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Introduction

This booklet is designed to provide Parliamentary candidates with information about the law governing the conduct of Parliamentary elections, and to give some practical advice. All references to candidates in the booklet are references to both electorate and list candidates unless otherwise specified. It is not an exhaustive description of the law. Candidates should refer to the relevant legislation for a detailed description of the law. The relevant legislation is:

The Electoral Act 1993 The Electoral Regulations 1996

Candidates who are unsure of their legal rights and obligations should obtain advice from their party organisation, or seek legal advice. It is not the function of Returning Officers or election officials to interpret the legislation for candidates or provide them with legal advice.

Subject to availability, all electoral forms that candidates require may be obtained from Returning Officers or from the Chief Electoral Office at the address on the cover of this booklet.

The information contained in this booklet is current as at 2 July 1996.

A Guide to Scrutineers has also been issued.

The Electoral Commission has issued several publications that may be of assistance and interest to candidates and their party workers. Chief among these is:

ÒVoting under MMPÓ

This is a comprehensive guide to the New Zealand electoral system due to be published before the election. Copies will be available at Bennetts Government Bookshops and other book outlets. The Commission also has a range of pamphlets and other resources explaining the MMP system.

Detailed electoral information can also be found on the Internet at web site:

<http://www.govt.nz/elections>

Phil Whelan
Chief Electoral Officer
Chief Electoral Office
PO Box 3220
Wellington

1996

1 Qualification of Candidates

1.1 Eligibility (section 47)

A candidate must be registered as an elector of an electoral district and be either a New Zealand citizen or a person who was registered as an elector on 22 August 1975 (the date on which the requirement that electors and candidates be British subjects was repealed).

However, persons qualified as electors whose names have been removed from an electoral roll through no fault of their own are not disqualified from becoming candidates. Such persons must complete a statutory declaration to the effect that they are not disqualified as electors when they consent to be nominated and forward it to the Returning Officer with the nomination paper (section 49).

Any person disqualified from registration as an elector cannot qualify as a candidate. If intending candidates have any doubts about their eligibility to stand, they should seek their own legal advice.

Electorate candidates do not have to be registered as electors of the electorate in which they are standing. Registration as an elector of any electoral district is sufficient. There is no prohibition on the basis of ethnic origin in respect of who may stand as an electorate candidate in either Maori or General electorates. A Maori may stand in either type of electorate and a non Maori may also stand in either type of electorate.

1.2 State Servant Candidates (sections 52 and 53)

Special rules in respect of statutory periods of leave relate to candidates who are state servants. Such candidates are required to be placed on leave from Nomination Day until the first working day after Polling Day.

The period of leave may commence before Nomination Day if the candidate's controlling authorities are satisfied that the candidacy of the state servant will materially affect his or her ability to satisfactorily carry out duties as a state servant or the ability to be seen as independent in relation to particular duties.

During the period of leave, state servants are not required or permitted to carry out official duties or to receive any salary or other remuneration except in respect of annual leave to which they are entitled. The only exception to this rule is in respect of candidates who are members of the staff at tertiary education institutions who may continue to teach or supervise the studies of students who are preparing for examinations. They may also mark examination papers and receive remuneration in respect of such teaching, supervision, and marking.

A state servant who is successful in being elected as a Member of Parliament is deemed to have vacated his or her office from the day his or her election is declared.

1.3 Restrictions (section 59)

No person may be a candidate for more than one electorate or on more than one list at a general election or at two or more by-elections held on the same day. All nominations of any person in respect of more than one electorate will be void and the deposits paid will be forfeited. However, any person can be both an electorate and a list candidate at a general election.

1.4 Residence of Candidates (section 72)

Sitting Members of Parliament are deemed for the purposes of electoral registration to reside at their usual places of abode, notwithstanding their absence for any period because of service as Members of Parliament. The same rule applies to their spouses.

Members of the Executive Council who take up residence in Wellington are entitled to continue to remain enrolled in the electorates in which they were registered as electors prior to their ministerial appointment. This entitlement continues until such time as they apply for registration as electors in the electorates in which their Wellington residences are situated. Having registered in a Wellington electorate, they are no longer entitled to be enrolled in the electorates that they were enrolled in prior to appointment to the Executive Council. This rule also applies to their spouses.

2 Nomination of Candidates

2.1 Electorate Candidates

2.1.1 Nomination Day (section 139)

Electorate candidates must be correctly nominated before they can be elected. Nomination Day, at noon is the last day on which nominations for electorate candidates can be accepted, is specified in every writ for the election of a Member of Parliament. Nomination Day must be not less than 20 days nor more than 27 days before Polling Day. Each Returning Officer is obliged to give public notice of Nomination Day and the date of the election. Noon on Nomination Day is also the last time by which party lists of registered parties wishing to contest the part of the ballot paper that relates to the party vote will be accepted by the Chief Electoral Officer.

