary on advertising. This is because there can be boundary problems between advertising by candidates and advertising by the party, with consequential effects on the expenditure limits and expenditure returns of the candidate and the party.

The election expense regime does not apply to people who are list candidates only. Any spending by those candidates promoting the party is an election expense of the party and must be authorised by the party secretary.

4.3 Election expenses

A candidate's election expenses are the costs of advertising in any medium that:

- may reasonably be regarded as either encouraging voters to vote for the candidate, or discouraging voters from voting for another candidate, or both (whether or not the name of the candidate(s) are mentioned),
- is published, or continues to be published, during the regulated period, and
- is promoted by the candidate or any person (including a registered promoter) authorised by the candidate.

[See section 205 of the Electoral Act].

Candidate election expenses include:

- the cost incurred in the preparation, design, composition, printing, postage and publication of the advertisement,
- the reasonable market value of any materials used for the advertisement, including materials provided to the candidate for free or below reasonable market value,
- the apportioned costs for advertisements that promote two or more candidates, or a party and a candidate (see 4.4 below for further information on apportionment).
- the entire advertising expenses of an advertisement that is both a candidate advertisement and a referendum advertisement (see Part 5 for further information on referendum advertising and expenses).

[See section 3E of the Electoral Act].

A candidate's deposit or the costs of food, hall hire, surveys or opinion polls, free labour, or replacing materials destroyed through no fault of the candidate are not election expenses. The cost of any framework that supports a hoarding (other than a commercial framework) is no longer an advertising expense.

Surveys and opinion polls

The exclusion for surveys or opinion polls is not unlimited. If a survey goes beyond merely eliciting voters' views and can reasonably be regarded as encouraging voters to vote for a constituency candidate or a political party then it will not be a survey or opinion poll for the purposes of the Act. It will be an election advertisement and the costs associated with the survey are election expenses. The Electoral Commission is happy to review a proposed script or survey and provide a view on whether or not it is an election advertisement, candidate advertisement and/or party advertisement.

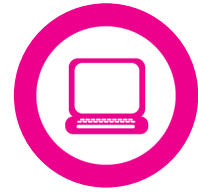
If it is a candidate advertisement undertaken by phone canvassers who provide their labour free of charge, the costs are exempt. Any other costs incurred (for example, line rental and costs of any calls) would be an expense. The costs of paying any canvassing company to undertake the canvassing would be an election expense.

Signage on vehicles

The costs of candidate advertisement signage on campaign cars and other forms of mobile candidate advertising are election expenses. However, advertising expenses do not include the 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 payment.

Websites

Election expenses in relation to candidate advertisements published on a website include the costs that you incur preparing, designing and publishing the advertisement including hosting fees. They do not include the costs of setting up and maintaining the hardware and software infrastructure of the website.



Items distributed for public display

If you distribute items such as t-shirts, bumper stickers and flags before 26 August 2011 (the start of the regulated period), you should assume that they will continue to be displayed during the regulated period and include the cost of these items as an election expense. [See section 205D of the Electoral Act]. (See section 4.5 for details on how the expense is apportioned).

However, care should be exercised with such items because you could be exposing your supporters to the risk of prosecution if they display the items on election day (see section 6.2).

Re-used materials

Expenses cannot be apportioned between elections. If materials such as banners are purchased and then re-used in subsequent elections, at each subsequent election you must account for the reasonable market value of the materials as an election expense. We advise candidates to err on the side of caution when determining 'reasonable market value'. We suggest that a party either use the price that was originally paid for the item, or if this is not known, what the item would cost to purchase now based on two quotes.

Staff time

The cost of labour provided to you free of charge is not an election expense. The cost of paid campaign staff, for example a campaign manager, is also not an election expense unless the staff member is directly involved in the preparation, design, composition, printing, postage or publication of election advertising. An example where paid staff might be an expense is where the staff member is directly involved in preparing copy or artwork.

4.4 Election expenses paid for before or after the regulated period

Expenses paid for or incurred either before the regulated period or after 26 November 2011 (polling day) must be included in the return to the extent to which they relate to election advertisements published within the regulated period.

Where a candidate advertisement is published before and during the regulated period, the candidate is responsible for apportioning the advertising expenses so that only a fair proportion of the expense is attributed to the regulated period.

4.5 Apportioning election expenses

It will be necessary for a candidate to apportion election expenses if the total expenses of an election advertisement relate partly to the promotion of the candidate concerned and partly for another purpose. Examples where apportionment is required are:

- an advertisement promotes both the candidate and the party,
- an advertisement promotes two or more candidates,
- an advertisement promoting the candidate runs before and during the regulated period.

Apportionment is a factual exercise determined by the circumstances of each case. The Electoral Commission is happy to discuss any apportionment questions.

Candidates sharing advertising costs with a party seeking the party vote should discuss apportionment arrangements with the party secretary.

See Appendix D for a summary of how the costs of election advertisements are to be accounted for, and Appendix E for an example to illustrate the principles to be applied.

4.6 Election expenses for advertisements promoted by third party

Expenses cannot be apportioned with third party promoters. If you authorise someone else to publish advertising encouraging people to vote for you, the cost of the advertising will form part of your candidate election expenses. The same costs will also be an election expense of the third party.

You will need to obtain information from the third party about costs incurred.

The advertising and expenditure rules that apply to third parties are set out in the booklet *Third Party Handbook – 2011 General Election and Referendum*.

4.7 Expenses for joint election and referendum advertisements

Expenses cannot be apportioned between joint election and referendum advertisements.

If a candidate promotes an advertisement that encourages people to vote for the candidate and supports a particular option in the referendum, the entire cost of that advertisement must be accounted for twice by the candidate: first as an election expense and second as a referendum expense.

If the candidate authorises a third party to publish the same advertisement the entire cost of the advertisement will form part of the candidate's election expenses. The same costs will also need to be included as part of the third party's election expenses and referendum expenses (see Part 5 for further information on referendum advertising).

See Appendix D for a summary of how the costs of election advertisements are to be accounted for.

4.8 Paying election expenses

Invoices for election expenses must be sent to a candidate within 20 working days of the official result being declared. The Electoral Commission expects that the deadline will fall on 27 January 2012, unless there are recounts.

The candidate must pay any bill within 40 working days of the declaration. It is an offence not to do this. Sections 205H and 205I of the Electoral Act set out a procedure to follow if a bill is disputed. The Electoral Commission expects that the deadline will fall on 27 February 2012, unless there are recounts.

DONATIONS

4.9 Candidate donations



A candidate donation is a donation of money, goods or services that is made for use in the candidate's campaign. [See section 207 of the Electoral Act].

Candidate donations, and contributions to donations, of more than \$1,500 (inc GST) are required to be declared in the candidate return of expenses and donations. A series of donations made by one person that adds up to more than \$1,500 must also be declared.

A candidate donation includes:

- where a candidate is provided with goods or services free of charge that have a reasonable market value greater than \$300,
- where a candidate is provided with discounted goods or services and the reasonable market value of the goods or services is greater than \$300, the difference between the contract or agreed price and the reasonable market value of those goods and services is a donation,
- where a candidate sells over-valued goods or services the difference between the price paid and the reasonable market value is a donation, for example a fundraising auction or dinner,
- where credit is provided to a candidate on more favourable terms than those prevailing at the same time for similar credit, the value of the favourable terms is a donation.

The following are **not** a candidate donation:

- volunteer labour,
- goods or services provided free of charge to a candidate, or to any person on the candidate's behalf that have a reasonable market value of \$300 or less, or
- money provided by the candidate for his or her own campaign.

If a person or organisation gives or pays for goods or services that would otherwise be candidate election expenses, or a candidate's party gives or pays for expense items, the reasonable market value of those items, whatever their value, should be recorded as an election expense. If the reasonable market value of the items exceeds \$300 it should also be recorded as a donation.

4.10 Donations made up of contributions

A donation can be made up in part by funds contributed by more than one person (contributors), for example where there is a collection or whip-round for a candidate's campaign. *[See section 207 of the Electoral Act].*

The total proceeds of a collection or whip-round are treated as a donation under the Electoral Act. The person who collects the money will normally be the donor. The individuals who contribute to the collection are contributors for the purposes of the Act.

If a candidate donation, other than an anonymous donation, is made up of contributions, the transmitter or donor must tell the candidate:

- the name and address of the donor,
- whether the donation is made up of contributions,
- the total amount of individual contributions of \$1,500 or less, and
- in the case of individual contributions greater than \$1,500, the name, address, and contribution of each contributor and whether any of them are 'overseas persons' (see paragraph 4.14 below).

If the candidate knows, or has reasonable grounds to believe, that the donor has failed to supply information about contributions, the whole donation must be returned to the donor.

4.11 Raffles, cake stalls, and other fundraisers

Providing a candidate with free cakes or other goods or services to use for fundraising is not making a donation for the purposes of the Electoral Act if the value of the items given is worth \$300 or less. Purchasers of raffle tickets and cakes from a cake stall are not 'donors' as they are not making a donation to anyone. The total proceeds of a raffle or a cake stall for a candidate's campaign are treated as a donation. The person who runs the raffle or cake stall will normally be the donor.



If the total funds from the raffle or cake stall are over \$1,500, then the candidate's return must include the name and address of the person who ran the fundraiser and subsequently donated the proceeds, along with the total amount given and the date that the donation was received by the candidate.

Whether the individuals who purchase a ticket or buy a cake are 'contributors' depends on whether they bought their ticket in the knowledge or expectation that some or all of the money paid would be included in a donation to the candidate. This will be a question of fact. It would need to be very clear to purchasers that it is a candidate fundraiser for the purchasers of tickets to be 'contributors'.

If the purchasers of raffle tickets are 'contributors', the organiser must tell the candidate at the time of making the donation that the donation is funded from contributions. The donor must also disclose whether the donation is made up of contributions of more than \$1,500. If an individual pays more than \$1,500 for raffle tickets, their name and address would have to be disclosed in the candidate's donation return, along with the amount of their contribution.

If a ticket is sold to a fundraising event, such as a dinner, or an item is auctioned at a fundraising auction, the difference between the price paid for the ticket and the reasonable market value of the ticket is a donation. Determining the reasonable market value for unique items may be difficult: for example, if you have speakers at the dinner or auction a one-off item. However candidates should not rely on the price paid at a fundraising auction as evidence of reasonable market value.

In the absence of an objective basis to value the donation component that the candidate can defend, the Electoral Commission's advice would be to err on the side of caution and treat the entire difference between the ticket price or auction price and the reasonable market value of assessable goods or services such as food and beverages, as a donation.

4.12 Transmitted donations

A donation can be made either directly by the donor to the candidate or indirectly by a transmitter who transmits a donation to the candidate on someone else's behalf, for example via a lawyer's trust fund. Any person who receives a candidate donation on the candidate's behalf must transmit it to the candidate within 10 working days.

When transmitting a donation, the transmitter must tell the candidate:

- that the donation is being transmitted on behalf of a donor,
- the name and address of the donor,
- whether the donation is made up of contributions,
- the total amount of contributions of \$1,500 or less, and
- in the case of contributions greater than \$1,500: the name, address, and contribution of each contributor and whether any of the contributors are 'overseas persons' (see paragraph 4.14 below).

Where a transmitter does not disclose the name and address of the donor, the donation must be treated as an anonymous donation (see paragraph 4.13 below).

4.13 Anonymous donations

Candidates are not allowed to retain anonymous donations exceeding \$1,500. An anonymous donation is a donation made in such a way that the candidate who receives the donation does not know the identity of the donor and could not, in the circumstances, reasonably be expected to know the identity of the donor. *[See section 207 of the Electoral Act].*

If a candidate receives an anonymous donation greater than \$1,500, he or she may retain \$1,500 of that donation. The balance of the donation must, within 20 working days of receipt, be paid to the Electoral Commission for payment into a Crown bank account.

4.14 Overseas donations

Candidates are not allowed to retain donations or contributions of more than \$1,500 made by an overseas person. *[See section 207K of the Electoral Act].*

An overseas person is:

- an individual who resides outside New Zealand and is not a New Zealand Citizen or registered elector,
- a body corporate incorporated outside New Zealand, or
- an unincorporated body that has its head office or principal place of business outside New Zealand.



If a candidate receives a donation from an overseas person exceeding \$1,500, he or she can retain \$1,500 of that donation. The balance of the donation must, within 20 working days of receipt, either be returned to the overseas person who made the donation, or if this is not possible, be paid to the Electoral Commission for payment into a Crown bank account.

If a candidate receives any donation from a donor who is not an overseas person that includes a contribution from an overseas person greater than \$1,500, the candidate must return the whole donation to the donor. If that is not possible, the candidate must forward the whole donation to the Electoral Commission for payment into a Crown bank account.

4.15 Keeping records of expenses and donations

Candidates must take all reasonable steps to keep records of all candidate donations received (even donations of less than \$1,500) and all candidate election expenses. Candidates must keep invoices and receipts for all election expenses of \$50 or more for 3 years after polling day.

4.16 Return of election expenses and donations

After a general election all electorate candidates are required to file a return of candidate expenses and donations with the Electoral Commission. *[See sections 205K and 209 of the Electoral Act].*

If there are no election expenses or donations to report on, the candidate must file a nil return. The returns are open to public inspection and will be published on the Electoral Commission's website.