2.1.2 Nomination and Consent (sections 143 and 145)

Nominations, consents to nominations, logos submitted by the candidates of unregistered parties pursuant to section 143 (3A), and deposits for electorate candidates must be received by the Returning Officer by noon on Nomination Day. All nominations must be submitted on Form 9 (available from Returning Officers). The form must state the name, registered address and occupation of the candidate. It must be signed by two electors who are registered in the electorate for which the nominee is seeking election. No elector may nominate more than one electorate candidate. Candidates are advised not to leave lodging their nomination paper until Nomination Day because late nominations will not be accepted under any circumstances. Lodging nominations early will allow sufficient time should any amendments to, additions to, or clarification of, information contained on the nomination paper be required. Consent to the nomination of any person may be made by facsimile transmission but must be received before the close of nominations. In such cases it would be advisable to check by telephone that a nomination has been received by the Returning Officer. Sufficient time needs to be allowed for delays or unsuccessful fax transmissions.

Any registered elector of the electorate may inspect any nomination paper or consent at the Returning Officer's office without payment, at any time when the office is open for the transaction of business.

Nominees must notify the Returning Officer of their acceptance of the nomination. For the convenience of nominees Form 9 includes a section for nominees to use to notify their consent. If for any reason nominees do not fill out the consent section of Form 9 at the time of nomination, they may notify the Returning Officer of their consent separately provided they do this by noon on Nomination Day. This must be done in writing, or by facsimile transmission or, if the nominee is out of the country, by

some other method agreed to by the Chief Electoral Officer. It should include the same details as are required in the consent section of Form 9.

For specimen Nomination Form see Appendix, Figure 1, page 29.

2.1.3 Names (sections 143 and 145)

In most cases, the name under which the electorate candidate is nominated must be either the name used on his or her birth certificate, or the name by which the nominee has been commonly known for at least 12 months before Nomination Day (there are some other possibilities – see section 145). When consenting to their nomination, candidates are asked to specify the name they wish to appear on the ballot paper. The name used needs to be short enough to fit on the ballot paper (section 143(6)). If any doubt exists about the length of a name, before signing the consent form, nominees must check with the Returning Officer. Candidates standing both as an electorate candidate and upon their party's list may wish to ensure that the form of their name that will appear on the ballot paper is the same as the form of their name used on the party list.

2.1.4 Political Party or Independent

On the ballot paper, all electorate candidates' names must have shown underneath them either the name of a political party or the word 'Independent'.

On nomination forms, if the name of a political party is given, the Returning Officer may require the nominee to show that he or she is accredited by that party (section 151). This may involve an enquiry about the existence of the party itself.

If the Returning Officer considers that the name of the party is indecent, offensive, excessively long or likely to cause confusion or mislead voters, then he or she may consult with the nominee to decide a suitable alternative name. If no alternative can be agreed, then the Returning Officer shall use the word 'Independent' on the ballot paper instead of the name of any political party.

2.1.5 Logos

Parties, whether registered or unregistered, may apply to register a party logo with the Electoral Commission (section 63A).

The party secretaries of registered parties may submit to the Chief Electoral Officer, along with their parties' party lists, the registered logos of their parties for inclusion beside the name of their party and the name of their electorate candidate (if applicable) on the ballot paper (section 127).

The party logo of an unregistered party may be submitted to the Returning Officer, along with the nomination of the party's electorate candidate, for inclusion on the ballot paper alongside the candidate's name (section 143(3A)).

2.1.6 Deposits (section 144)

The \$300 deposit (GST inclusive) required from every electorate candidate may be paid in cash by bank draft or by a bank cheque. The deposit will be returned unless the electorate candidate receives less than 5 percent of the total number of votes received by electorate candidates in the district. This deposit is not to be declared as part of the electorate candidate's expenses.

2.1.7 Withdrawal of Nominations (section 146)

Nominees wishing to withdraw their nominations may do so by filling out Form 10 and lodging it with the Returning Officer not later than noon on Nomination Day. Where the nomination has been properly withdrawn the deposit will be returned to the person who paid it.

2.1.8 Acceptance of Nominations (section 145)

The Returning Officer will accept and give a written receipt for every properly made nomination received by him or her. There are provisions for Returning Officers to refuse to accept nominations which fail to conform to the requirements laid down, or where there is uncertainty arising over the

name of the nominee.

2.1.9 Uncontested Elections (section 148)

If only one electorate candidate is nominated the Returning Officer will on or before Polling Day, declare that candidate to be elected.

2.2 List Candidates

A party must be registered under Part IV of the Electoral Act and must have submitted its party list to the Chief Electoral Officer by noon on Nomination Day (see paragraph 2.1 for a description of Nomination Day) to be eligible for the allocation of list seats.

Party lists are submitted to the Chief Electoral Officer by the secretaries of registered political parties (section 127). Along with the party list, secretaries must forward copies of each candidate's written consent (in form 5) to being included in the party list.

2.3 Death of a Candidate (sections 152 and 153)

If a duly nominated electorate candidate dies before noon on Nomination Day or on the day before Nomination Day, the time for the close of nominations for that electorate will be postponed by four days.

If an electorate candidate dies between the close of nominations and the close of the poll, or a successful candidate dies before the declaration of the result the rules are complex. In simple terms only the poll that relates to the party vote will proceed. A new writ will be issued for an election in the electorate concerned.