Candidates representing registered parties are recommended to consult closely with their party secretary about their expense returns. This is because boundary problems may arise between the candidate's expense return and the party's expense return.

Election expenses

The return must:

- be made on form ***M30-Cand Exp***, and
- be filed within 70 working days of polling day (26 March 2012)

The return form (***M30-Cand Exp***) is available through the Electoral Commission, through your party secretary, or at www.elections.org.nz

The form requires the candidate to provide details of all candidate election expenses incurred, including expenses incurred by any person authorised by the candidate.

The advertising expenses of unregistered promoters and registered promoters that the candidate has authorised need to be included in the form.

Donations

Part 1 of the return form concerns candidate donations.

To complete the requirements of this part of the return, the candidate will need to be able to provide details about all donations or contributions of more than \$1,500. This includes more than one donation made by, or on behalf of, the same person for use in the same campaign that when aggregated adds up to more than \$1,500.

Candidates will need to have systems in place to track aggregated totals by donors for the purposes of the return.

Donations exceeding \$1,500

For donations of more than \$1,500, other than anonymous donations or overseas donations, the candidate will need to provide the following details:

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

- whether the donation is made up of contributions of more than \$1,500, and if so:
 - the name and address of each contributor,
 - the amount of each contribution made by the contributor, and
 - the date on which each related donation funded from the contributions was made.

Anonymous donations

For anonymous donations exceeding \$1,500, the candidate will need to provide:

- the date the donation was received,
- the amount received, and
- the amount paid to the Electoral Commission and the date that such payment was made.

Donations from overseas persons

For donations by overseas persons exceeding \$1,500, the details required are:

- the name and address of the overseas person,
- the amount of the donation or, in the case of aggregated donations, the total amount of the donations,
- the date that the donation was received or, in the case of aggregated donations, the date each donation was received, and
- the amount paid back to the overseas person or paid to the Electoral Commission and the date that such payment was made.

Contributions from overseas persons

For contributions exceeding \$1,500 by overseas persons to any candidate donation, the candidate will need to provide:

- the name and address of the overseas person,
- the amount of the contribution,
- the date on which the related donation funded from the contribution was made, and
- the amount paid back to the donor or paid to the Electoral Commission, and the date that such payment was made.



A table summarising what needs to be disclosed for candidate donations is attached as Appendix F.

Candidates who fail to meet these requirements are committing offences and may be referred to the New Zealand Police.

4.17 List candidates only

A candidate who is on the list and does not contest an electorate is not required to file a return. Election expenses incurred and donations received must be returned by the party.

4.18 Return of nomination deposits

If you receive 5% or more of the votes cast for all candidates in the electorate you are entitled to a refund of the \$300 deposit paid when you were nominated. A deposit cannot be refunded until you have filed your Return of Election Expenses and Donations. If you were nominated by a party on its bulk nomination schedule, the deposit cannot be refunded until all candidates on the schedule have filed their returns.

PART 5: REFERENDUM ADVERTISING AND EXPENSES

5.1 Introduction

The Electoral Referendum Act 2010 sets out the rules for advertising in the 2011 Referendum.

The key messages are:

Referendum advertisements published from 1 January 2011 until 25 November 2011 must include a promoter statement.

Candidates broadcasting referendum advertisements need to consider the broadcasting rules.

Candidates promoting referendum advertisements will be 'promoters' under the Electoral Referendum Act.

Promoters must register with the Electoral Commission if they spend, or intend to spend, over \$12,000 on referendum advertising during the regulated period.

Registered promoters cannot spend more than \$300,000 on referendum advertising during the regulated period.

Registered promoters who spend more than \$100,000 on referendum advertising in the regulated period must file an expense return.

The full cost of advertisements that are both referendum and election advertisements are to be counted as both referendum expenses and electoral expenses.

A referendum advertisement cannot be published on polling day.

This part of the Handbook explains these rules in more detail.

The referendum advertising and expenditure rules that apply to third party promoters are set out in the booklet *Third Party Handbook – 2011 General Election and Referendum*.

REFERENDUM ADVERTISING

5.2 All referendum advertisements must contain a promoter statement

All referendum advertisements published from 1 January 2011 until the close of 25 November 2011 (the day before polling day) must include a promoter statement featuring the name and

address of the person that has initiated or instigated it ('the promoter'). [See section 42 of the Electoral Referendum Act].

Failing to include a promoter statement is an offence and subject to a fine of up to \$40,000.

The requirement for a promoter statement applies to all forms of referendum advertising in any medium. If the referendum advertisement is published in a visual form, the promoter statement must be clearly displayed in the advertisement. If the referendum advertisement is published only in an audible form, the promoter statement must be no less audible than the other content of the advertisement.

The Electoral Commission advises candidates to include a promoter statement on any referendum lapel badges as they may be considered to be a referendum advertisement (see Part 6 for further information on lapel badges).

For a registered promoter, the name and address in the promoter statement must be the same as the name and address that appears on the register.

5.3 Referendum advertisements promoted by a candidate

Referendum advertisements promoted by a candidate need to include a promoter statement that features the candidate's name and address.

The promoter statement requirements for referendum advertisements are the same as for election advertisements with necessary modifications (see section 3.2).

A candidate may promote their own election in combination with a referendum advertisement but the full costs of the advertisement have to be counted as a candidate referendum expense and as a candidate election expense. [See section 205 of the Electoral Act and section 40 of the Electoral Referendum Act].

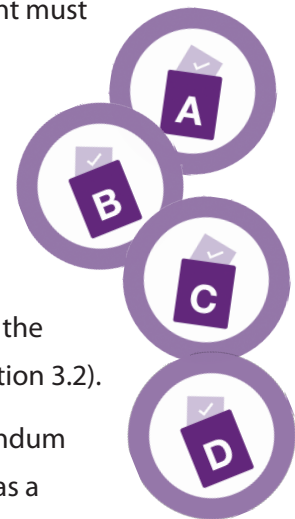
Similarly, a referendum advertisement the party promotes may also promote one or more of the party's electorate candidates with the written authorisation of each candidate. The full costs of the advertisement will have to be counted as the party's referendum expense.

The candidate will also need to account the full cost of the advertisement as an election expense.

5.4 What is a referendum advertisement?

A referendum advertisement is an advertisement in any medium that:

- is published in the period from 1 January 2011 until the close of 25 November 2011 (the day before polling day), and
- may reasonably be regarded as encouraging or persuading voters to vote, or not to vote, in a particular way in the referendum. [See section 31 of the Electoral Referendum Act].



The Electoral Referendum Act does not define 'advertisement' but, because the definition of 'referendum advertisement' covers an advertisement 'in any medium', the Electoral Commission considers that the term 'advertisement' should be interpreted broadly. For example, it is not limited to traditional forms of advertising such as newspapers, posters, billboards, leaflets, and radio and TV broadcasting. The Electoral Commission's view is that if an advertisement is open to an interpretation that it is an 'election advertisement', a promoter statement should be included.

The test is whether the advertisement can 'reasonably' be regarded as encouraging or persuading voters to vote, or not to vote, in a particular way in the referendum. This is an objective test. It is based on content and context regardless of whether the advertisement refers by name to a particular option in the referendum, or whether the encouragement or persuasion to vote, or not to vote, is direct or indirect.

The Electoral Commission is happy to discuss any questions that arise in respect of referendum advertisements.

All requirements in respect of referendum advertisements apply to:

- referendum advertisements published in New Zealand even if the promoter is outside of New Zealand, and
- referendum advertisements published outside of New Zealand where the promoter is in New Zealand.

[See section 3 of the Electoral Referendum Act].

Publish means to bring to the notice of a person in any manner excluding addressing one or more persons face to face. *[See section 3D of the Electoral Act].*

5.5 Joint referendum and election advertisements

A referendum advertisement promoted during the regulated period, particularly by a party or candidate, may also fall under the definition of an election advertisement. If you promote a referendum advertisement, assume the advertisement will also be deemed to be a candidate advertisement and that you will need to include the cost of the advertisement as both an election expense and a referendum expense.

[See section 205 of the Electoral Act and section 40 of the Electoral Referendum Act].

5.6 What is not a referendum advertisement?

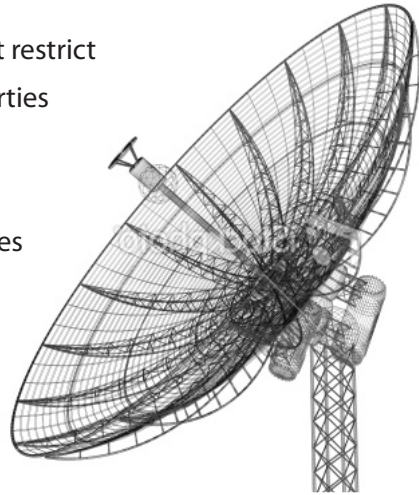
The legislation makes it clear that the following are not referendum advertisements:

- editorial content (see paragraph 3.5 for further information),
- personal political views online (see paragraph 3.5 for further information),
- statements that do not promote a particular option in Part A or B of the referendum voting paper.

5.7 Broadcasting

The Electoral Referendum Act and the Broadcasting Act do not restrict the broadcasting of referendum advertisements. However, parties and candidates would need to carefully consider whether any broadcasting that they undertake about the referendum falls under the definition of an 'election programme' for the purposes of the Broadcasting Act.

You should assume that a referendum advertisement promoted by a candidate will be an 'election programme'. If so, it can only be broadcast starting on 26 October 2011 (Writ day) up to and including 25 November 2011 (the day before polling day), and will be subject to the rules for broadcast of election programmes.



Broadcast of joint election programme and referendum advertisement

A candidate may use their own funds to pay for the broadcasting of a joint election and referendum advertisement. If a candidate broadcasts a joint advertisement it will be an 'election programme' for the purpose of the Broadcasting Act. The entire cost of the broadcasting, including money spent on production costs, will be both an election and referendum expense for the candidate.

Election programmes can only be broadcast starting on 26 October 2011 (Writ day) and up to and including 25 November 2011 (the day before polling day).

Appendix C provides a summary of the broadcasting rules applying to candidates.

REFERENDUM EXPENSES

5.8 Registration

The Electoral Referendum Act requires individuals or organisations who spend, or intend to spend, more than \$12,000 on referendum advertising during the regulated period to register as a registered promoter with the Electoral Commission.

The regulated period for the 2011 General Election will start on Friday 26 August 2011 and will end on the close of 25 November 2011 (the day before polling day).

The requirement to register applies to parties and candidates.

The form for registration is available from the Electoral Commission or its website www.elections.govt.nz. Details of registered promoters for the General Election and Referendum will be published on the website.

5.9 Expenditure limit

A registered promoter's referendum expenses during the regulated period must not exceed \$300,000 (incl GST).

5.10 Referendum expenses

A promoter's referendum expenses are the costs of advertising in any medium that:

- may reasonably be regarded as encouraging or persuading voters to vote or not to vote in a particular way in the referendum,
- is published, or continues to be published, during the regulated period, and
- is promoted by the promoter, or any person authorised by the promoter.

Promoters' referendum expenses include:

- the cost incurred in the preparation, design, composition, printing, distribution, postage and publication of the referendum advertisement,
- the reasonable market value of any material used for the advertisement, including materials provided to the promoter free of charge or below reasonable market value,
- the entire advertising expenses of an advertisement that is both a referendum advertisement and an election advertisement (see paragraph 5.12 below).

[See section 32 of the Electoral Referendum Act].

The costs of surveys or opinion polls, volunteer labour, any framework that supports a hoarding (other than a commercial framework), or the cost of replacing materials destroyed through no fault of the promoter are not referendum expenses.

Surveys and opinion polls

The exclusion for surveys and opinion polls is not unlimited. If a survey goes beyond merely eliciting voters' views and can reasonably be regarded as encouraging or persuading voters to vote or not to vote in a particular way in the referendum then it will not be a survey or public opinion poll for the purpose of the Electoral Referendum Act. It will be a referendum advertisement and the costs associated with the survey are referendum expenses.



Signage on vehicles

The costs of referendum advertisement signage on campaign cars and other forms of mobile advertising are referendum expenses. However, the referendum expenses do not include the running costs of any vehicle used to display a referendum advertisement if the use of the vehicle for that purpose is not the subject of a contract, arrangement or understanding for payment.

Items distributed for public display

If a candidate distributes items such as t-shirts, bumper stickers and flags before 26 August 2011 (the start of the regulated period), the candidate should assume that they will continue to be displayed during the regulated period and include the cost of these items as a referendum expense. *[See section 39 of the Electoral Referendum Act].*

However, care should be exercised with such items because you could be exposing your supporters to risk of prosecution if they display the items on election day (see section 6.2).

5.11 Referendum expenses paid before or after the regulated period

Expenses paid for or incurred, either before the regulated period, or after polling day, must be included in the return to the extent to which they relate to referendum advertisements published within the regulated period.

Where a referendum advertisement is published before and during the regulated period, the promoter is responsible for apportioning the advertising expenses so that only a fair proportion of the expense is attributed to the regulated period.

5.12 Expenses for joint referendum and election advertisements

Expenses cannot be apportioned between joint referendum and election advertisements.

If a candidate promotes an advertisement that encourages people to vote for the candidate and supports a particular option in the referendum, the entire cost of that advertisement must be accounted for twice by the candidate: first as an election expense and second, as a referendum expense.