If a list candidate dies the election will proceed. The list will be treated as if the candidate's name had never appeared upon it.

3 The Writs

3.1 Issue (sections 125 and 126)

The Governor-General shall not later than 7 days after Parliament is dissolved or expires direct the Clerk of the Writs to issue a writ for each electoral district in New Zealand. The Clerk of the Writs then has 3 days to issue a writ to each Returning Officer.

3.2 Contents of Writ (section 139)

The writ specifies the date of Nomination Day and of Polling Day, which must be a Saturday. It also states the last date on which the Returning Officer may return the writ to the Clerk of the Writs (section 185). This will be the 50th day after its issue. Polling Day must be no earlier than the 20th day nor any later than the 27th day after Nomination Day.

3.3 Public Notice (section 142)

On receiving the writ, the Returning Officer gives public notice of Nomination Day and of Polling Day.

4 Electoral Roll Information

(sections 114, 116 and 117; regulations 13 & 15)

4.1 Electoral Roll Information Available

Candidates, or people acting on behalf of political parties, may obtain copies of certain information contained on the rolls held by the Chief Registrar of Electors NZ Post Ltd, Electoral Enrolment Centre, P O Box 190, Wellington. The information may be used only for the purpose for which its release was authorised; it is an offence punishable by substantial fines to misuse the information.

The information which can be obtained is a list showing the names, residential addresses, occupations, preferred honorifics (if any), statistical meshblock and postal addresses of electors in an electoral district. In addition, information can be included showing whether an elector is of Maori descent, and lists can be given showing electors of particular age groups.

The Chief Registrar of Electors can also provide copies of the Òdormant fileÓ, which gives the names, addresses and occupations of those whose names have been removed from the roll as a result of the latest roll revision. The dormant file may be inspected at the office of the appropriate district Registrar of Electors. The Chief Registrar of Electors can also provide the names of those who have been enrolled for a district since the main roll was last printed.

The information is supplied in the form of computer tapes, disks or diskettes and in the case of the dormant file by computer printout. The requester must provide the appropriate blank tape, disk or diskette, pay the prescribed fee and otherwise comply with the conditions for requesting the information.

For detailed information on the supply of electoral roll data we recommend candidates refer to the Act and Regulations or contact the Electoral Enrolment Centre, NZ Post Ltd, P O Box 190, Wellington, telephone (04) 801 0700.

4.2 Roll Closure (section 88)

The Registrar shall not register any applications for registration received in the period beginning on Polling Day and ending with the day of the return of the writ.

4.3 (section 74)

residence in their new electorate on Polling Day, they must vote for their old electorate.

5 (sections 206 to 214A)

The amount of money which electorate candidates can spend on their election campaign is strictly election, or \$40,000 in a by-election. The following gives a general guide, but for further details please refer to sections 206Ð214A of the Act.

election expenses must be sent to candidates within 30 days of the announcement of which candidate has been successful, and all bills must be paid within 60 days of that announcement

Every candidate must send to the Returning Officer an account of all election expenses and donations within 70 days of the announcement of the successful candidate. (Special provisions

within that time is an offence, and submitting a false return is a corrupt practice. Election expense and donation returns are kept available for public inspection by the local Returning Officer for one

until the second general election after the one that the return relates to (sections 211 and 212).

The Act defines certain activities as Òelection activitiesÓ, and says that costs incurred in relation to

be carried out by (or with the authority of) the candidate; and relate solely to the candidate in his or her capacity as a candidate; and relate exclusively to the campaign for that candidateÓs return; and

in some other capacity (eg as sitting MP or as the holder some other office) are not election activities. The cost of activities which fall partly within the 3 month period and partly outside it get

get apportioned between them (section 214). Refer to section 214A for the rules relating to the

election activities of electorate candidates who are also list candidates.

The deposit paid by candidates is not to be declared as an election expense.

The types of activities which incur election expenses are: advertising of any kind; radio and television broadcasting; and producing, distributing or displaying any posters, notices, addresses, pamphlets, hand bills, billboards or cards. The cost of running a vehicle which is used as the candidate's bona fide personal means of transport is not included, and neither are the labour costs of people who do not charge for their labour. However, the value of any donated materials or donated printing or postage must be included in election expenses.

Candidates who knowingly overspend their election expenses are guilty of a corrupt practice. Otherwise overspending is an illegal practice unless the candidate can show that he or she took all reasonable steps to ensure that the limits on expenses were not exceeded.

An election donation is a donation of money, goods or services worth more than \$1,000 (or a series of donations made by a person that in aggregate equal more than \$1,000) made to an electorate candidate or to any person acting on behalf of the candidate for use in his or her election campaign (section 210(9)).

The return must set out the amount of any anonymous election donation in excess of \$1,000 and the fact that it has been received anonymously.

An election donation does not include voluntary labour.

6 Scrutineers

Scrutineers are appointed by electorate candidates to observe electoral procedures and to report back to the candidate who appointed them. They may not intervene in electoral procedures. The exception to this rule is that they may ask a Deputy Returning Officer to put certain questions to a voter.