If the candidate authorises a third party to publish the same advertisement the entire cost of the advertisement will form part of the candidate's election expenses. The same costs will also need to be included as part of the third party's election expenses and referendum expenses.

See Appendix D for a summary of how the costs of referendum advertisements are to be accounted.

5.13 Paying referendum expenses

Invoices for referendum expenses must be sent to the promoter within 20 working days of the Electoral Commission declaring the official results of the general election. The Electoral Commission expects that the deadline will fall on 27 January 2012, unless there are recounts.



The promoter must pay any bill within 40 working days of the declaration. It is an offence not to do this. Sections 59 to 60 of the Electoral Referendum Act set out a procedure to follow if a bill is disputed. The Electoral Commission expects that the deadline will fall on 27 February 2012, unless there are recounts.

5.14 Keeping records of referendum expenses

If the candidate is promoting referendum advertisements, the candidate must take all reasonable steps to keep records of the referendum expenses, including expenses incurred while they are not registered. All registered promoters must keep invoices and receipts for all referendum expenses of \$50 or more for three years after polling day.

5.15 Return of referendum expenses

Registered promoters who spend more than \$100,000 (incl GST) on referendum expenses during the regulated period must file a return with the Electoral Commission.

The return must:

- be made on form ***M-41 Prom Exp Ref***, and
- be filed within 70 working days after polling day for the general election (before 26 March 2012).

The return form (***M-41 Prom Exp Ref***) is available through the Electoral Commission or its website at www.elections.govt.nz

The form requires the promoter to provide details of all referendum expenses incurred, including expenses incurred by any person authorised by the promoter.

The referendum expenses of promoters of referendum advertisements that the promoter has authorised need to be included in the form.

The Electoral Commission may require a registered promoter to obtain an auditor's report if the Commission has reasonable grounds to believe that a return may contain any false or misleading information.

Promoters who fail to meet these requirements are committing offences and may be referred to the New Zealand Police.

The returns are open to public inspection and will be published on the Electoral Commission's website.

5.16 Polling day activities

Referendum campaigning on polling day is prohibited and is a criminal offence. The full list of prohibited activities is set out in section 197 of the Electoral Act and effectively prohibits anything on polling day (26 November 2011) which can be said to interfere with or influence voters, including processions, speeches or public statements. Please consult section 197 for further information.

The prohibitions apply with any necessary modification to referendum activities. For example, any activities (including advertising) that promote a particular option on the referendum are prohibited on polling day. There is an exception for party and referendum lapel badges. Party officials and supporters can wear both a party lapel badge (or rosette) and a referendum lapel badge (or rosette).

For further information see Part 6.

PART 6: ELECTION DAY

6.1 Introduction

Any activities (including advertising) promoting the election of a candidate or party, or promoting the non-election of a party or candidate, are prohibited on polling day and are a criminal offence. The full list of prohibited activities is set out in section 197 of the Electoral Act which effectively prohibits anything that can be said to interfere with or influence voters, including processions, speeches or public statements. You should be particularly careful to avoid any grounds for complaints against you or your party. Apparent breaches of the law are reviewed by the Electoral Commission and, where appropriate, referred to the New Zealand Police. The Electoral Commission is happy to discuss any interpretation difficulties you face in respect of this prohibition.

6.2 Campaigning on polling day is a criminal offence

Before polling day (26 November 2011) you must remove or cover all your election advertising that can be seen from a public place. Returning Officers are authorised to remove or cover advertising and charge the costs to the people responsible.

Signs on vehicles, including bumper stickers, must be covered or removed. T-shirts and flags featuring party or candidate names, emblems, slogans or logos cannot be displayed on election day. For this reason, the distribution of candidate or party bumper stickers, t-shirts and flags is not recommended. Once distributed, you cannot be sure that they will not continue to be displayed on polling day. You could expose your supporters to the risk of inadvertently committing an offence.

Delivery of election material prohibited

You must not deliver election material through the post or directly to mailboxes on polling day. To avoid breaches, NZ Post will not accept mail for delivery after the Thursday in the week before polling day (i.e. Thursday 17 November 2011). To reduce the risk of postal delivery on election day, candidates should also ensure that any mail is clearly identifiable as being election related. If you or your supporters hand-deliver election material directly to mailboxes on the Friday before polling day, you can expect complaints by voters who think the material arrived on polling day. Those complaints will be reviewed by the Electoral Commission and, where appropriate, referred to the New Zealand Police.

Contacting voters

You may wish to offer voters assistance to get to the polling place. You are entitled to contact potential voters on polling day for that purpose. But you are not allowed to say or do anything which encourages them to vote for you or for your party.

If your supporters are contacting voters door-to-door or by phone the Electoral Commission recommends that you provide them with a script and advise them to adhere to it to ensure that they do not make any statement that breaches the law.

The script should not include reference to the candidate's name to ensure that there can be no suggestion that the canvasser is attempting to raise the profile of the candidate on election day. A phone canvasser can introduce themselves as ringing on behalf of the party.

The Electoral Commission is happy to provide you with its view on whether any script complies with the rules for election day.

Websites

Election material does not have to be removed from a website on polling day, so long as the material on the site is only made available to people who voluntarily access it. New material must not be posted on the website on polling day. Advertisements promoting the website must not be published on polling day. You will need to ensure that public message boards and comment areas on your website cannot be added to on election day. If you use social media, do not post messages on election day that could breach these rules.

Streamers, rosettes, ribbons etc

Streamers, rosettes (other than those designed to be worn on the lapel), ribbons and similar items in party colours may be displayed on polling day but only on people or vehicles and must not contain party names, emblems, slogans, logos or your name.

Party lapel badges

You and your supporters may wear party lapel badges in public on polling day. A party lapel badge is a badge or rosette designed to be worn on the lapel and bearing the party's name, emblem, slogan or logo. Do not display the lapel badge on vehicles or in other places on polling day.

Do not show your name on the lapel badge.

The Electoral Commission advises parties to include a promoter statement on its party lapel badges as they may be considered to be an election advertisement.

Clothing promoting the party or candidate

Clothing (such as T-shirts) promoting the party or candidate must not be displayed on polling day.



Presence in polling places

Candidates may only enter a polling place to vote. After voting, they must leave. Candidates should not enter a polling place to interact with scrutineers. If a candidate wishes to be filmed or photographed voting, they must have the approval of the Returning Officer. Approval will be given on condition that:

- the filming or photographing does not disrupt the polling place, and
- no interviews are given in the polling place or in the area around it.

Parties and candidates are asked to exercise restraint in the vicinity of polling places to avoid complaints.