Electorate candidates appoint scrutineers in writing. Before a scrutineer may act he or she must sign a declaration in Form 1 (Second Schedule, Electoral Act 1993) before a Returning Officer, Deputy Returning Officer, Justice of the Peace or a solicitor.

Scrutineers may attend at a number of stages in the election process. Not more than one scrutineer per electorate candidate may be present at any one time, except in the case of the scrutiny of the rolls and the official count, when the Returning Officer may permit additional scrutineers.

Political parties have the right to appoint scrutineers at two stages in the process; the allocation of list seats by the Chief Electoral Officer, and a recount of party votes.

(a) Polling Day (section 160)

A scrutineer for each electorate candidate is entitled to be present at the polling booth throughout polling. Scrutineers may also be present to inspect the ballot box before the opening of the poll at 9 am on Polling Day, and again at 7 pm when the poll closes.

During Polling Day a scrutineer may not communicate with any voter in a polling booth. A scrutineer may however require a Deputy Returning Officer to put the following questions to a person attending to vote

- (i) "Are you the person whose name appears as ... in the electoral roll now in force for the ... electoral district?"
- (ii) Have you already voted at this election in this or any other electoral district?"

The answers to these questions must be given in writing, and signed by the voter. Any person who refuses to answer these questions, or answers them falsely, or answers the first in the negative and the second in the affirmative, commits an offence (section 166).

They are not questions to be put to a voter lightly or at whim.

(b) Scrutiny of the rolls (section 175)

After the close of the poll, the Returning Officer will give notice in writing to each electorate candidate, or their scrutineers, of the time and place for the commencement of the official scrutiny of the rolls. Electorate candidates may, by writing or facsimile transmission, appoint one or more scrutineers to be present at the scrutiny. The electorate candidates should then advise the Returning Officer of the names and addresses of those appointed. These scrutineers are the only ones who may be present during the scrutiny of the rolls and the official count. They may also be present during a recount (section 180).

(c) Special vote checking (section 172)

The declarations of electors casting a special vote, whose names are not on the electoral roll for the electorate for which they have cast a vote, nor on the list of late enrolments, that were received by the Returning Officer before 7 pm on the 10th day after Polling Day are checked by the Registrar of Electors of the relevant electoral district (the New Zealand Post Ltd official responsible for the compilation of the electoral roll). The Registrar of Electors will notify electorate candidates of the time and place of the checking, and electorate candidates may then appoint scrutineers to attend.

(d) Official count (section 178)

The scrutineers appointed for the scrutiny of the rolls may be present at the official count, which takes place after the scrutiny. Routinely one scrutineer for each electorate candidate may attend. However the Returning Officer may permit more than one scrutineer per candidate to be present at any one time.

(e) Recount of votes for an electorate candidate (section 180)

In the case of a recount of votes for an electorate candidate, the same scrutineers who were appointed to attend the scrutiny of the rolls and the official count may be present or the candidates may appoint different scrutineers.

(f) Allocation of list seats (section 183 (2))

Any political party listed in the party vote part of the ballot paper may appoint one or more scrutineers to be present during the allocation of list seats by the Chief Electoral Officer.

(g) Recount of party votes (section 183 (1))

In the case of a recount of party votes in one electorate or a recount of party votes in all electorates any political party affected by the recount may appoint one or more scrutineers to be present at the recount.

More detailed information about the rights, duties and functions of scrutineers is contained in a separate handbook (E6) 'Information for Scrutineers'. This Handbook is available from any Returning Officer.

7 Polling Day

7.1 General Conduct

One Deputy Returning Officer is appointed to be in charge of each polling booth (section 194). He or she may be assisted by a poll clerk, interpreters and ushers (if any). Other people who may remain at the polling booth are scrutineers and any other person whom the Returning Officer or Deputy Returning Officer permits.

There are a number of offences relating to displaying on Polling Day any material promoting political parties or candidates including party names, emblems and slogans (see section 197). Electoral officials may not wear party colours or emblems. Scrutineers are permitted to do so, but should be discreet in this, so as to avoid giving offence to voters.

The exceptions to the rules about the non-display of party names etc are as follows:

- 1 The following items, in party colours but without party name, emblem, slogan or logo,

may be worn on the person or displayed on a vehicle:

- Ñ streamers
 - Ñ ribbons
 - Ñ rosettes
(but see also the special rule about lapel badges in paragraph 2 below)
 - Ñ items of a similar nature.
- 2 Party lapel badges may be worn anywhere on the person. A party lapel badge is any badge or rosette designed to be worn on the lapel and bearing the party's name, emblem, slogan or logo.
- 3 None of the above items may be displayed on bags or briefcases.

7.2 The order of Names on the Ballot Paper

The layout of the ballot paper is set out in the Act. On the electorate vote part of the ballot paper the names of the electorate candidates are set out alphabetically by surname. The candidate's party affiliation, if any, is set out under their name, and the electorate candidate's party logo (if any) is shown after the electorate candidate's name. The logo on the party vote side of the ballot paper (if any) appears before the party name.

The order of the names of political parties on the party vote part of the ballot paper is dependent on the electorate vote part. Where the name of a political party is shown below a candidate's name, the name of the political party on the party vote part will be printed level with where it appears on the electorate vote part. Those political parties not fielding an electorate candidate are shown in alphabetical order after the names of the political parties that have electorate candidates. The spaces on the party vote side of the ballot paper, alongside the names of candidates for unregistered parties, or independent candidates, are left blank. See Appendix, Figure 2, page 30.

7.3 Voters

There are two types of voters: ordinary voters and special voters.

7.3.1 Ordinary Voters (section 155)

Ordinary voters are those who vote on Polling Day at a polling place for the district where they are registered, and whose name appears on a roll held at that booth. When these people vote their names are crossed off the roll on which they are entered, they are handed ballot and/or voting papers, enter a cubicle to vote in private and then deposit their papers in a ballot box. A few ordinary vote booths may not be located in the electorate for which they are taking votes. These will be in adjoining electorates and are known as shared polling places. Each electorate must have a minimum of 12 polling places with wheelchair access.

7.3.2 Special Voters (section 61)

Special votes are more complicated. There are a number of categories, with separate procedures for dealing with them.

- (1) A person is qualified to vote at any election in any district as a special voter if Ñ
- (a) That person's name does not appear on the main roll or any supplementary roll for the district, or has been wrongly deleted from any such roll;
 - (b) The person intends to be absent or is absent from the district on Polling Day;
 - (c) The person intends to be outside New Zealand on Polling Day or is outside New Zealand on Polling Day;
 - (d) The person is, by reason of illness, infirmity, pregnancy or recent childbirth, unable to attend to vote at any polling place in the district;
 - (e) The person is, by reason of a religious objection, unable to attend to vote on the day of the week on which Polling Day falls;

- (f) ground it will not be practicable for that person to vote at a polling place in the district without incurring hardship or serious inconvenience.

A person who is registered as an elector of a Maori electorate and who is qualified to vote at above but also on the ground that the person attends to vote on Polling Day, at a polling place that is not a polling place for that district.

Special Vote Procedure

The various categories of special voters are dealt with in different ways.

Hospital Votes (regulation 23)

Returning Officers will, as far as practicable, arrange for hospital, maternity home, or rest homes etc. Returning Officers will arrange for an Issuing Officer to visit, as far as practicable, all such institutions, in their electorate before Polling

candidates consult with their Returning Officer before arranging for any supporters to visit such institutions for the purpose of taking special votes. This will avoid any duplication of

- (b) Tangata Whenua Votes (regulation 22)

in which that polling place is situated. However, not all polling places are supplied with ordinary ballot papers for electors on the Maori roll.

electorate polling place. To qualify for a Tangata Whenua vote the elector's name must appear on a Maori electoral roll and the polling place at which they attend to vote must be

The Polling Day official will complete a Tangata Whenua Form (Form 18) before issuing ballot and/or voting papers. A Tangata Whenua vote is available on Polling Day only.

Votes before Polling Day (regulation 24)

There are two types of votes within this category.

The first type are electors on the roll attending in person at the issuing office established for their own electorate and voting in advance of Polling Day on the ground that they

electors must complete a declaration (Form 16) stating the reason why they will be unable to vote at a polling place in their electorate on Polling Day.

The second type are all other voters voting before Polling Day i.e. electors not on the roll or outside their own electorate. They complete a different declaration (Form 17)

- (d) Voters Outside Elector's District on Polling Day

declaration (Form 18) and are issued with special ballot papers.

- (e) Polling Day

Voters voting at a polling place with their own electorate, whose name is not on the electoral (Form 18) and are issued with special ballot papers.

- (f)

This category applies to electors overseas at the time of the election and who are qualified to vote. They will sign the special voting declaration (Form 20) before voting.

Members of the Defence Force Overseas

This category applies to service personnel who may vote in the respect of their last residential address in New Zealand whether or not they are enrolled. They will sign the special voting declaration (Form 20) before voting.

(h) Campbell Island and Raoul Island Votes

This very limited category applies to electors who have been recent residents of, or who are residing on, Raoul Island or Campbell Island. They will sign the special voting declaration (Form 19) before voting.

(i) Forwarding Special Votes by Facsimile Machine

Special Deputy Returning Officers appointed for:

¥ Campbell Island

¥ Raoul Island

¥ the Ross Dependency

¥ Tokelau

¥ fishing vessels not scheduled to return to a port between the close of nominations on Nomination Day and Polling Day

¥ electors in remote locations overseas without access to normal overseas special voting facilities

may forward by facsimile declarations and ballot papers to the Chief Electoral Officer. The electors must sign a consent (Form 22) before the vote is forwarded.

(j) Radioing Special Votes

Special Deputy Returning Officers appointed for:

¥ Campbell Island

¥ Raoul Island

¥ the Ross Dependency

¥ Tokelau

¥ fishing vessels not scheduled to return to a port between the close of nominations on Nomination Day and Polling Day

may, radio the contents of their declarations and ballot papers to the Chief Electoral Officer. The electors must sign a consent (Form 23) before the vote is radioed.