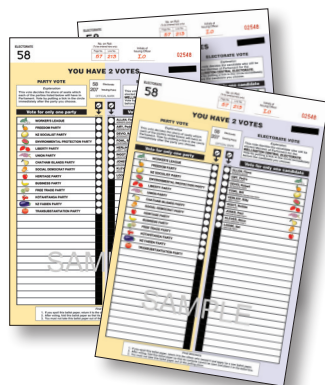
MP signage

It is an offence to exhibit any party name, emblem, slogan or logo on a vehicle on election day. MP's sign-written vehicles that include a party name, emblem, slogan or logo should not be displayed on election day.

6.3 Imitation ballot papers

Do not print or distribute, on polling day or after midnight on the Tuesday before polling day, anything which imitates a ballot paper (or part of a ballot paper) to be used at the election and which contains any direction or matter likely to influence a voter. Do not print or distribute on polling day any card or paper showing the candidates or parties even if it is not an imitation of a ballot paper.

In the past the issue has arisen as to whether election advertising in newspapers offends the legislative provision against imitation ballot papers. Whilst each case depends on its facts, the use in an advertisement of a tick against a party name or candidate name does not, of itself, offend the provision.



PART 7: GENERAL ELECTION AND REFERENDUM RESULTS

7.1 Preliminary results – election night

After the polling place closes at 7.00pm on polling day and all voters have left, the manager of every polling place will carry out the preliminary count of general election votes in the presence of scrutineers and polling place officials.

The ballot boxes are opened and the ballot papers, party votes and electorate votes are counted. The result is phoned in to the Returning Officer and it is then input into the Electoral Commission's National Election Results System. Results are displayed in real time on www.electionresults.govt.nz and at the same time are fed to television and radio media. The Electoral Commission's target is to have 50% of polling place results available by 10.00pm on election night and 100% of polling place results available by 11.30pm.

Referendum voting papers will not be counted in polling places. The referendum ballot boxes will be opened and checked for parliamentary papers, then sealed and returned to the Returning Officer to be counted during the Official Count. However, advance referendum votes will be counted and preliminary results reported on election night (see paragraph 7.2 below).

Special votes cast in polling places are also not opened and must wait for the Official Count.

7.2 Advance votes

Advance voting for the general election and referendum will start on 9 November 2011. Advance votes (other than advance special votes) may be counted from 2:00pm onwards on polling day at the Returning Officer's headquarters if the Returning Officer can provide appropriate security.

The counts will be undertaken in separate secure areas. Officials and scrutineers in the secure area for the advance early count of general election votes must stay there until 7.00pm.

Scrutineers will not be appointed for the early count of advance referendum votes. A Justice of the Peace will observe the count.

The Electoral Commission's target is to have advance vote results for the general election and referendum available by 8.30pm.

7.3 Official results for General Election and Referendum

The official results are compiled in the Returning Officer's headquarters by following a logical and meticulous process which starts the day after polling day. Electoral rolls are scrutinised to identify voters who have voted more than once, and to compile a list of all people who have

voted (the Master Roll). All parliamentary votes counted on election night are recounted and checked to ensure accuracy.

The Returning Officer checks the validity of all special vote declaration forms and the names of special voters against the electoral rolls and the list of late enrolments for the district. If the special voter is eligible to make a special vote and the voter's name is found the vote will be counted. The party and referendum votes of enrolled voters who voted on the wrong voting papers are also included in the count.

If a name cannot be found, the declaration form is forwarded to the Registrar of Electors to check the voting qualification of the special voter. If the Registrar can confirm that the voter is enrolled in the electorate, the vote will be counted.

The official results process will start on 27 November 2011 (the Sunday after polling day) but cannot be completed until after 6 December 2011 (the last legal day for receiving special votes from other electorates and Returning Officers overseas).

7.4 Declaration of official results

The Electoral Commission expects to publish the official results for the general election and referendum on about 10 December 2011 (14 days after polling day) by notice in the Gazette. The results will also be available at www.electionsresults.govt.nz

7.5 Judicial recounts

After the declaration of the official results electorate candidates can apply to a District Court Judge for a recount of the electorate vote.

The application to the Court must be:

- made within three working days of the declaration of the result, and
- accompanied by a deposit of \$1,000 (inclusive of GST).

If you wish to seek a recount, the Electoral Commission will provide you with information on the process to be followed.

Only party secretaries may apply for a recount of the party vote. For more information see *Party Secretary Handbook – 2011 General Election and Referendum* issued by the Electoral Commission. There is no provision for a recount of referendum votes.

7.6 Election of list candidates

The Electoral Commission determines which list candidates are elected using a statutory formula, after the results of any electorate recounts have been declared and the writ has been returned to the Clerk of the House with the names of the successful electorate candidates

endorsed on the back of the writ. The writ is the written notice from the Governor-General instructing the Electoral Commission to arrange for the conduct of a Parliamentary election.

The Electoral Commission publishes a notice in the Gazette to declare the election of list candidates.

The Electoral Commission expects to make this declaration on 15 December 2011 (19 days after polling day), subject to any recount applications.

7.7 Election petitions

The only way to challenge the election of an electorate candidate is by election petition. A petition may be brought by a voter or a candidate and is heard by three High Court Judges. It must be brought within 28 days of the Electoral Commission declaring the official results.

Only the party secretary of a party contesting the party vote can challenge the election of list candidates. To do this, they bring a petition to the Court of Appeal.

7.8 Referendum petitions

The only way to challenge the result of the referendum is by referendum petition. A petition may be brought by a group of 6 or more electors and is heard by three High Court Judges. It must be brought within 28 days of the Electoral Commission declaring the official results.

APPENDIX A:

Election sequence – 2011 General Election and Referendum

Friday 26 August	Regulated period for election and referendum advertising expenses begins
Thursday 20 October	Dissolution of Parliament
Wednesday 26 October	Writ Day Governor General issues formal direction to the Electoral Commission to hold the election
Thursday 27 October	Nominations Open
Monday 31 October Noon	Deadline for bulk nominations by registered political parties
Tuesday 1 November Noon	Deadline for individual nominations to Returning Officer
Wednesday 9 November	Advance and Overseas Voting starts
Friday 25 November	Advance Voting ends Last day to enrol for the election
Friday 25 November Midnight	Regulated period ends All election and referendum advertising must end and signs must be taken down
Saturday 26 November	Election Day Polling places open from 9.00am to 7.00pm Election Night Preliminary results released progressively from 7.00pm on www.electionresults.govt.nz
Saturday 10 December	Official results for general election and referendum declared (including special declaration votes)

APPENDIX B:

Quick guide for electorate candidates – common questions

The Quick Guide helps to answer the commonly asked questions during an election campaign and on polling day. It is not a comprehensive explanation of electoral law on campaigning. Readers should consult this Handbook, the electoral and referendum legislation and take their own legal advice when in doubt. The Electoral Commission is also willing to discuss any problems.