7.3.4 Special Vote Availability

Special voting can commence after the close of nominations only when the checking of party lists by the Chief Electoral Officer has been completed. In practice Nomination Day is normally a Thursday and special voting commences on the following Monday allowing Friday and the weekend for the distribution of the party lists and the printing and distribution of ballot papers to each Returning Officer. Returning Officers will appoint at least one Issuing Office in their electorate to handle the issue of special voting papers.

The availability of special voting facilities will be advertised soon after Nomination Day. Electors will be advised in respect of general elections to ring a toll free telephone number 0800 800 610 for information on where special voting papers can be obtained in respect of their electorate.

7.3.5 Witnesses to Special Voting Declarations (regulations 25 and 26)

Special voters' declarations need to be witnessed. Only certain people may act as witnesses. All witnesses must show their qualification to be witness on the declaration and must sign the declaration to certify that it was signed in their presence by the special voter. Unless they are also Issuing Officers, they must give their full name and address.

Declarations by special voters voting in person at an issuing office before Polling Day may be witnessed only by the Issuing Officer.

Declarations completed in New Zealand but not at an issuing office or polling booth must be witnessed by one of the following

- (a) The Issuing Officer
- (b) A person authorised to take a statutory declaration under the Oaths and Declarations Act 1957, for example a Justice of the Peace or solicitor
- (c) A relative of the special voter
- (d) A member of the household of the special voter
- (e) A person who is nominated by a candidate and approved by a Returning Officer
- (f) An elector registered in any electoral district

Both list and electorate candidates may nominate people to witness special voting declarations. The nomination must be in writing, signed by the candidate. It must contain the name of the candidate and the full name and address of the proposed witness. Electorate candidates must show the name of his or her electoral district. List candidates must show the name of the political party on whose list their name appears. The Returning Officer must approve or reject each nomination. Any approval may be revoked at any time by the Returning Officer if he or she has reason to believe that a witness is not complying with any duty imposed on the witness under the Electoral Regulations. Where a nomination is rejected or revoked a candidate is entitled to be informed of the reason for the rejection or revocation. An authorised witness may witness the special voting declaration of a voter registered in any electorate.

7.3.6 Application for a Special Vote (regulation 20)

An application for a special vote may be made

- (a) In person by the elector; or
- (b) By a written application signed by the elector; or
- (c) By a written application signed on behalf of the elector pursuant to an authority signed by that elector; or
- (d) In any other manner if the Issuing Officer is satisfied that the application is made in good faith and it is not practicable to make it in any of the above ways.

Supplies of special vote application forms (E78) are available from Returning Officers.

7.3.7 Receipt of Special Voting Papers (regulations 34 and 50)

Special voting papers completed in New Zealand must be received by a Returning Officer or Deputy Returning Officer no later than 7 p.m. on Polling Day. Any special voting papers handed in after that time will be disallowed. This applies irrespective of the method used for sending special votes to a Returning Officer or Deputy Returning Officer.

Overseas special votes must either be in the hands of a Returning Officer in New Zealand no later than 7 p.m. on Polling Day or in the hands of an Overseas Issuing Officer no later than 4 p.m. local time on the day before Polling Day.

7.3.8 Disallowance of Special Votes (regulation 37)

If a special voter does not indicate in his or her declaration the ground(s) on which the voter is claiming a special vote, the special vote will be disallowed, unless the elector's name does not appear on the roll or the official mark shows that the declaration was made on Polling Day outside the electorate in which the special voter is qualified to vote. Likewise the vote will be disallowed if the declaration has not been correctly witnessed, except in special circumstances.

7.3.9 Blind or Partially Sighted Voters and Voters with reading, writing or language difficulties (section 170 and regulation 26(6))

Special procedures apply to assist voters who are blind or partially sighted. These procedures also

apply to voters who (whether because of physical handicap or otherwise) are unable to read or write, or have severe difficulty reading or writing, or are not sufficiently familiar with the English language to vote without assistance.

These voters may nominate a person to help them mark the ballot paper or to mark the paper for them. If the voter is voting at a polling booth or at an issuing office and the voter has not nominated a person to help them, the Deputy Returning Officer will assist the voter to mark the ballot paper.

If the voter is voting somewhere other than at a polling booth or issuing office, the witness to the special vote declaration may assist the voter to mark the ballot paper EXCEPT if the witness is a person authorised by a candidate to witness special vote declarations. That class of witness MUST NOT assist a voter to mark their ballot paper.

Posters will be displayed in the booth giving basic voting instructions in English, Maori, Samoan, Cook Island Maori, Niuean, Tokelauan, Tongan, Chinese and Korean. Interpreters may also be available to help where a voter is not familiar with English.

8 Procedures after close of poll

8.1 Preliminary Count of Votes (section 174)

Polling booths close at 7 p.m. on Polling Day. The Deputy Returning Officer of each polling booth, in the presence of the scrutineers and polling clerk only, parcel up all the documents relating to the election. The ballot boxes are opened and those ordinary votes which do not clearly indicate the party or candidate as the case may require for whom the voter desired to vote (section 174) (1) (c) and (d) are set aside as informal. The other ordinary votes are counted and the results transmitted to the Returning Officer. All the ballot papers and other documents are then sent off to the Returning Officer.