Election advertising

Topic	Electorate candidates can	Electorate candidates can't
Election advertising - radio and television	<p>Promote their own election in the period from writ day to the day before polling day (26 October 2011 to 25 November 2011).</p> <p>Identify the party they represent and its policies in order to promote their own election.</p>	<p>Broadcast outside the period from writ day to the day before polling day (26 October 2011 to 25 November 2011).</p> <p>Broadcast on polling day (26 November 2011).</p> <p>Promote the party vote or attack other candidates or parties.</p> <p>Broadcast without including their name and street address.</p>
Election advertising (other than television and radio)	<p>Promote their own election.</p> <p>Promote the party vote with written authorisation of their party secretary. The cost is treated as an election expense of the party, not the candidate. For apportionment of expenditure relating to shared advertising promoting the candidate and the party vote consult your party secretary.</p> <p>Attack the policies of other candidates or parties.</p> <p>Operate a website on polling day (26 November 2011).</p>	<p>Publish without including their name and street address.</p> <p>Publish on polling day (26 November 2011).</p> <p>Display in view of a public place on polling day (26 November 2011).</p> <p>Display on vehicles (including bumper stickers) in view of a public place on polling day (26 November 2011).</p> <p>Put new material on a website on polling day (26 November 2011).</p> <p>Advertise a website on polling day (26 November 2011).</p> <p>Use systems on polling day that make website advertising available to persons who haven't voluntarily accessed the website.</p>

Topic	Electorate candidates can	Electorate candidates can't
Election expenses (promoting the candidate)	Spend up to \$25,000 (incl GST) on candidate advertising published during the regulated period (26 August 2011 to 25 November 2011).	Spend more than \$25,000 (incl GST) on candidate advertising published during the regulated period (26 August 2011 to 25 November 2011).
Party lapel badges (a badge or rosette designed to be worn on the lapel) on polling day (26 November 2011)	Feature the party name, emblem, slogan or logo on a party lapel badge. Wear the lapel badge themselves. Have scrutineers, party officials, or supporters wear them.	Display party lapel badges on vehicles or in other places. Feature their name on a badge. Permit clothing to be worn on polling day promoting the candidate or party.
Streamers, rosettes (other than those designed to be worn on the lapel), ribbons and similar items on polling day (26 November 2011)	Display these in party colours. Have candidates, scrutineers, party officials or supporters wear them. Display them on vehicles.	Feature the party name, emblem, slogan or logo on the streamers etc. Display them on anything other than people or vehicles.

Referendum advertising

Topic	Candidates can	Candidates can't
Referendum advertising - radio and television	<p>Broadcast a referendum programme at any time before polling day. However, candidates would need to carefully consider whether any broadcasting about the referendum would fall under the definition of an election programme. If so, it can only be broadcast from 26 October (writ day) and subject to the rules for broadcast of election programmes.</p> <p>Broadcast a joint referendum and election programme subject to the rules for broadcast of election programmes</p>	<p>Broadcast on polling day.</p> <p>Broadcast without including the name and address of the promoter of the advertisement.</p>
Topic	Candidates can	Candidates can't
Referendum advertising (other than television and radio)	<p>Promote or attack a particular option.</p> <p>Publish a joint referendum and election advertisement subject to the rules for publication of election ads.</p> <p>Operate a website on polling day (26 November 2011).</p>	<p>Publish without including the name and address of the promoter of the advertisement.</p> <p>Publish on polling day (26 November 2011).</p> <p>Display in view of a public place on polling day (26 November 2011).</p> <p>Display on vehicles (including bumper stickers) in view of a public place on polling day (26 November 2011).</p> <p>Put new material on the website on polling day (26 November 2011).</p> <p>Advertise the website on polling day (26 November 2011).</p> <p>Use systems on polling day that make the advertising available to persons who haven't voluntarily accessed the website.</p>

Topic	Candidates can	Candidates can't
Referendum expenses	<p>Spend up to \$12,000 on referendum advertising during the regulated period.</p> <p>If they register with the Electoral Commission, a candidate can spend up to \$300,000 on referendum advertising during the same period.</p>	<p>Spend more than \$12,000 on referendum advertising during the regulated period without registering.</p> <p>If registered, spend more than \$300,000 on referendum advertising during the same period.</p>
Referendum lapel badges (a badge or rosette designed to be worn on the lapel) on polling day	<p>Feature a referendum option, emblem, slogan or logo on referendum label badges.</p> <p>Have scrutineers, candidates, party officials or supporters wear them as well as a party lapel badge.</p>	<p>Display referendum lapel badges on vehicles or in other places.</p> <p>Permit scrutineers, candidates, party officials or supporters to wear clothing promoting a referendum option.</p>
Streamers, rosettes (other than those designed to be worn on the lapel), ribbons and similar items on polling day	<p>Display these in colours identified with a referendum option.</p> <p>Have scrutineers, candidates, party officials and supporters wear them.</p> <p>Display them on vehicles.</p>	<p>Feature a referendum option, emblem, slogan or logo on the streamers etc.</p> <p>Display them on anything other than people or vehicles.</p>

APPENDIX C:

Summary - election advertising rules for electorate candidates

Broadcast advertising	When broadcasts allowed	Must be authorised by ²	Party expense?	Electorate candidate expense?
Promoting party, candidate and party, or attacking another party or candidate	Not allowed	Not applicable	Not applicable	Not applicable
Promoting electorate candidate only	From writ day to day before polling day	Electorate candidate	Not applicable	Yes
Party promoting both electorate candidate and party (using party's broadcast allocation)	From writ day to day before polling day	Party secretary and electorate candidate	No – paid from Electoral Commission allocation	Yes (for the cost of the portion of the ad relating to the electorate candidate) and value is a donation by the party to that candidate.
Party promoting electorate candidate (using party's broadcast allocation)	From writ day to day before polling day Electorate candidate	Electorate candidate	No – paid from Electoral Commission	Yes, and value is a donation by the party to the electorate candidate
Non-broadcast advertising	Period for which counted as election expense ¹	Must be authorised by ²	Party expense?	Electorate candidate expense?
Promoting party or attacking party or candidate	Regulated period (26 August to 25 November 2011)	Party secretary	Yes	No
Promoting electorate candidate	Regulated period	Electorate candidate	No	Yes
Promoting both electorate candidate and party	Regulated period	Both the party secretary and electorate candidate	Yes (for the cost of that portion of the ad relating to the party)	Yes (for the cost of that portion of the ad relating to the electorate candidate)

Summary: referendum advertising rules for candidates

Referendum advertisements	Period for which counted as referendum expense	Must be authorised by ²	Party referendum expense?	Electorate Candidate expense?
Broadcast referendum ad promoting an option or attacking an option. ³	Regulated period (26 August 2011 to 25 November 2011)	Candidate	No	Yes ³
Non-broadcast ad promoting an option or attacking an option	Regulated period	Candidate ⁴	No	Yes – referendum and election ³
Referendum ad and election ad promoting a candidate or attacking another candidate or party	Regulated period	Candidate	No	Yes - referendum and election
Referendum ad and election ad promoting party	Regulated period	Both the candidate ⁴ and party secretary	Yes – referendum and election	Yes - referendum and election
Referendum ad and election ad promoting party and electorate candidate	Regulated period	Both the candidate and party secretary	Yes – referendum and election	Yes – referendum and election

¹ There are no restrictions on when non-broadcast advertisements can be published.