8.2 Checking Special Votes (section 172 and regulation 35)

Where the Returning Officer cannot find the name of the special voter on the printed roll, or on the list of late enrolments supplied by the Registrar of Electors, the special vote declaration is forwarded to the Registrar of Electors for checking the voting qualification of the person named in the declaration. The checking of special vote declarations commences in the week immediately following Polling Day. The Registrar of Electors writes to all electorate candidates advising them of the time and place where he or she proposes to commence checking special vote declarations so that duly appointed scrutineers may attend.

8.3 Scrutiny of the Rolls (sections 175, 176 and 177)

The Returning Officer, in the presence of his or her assistants and the scrutineers, checks through the rolls, the records of special votes, and the lists of post Writ Day deletions to ascertain whether any voter has voted twice or has voted when his or her name has been deleted. Such votes are disallowed.

8.4 Official Count (section 178)

After the scrutiny, the Returning Officer commences the official count, in the presence of assistants, scrutineers and a Justice of the Peace only. The results obtained from this count are compared with those from the election night count and certified by both the Returning Officer and the Justice. When the count is complete the Returning Officer gives public notice of the result.

The Returning Officer then forwards the certificate of the party votes received by each Party listed in the party vote part of the ballot paper to the Chief Electoral Officer. Once all the totals of party votes from each Returning Officer have been received, the Chief Electoral Officer will calculate the number of list seats to which each party is entitled.

Parties that either obtained less than 5% of the total party vote or failed to win one electorate seat are not entitled to list seats and the votes won by those parties are excluded from this process. A brief

explanation of how list seats are allocated, prepared by the Electoral Commission, is set out in the

ÒVoting under MMPÓ.

The Chief Electoral Officer then allocates list seats to each party by selecting from the party list the order of precedence. List candidates who also stood as electorate candidates and won an electorate seat are deemed to be deleted from the list.

elected and forwards their names to the Clerk of the House of Representatives.

9 (sections 179,180Ð184) and Election Petitions

Recounts

Where the official count results in an equality of votes between electorate candidates, the Returning

Any electorate candidate may apply to a District Court Judge for a recount within three working days of the public notice of the result. A deposit of \$1,000 must accompany the application.

District Court Judge to the Returning Officer. The only people entitled to be present at the recount are the District Court Judge (or an official appointed by him or her) and his or her assistants, the

way as the original count. The District Court Judge has all the powers of the Returning Officer on the original count, and may review any decision made by the Returning Officer in respect of special

If the recount shows that the public notice given by the Returning Officer was wrong, the District Court Judge will order the Returning Officer to give an amended declaration of the result of the poll.

Court Judge for a recount of the party votes cast within a particular electorate within three working days of the public declaration of the result. A deposit of \$1,500 is required with every application.

electorates, the party secretary may apply to the Chief District Court Judge for recounts of party votes to be conducted in every electorate. A deposit of \$90,000 is required. The District Court

as the Judge thinks just, and subject to such an order, shall direct that the deposit be returned.

9.2 (sections 229Ð262)

An election petition in respect of the election of an electorate candidate is a petition complaining

the count. It is a serious matter which can result in an election outcome being changed. Any person eligible to be a voter may present an election petition to the High Court in relation to the election of

petitions are set out in sections 229Ð246 of the Electoral Act.

An election petition in respect of the allocation of list seats is a petition seeking a review of the Parliament as a result of that allocation.

Any secretary of a political party whose party was listed in the party vote part of the ballot paper

The details concerning such petitions are set out in sections 258Ð262 of the Electoral Act.

Candidates should refer to the relevant sections of the Act if they require further information.

10 Offences

The Electoral Act creates a number of offences. These are summarised below. The ones of special relevance to candidates are marked with an asterisk.

Candidates should note in particular those offences which are described as constituting a 'corrupt practice'. If an elected candidate is reported guilty of a corrupt practice by the High Court following the trial of an election petition, that election is declared void. In addition, that person is liable on summary conviction to a fine of up to \$4,000, or imprisonment for a year, or both (section 224).

Candidates should also be wary of encouraging their supporters or agents to do an act which might constitute an offence. We recommend that candidates refer to the Act and Regulations for a full description of offences.

Section Offence (in brief)

48	MP sitting or voting in Parliament after becoming a state servant.	
82(6)	Failure of a person to apply for registration as a voter having been requested to do so.	
90(3)	Failure to notify Registrar of change of address.	
*116	Using electoral information for non-electoral purposes.	
*117	Manipulating electoral information into a different form.	
118	Making false declarations.	
119	Misleading a Registrar.	
121	Failing to deliver an application.	
154(2)	Wrongly using a public schoolroom for a meeting.	
162(3)	Failing to comply with provisions allowing employees time off work to vote.	
165	Communicating with voters in a booth.	
166	Answering falsely the question put to a voter.	
167	Failure by Deputy Returning Officer to faithfully perform his or her duties in relation to issuing ballot papers.	
196	Allowing copies of ballot papers to get into the hands of unauthorised persons.	
*197	Interfering with or influencing voters on Polling Day.	
200	Altering the official mark on the ballot paper.	
*201	Forging or tampering with ballot papers. Corrupt practice.	
*204	Infringing secrecy about voting. Corrupt practice.	
*210	Failure to submit an election expenses return on time.	
*210	Submitting a false election expenses return. Corrupt practice if with knowledge.	
*213	Paying in excess of permitted level of election expenses. Corrupt if done with knowledge that the payment was in excess.	practice,

- *215 Personation. Corrupt practice.
- *216 Bribery. Corrupt practice.
- *217 Treating (Providing food, drink, entertainment or provision). Corrupt practice.
- *218 Undue influence. Corrupt practice.
- *219 Paying elector for advertising when such activity is not within the ordinary course of that elector's business.
- 220 Providing money for illegal purposes.
- *221 Unauthorised or unacknowledged advertising for a candidate.
- 222 Procuring voting by unqualified voters.
- 227 Person whose name is on the Corrupt Practices List voting or attempting to vote.

Regulation

- 68(a) Improperly obtains or retains a special ballot paper.
- 68(b) Failing to post or deliver a special vote envelope entrusted to that person for that purpose.
- 68(c) Delays the posting or delivery of a special vote envelope.
- 68(d) False statements or declarations relating to special voting.
- 68(e) Contravenes regulations relating to special voting

11 Miscellaneous

11.1 Free use of Schoolrooms (section 154)

A candidate or intending candidate may use a suitable room in any public primary, intermediate or secondary school for the purpose of holding public meetings. The public meeting must be of electors, during an election period, and for election purposes. The use of such a room is to be provided free of charge other than the cost of lighting, cleaning and repair if any damage is done.

Three days notice of the proposed public meeting must be given to the governing body of the school. Use of the school will be granted in order of receipt of applications. Candidates cannot insist on using a school hall under this provision. The question of what is a suitable room in the school is a matter for discussion between the candidate and the governing body of the school.

Appendix

The MMP Voting System

This section outlines the basic features of the MMP voting system.

Number of MPs

There are normally 120 MPs under New Zealand's version of the MMP voting system. These MPs are elected in two ways:

- 1 65 MPs are elected to represent the 60 General electorates (16 of which must be in the South Island), and 5 Maori electorates.

- 2 The other 55 MPs are elected from lists of candidates nominated by registered political parties.

Number of Votes

Under MMP, each person who is registered as an elector for a General electorate or a Maori electorate can cast 2 votes, both of which are on a single ballot paper (see Appendix 2, page 30).

The Party Vote shows all the registered political parties that have nominated a party list for the general election.

The other vote, the Electorate Vote, is for an electorate MP to represent the General or Maori electorate for which the voter is registered as an elector.

Proportionality and the allocation of seats to parties

The candidate in each electorate who wins more Electorate Votes than any other candidate is declared elected as the Member of Parliament for that electorate. This is the same as under the First-Past-the-Post voting system.

All the Party Votes cast in all the electorates are added up, and each party's entitlement to list seats is worked out, as follows:

- 1 Each registered party's share of all the Party Votes decides its share of all 120 seats in Parliament.
- 2 However, a registered party must cross the threshold before it is entitled to a share of all the seats based on its share of all the Party Votes: either it must win at least 5% of all the Party Votes cast at the election, or it must win at least one General or Maori electorate seat.
- 3 Each party that crosses the threshold will receive enough list seats to add to any electorate seats it has won so that its share of the total 120 seats is close to its share of the effective Party Votes cast at the election, ie. the Party Votes cast for parties which have crossed the threshold.
- 4 Each party that gets list seats will fill those seats from the list of candidates it nominated before the general election. List candidates will become MPs in the order that they were set out on their party's nomination paper. Voters cannot change the party's ordering of its list candidates. Any dual candidate who wins an electorate seat has his or her name deleted from the party's list.
- 5 The total number of seats available for proportional allocation is reduced by the number of electorate seats won by Independent candidates or won by candidates for political parties that are not on the Party Vote side of the ballot paper.

There are two circumstances in which the total number of seats in Parliament could vary from 120 as a result of a general election:

- 1 If a party happens to win more electorate seats than the total number of seats it is entitled to based on its share of all the Party Votes, it will keep all the seats it has won but it will not get any list seats. Where this happens, there will be more than 120 MPs until the next general election (unless the number is reduced as outlined in the next paragraph). The number of seats won by other parties would not be affected.
- 2 On the other hand, if a party nominates fewer list candidates than its Party Vote entitles it to, those seats remain unfilled and the size of Parliament is reduced until the next general election (unless the number is increased as outlined in the previous paragraph). The numbers of seats won by other parties would not be affected.

See the following table for a fictitious general election result for a 120-seat Parliament, showing how the threshold and effective Party Votes work.

A Fictitious General Election Result

	Party					
	A	B	D	E		Total
% of all Party Votes		36.8	25.1	17.4	3.5	
No. of electorate MPs	1		18	0	0	65
% of all seats*	3.3		26.0	14.5	0	100
	4		31	17	0	120
	1	34	0	12		65
Therefore number of list MPs		12	13	10	0	

* Each party's percentage of all 120 seats is slightly higher than its share of all the party votes, parties that cross the threshold.

threshold because it won an electorate seat.