² Authorisation must be in writing. In addition, the advertisement when broadcast or published must state the name and address of the person initiating or instigating the advertisement ('the promoter'). For a referendum advertisement promoted by a candidate this will be the candidate. A Post Office box or website address is insufficient. The address can be the full street address of either the place where the candidate usually lives or any other place where he or she can usually be contacted between the hours of 9.00am and 5.00pm on any working day.

³ However, candidates would need to carefully consider whether any broadcasting about the referendum would fall under the definition of an election programme for the purposes of the Broadcasting Act and an election advertisement for the purposes of the Electoral Act. If so, it can only be broadcast from 26 October (writ day) and subject to the rules for broadcast of election programmes. If it is also an election advertisement for the purpose of the Electoral Act production costs will also be both an election and referendum expense.

The Electoral Commission advises that if a candidate promotes a referendum advertisement you should assume the advertisement will also be deemed to be a candidate advertisement.

⁴ The Electoral Commission advises that if a candidate promotes a referendum advertisement you should assume the advertisement will also be deemed to be a candidate advertisement.

APPENDIX D: Allocation of advertising expenses for advertisements promoted by candidates

Assumes: the cost of each advertisement is \$1,000; the party secretary has authorised any positive party advertisement; and advertisements that promote more than one message are in equal proportions.

	Candidate Y election expense	Candidate Y referendum expense	Political party A election expense	Political party A referendum expense
A. Vote Candidate Y	\$1000	-	-	-
B. Vote Referendum Option X	\$1000	\$1000	-	-
C. Vote Party A	\$500	-	\$500	-
Vote Candidate Y				
D. Vote Candidate Y	\$1000	\$1000	-	-
Vote Referendum Option X				
E. Vote Party A	\$666	\$1000	\$666	-
Vote Referendum Option X				
Vote Candidate Y				

¹ The Electoral Commission advises that if a candidate promotes a referendum advertisement you should assume the advertisement will also be deemed to be a candidate advertisement. The candidate will need to include the cost of the advertisement as an election expense.

APPENDIX E:

Apportioning election expenses between party and candidate

Advertising promoting an electorate candidate is an election expense of the candidate.

Advertising promoting the party vote is an election expense of the party. These rules apply regardless of who pays the expenses.

Sometimes the dividing line is not clear and an apportionment may be necessary. A common example is an advertisement which calls for both the party vote and the election of a constituency candidate. The following example illustrates the principles to be applied, but we are happy to discuss particular problems.

Example

FACTS

- (1) Party X is contesting the party vote. Mrs Y is standing in an electorate as a candidate for Party X.
- (2) Party X and Mrs Y agree to arrange advertising to be displayed by billboard for 3 months during the regulated period.
- (3) The content of the advertising comprises two parts. The first part asks voters to give their party vote to Party X. The second part asks voters to give their electorate vote to Mrs Y. From a content perspective, the advertisement can be factually judged as relating 40% to the party vote and 60% to the electorate vote.
- (4) The total cost of the advertising is \$13,000. An analysis of the total cost based on invoices and other evidence reveals the following:

A. Costs relating to the candidate vote	
● Artwork and photography of the candidate	\$1,000
B. Costs relating to the party vote	
● Artwork and photography of the party leader	\$2,000
C. Joint costs	
● General design, production, printing, material, assembly, transport	\$8,000
● Site rentals paid for 3 months during the regulated period	\$2,000
Total election expenses	\$13,000

ALLOCATION OF COSTS

Some costs clearly relate to the candidate (A in the example). Other costs clearly relate to the party (B in the example). The joint costs (C in the example) require apportionment on a factual basis which in this example means 60% of those joint costs will be allocated to the candidate and 40% allocated to the party.

The expenses should therefore be returned as follows:

Candidate		Party	
A. Artwork and photography of the candidate	\$1,000	B. Artwork and photography of the party leader	\$2,000
C. Joint costs General design, production, printing, material, assembly, transport	\$4,800 (60%)	C. Joint costs General design, production, printing, material, assembly, transport	\$3,200 (40%)
Site rentals for 3 months	\$1,200 (60%)	Site rentals for 3 months	\$800 (40%)
Candidate's return of expenses	\$7,000	Party's return of expenses	\$6,000

This result is not affected by the payment arrangements (if any) made between the candidate and the party. If each pays the share allocated to them no other issues arise. But if, for example, the party pays the whole \$13,000, the candidate would need to disclose in her return a donation of \$7,000 from the party.

APPENDIX F:

Summary of disclosure information for candidate donations

Donations

The disclosure requirements apply to aggregations of donations from the same donor.

	Candidate donations >\$1,500	Anonymous donations >\$1,500	Overseas donations >\$1,500
Name and address of donor	✓	-	✓
Amount of donation(s) (incl total amount of donation if aggregated)	✓	✓	✓
Date(s) donation was received	✓	✓	✓
Whether the donation is made up of contributions	✓	-	✓
Amount returned to donor, or paid to Electoral Commission, and date	-	✓	✓

Contributions

The disclosure requirements apply to aggregations of contributions from the same contributor.

	Contributions >\$1,500	Overseas contributions >\$1,500
Name and address of each contributor	✓	✓
Date(s) contribution was received	-	✓
Amount of contribution (incl total amount of contributions if aggregated)	✓	✓
Date and amount of related donation	✓	✓
Amount returned to donor, or paid to Electoral Commission, and date	-	✓

APPENDIX G:

List of forms for parliamentary candidates

M-Cons*	Candidate Consent to Inclusion of Name in Bulk Nomination Schedule, on the Party List, or both
M40-Nom	Candidate Nomination Paper (for candidates not included in a bulk nomination schedule from a party)
M40-Wd	Notice of Withdrawal of Nomination
M40-Canc	Application to cancel a candidate's nomination on the grounds of incapacity
E20-S Dec	Declaration (of secrecy) by scrutineer
E20-S App	Appointment of candidate's scrutineers Form
M41-Adv Op	Advisory Opinion Request Form
M41-Prom Reg	Registration of Promoter for the 2011 General Election and Referendum
M30-Cand Exp	Return of Electorate Candidate's Election Expenses and Donations 2011 General Election

** Obtainable from the secretary of the party.*