

# **ELECTIONS NZ**

  

# **HANDBOOK**

  

# **FOR SCRUTINEERS**

**Issued by Chief Electoral Officer  
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**ELECTORAL INFORMATION SERIES E6**

## **HANDBOOK FOR SCRUTINEERS**

This handbook is issued for the guidance of scrutineers at Parliamentary elections.

Its aim is to inform scrutineers of their rights and obligations under the Electoral Act and the Electoral Regulations.

If you are replaced by another scrutineer on polling day please pass this handbook on.

P R Whelan  
Chief Electoral Officer

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# **1 SCRUTINEERS**

## **INTRODUCTION**

### **1.1 Role of scrutineers**

Each electorate candidate at a Parliamentary election is entitled to appoint scrutineers to observe the conduct of the election and to report to them. Scrutineers are permitted to be present to observe the mechanics of the actual election so that electorate candidates can be assured that the legal procedures and rules governing an election have been complied with both by officials and by voters.

The role of scrutineer is essentially that of an observer. With one important exception (see paragraph 4.4) scrutineers are not entitled to interfere with the conduct of an election or argue questions of procedure or law with election officials. If a scrutineer believes that electoral procedures are not being followed he or she should draw the matter to the attention of the Deputy Returning Officer or, if necessary, the Returning Officer.

## **1.2 Who may appoint scrutineers**

- (i) Local party organisations may appoint someone to accompany an electoral official issuing overseas votes.
- (ii) An electorate candidate may appoint scrutineers to be present at:
  - (a) each polling booth or polling place in the electorate on polling day;

*Note:*

*If a scrutineer is appointed to a polling place containing more than one polling booth, all the polling booth numbers for the polling place must be shown on the appointment form.*

- (b) the scrutiny of the rolls (including the checking of Special Voting declarations) at the office of the Returning Officer after polling day;
    - (c) the checking of Special Voting declarations at the office of the Registrar of Electors for the electorate after polling day;
    - (d) the official count at the office of the Returning Officer after polling day;
    - (e) any recount.
- (iii) A political party may appoint one or more scrutineers to be present at:
  - (a) any recount of party votes in an electoral district
  - (b) the allocation of seats by the Chief Electoral Officer;

## **2 APPOINTMENT**

### **2.1 Written appointment**

Every scrutineer appointed by an electorate candidate must be appointed in writing. No person may act as a scrutineer unless his or her written appointment by an electorate candidate has been sighted by the election official in charge of the activity which the scrutineer is observing.

A scrutineer's written appointment should be taken with him or her when first attending to act as a scrutineer. The written appointment must be handed to the election official in charge of the booth for retention as part of the official record (A sample letter of appointment is included as *Appendix I*). Registered Parties that have indicated they will have scrutineers on polling day will be given a master copy of *Appendix I* and the E20-H.

### **2.2 Number of appointments**

An electorate candidate may appoint as many scrutineers to be present at a particular polling booth or polling place, office of the Registrar of Electors, or the scrutiny of the rolls and official count, as he or she thinks fit. For instance three electorate candidates might each decide to appoint 5 scrutineers in respect of one polling booth or polling place on polling day. However, only one scrutineer per electorate candidate would be entitled to be present in the polling booth at any one time throughout the hours of the poll, although the scrutineers may change during the day. The exception is that at the scrutiny of the rolls and the official count the Returning Officer may allow more than one scrutineer for each electorate candidate to be present at any one time.

### **2.3 Candidate acting as scrutineer**

A candidate may not be his or her own scrutineer at a polling booth or polling place on polling day, nor act as a scrutineer at the scrutiny of the rolls, official count, or at the office of the Registrar of Electors when checking special voting declarations, or at a recount.

### **3 DECLARATION OF SECRECY**

- 3.1** Every scrutineer, before being allowed to act, must complete a declaration of secrecy in the prescribed form. Declaration forms E20-H are held by Returning Officers and are held by the person in charge of a polling booth or polling place and can be completed by a scrutineer when he or she attends to act as a scrutineer. The declaration must be completed before a Justice of the Peace, Solicitor, Returning Officer or Deputy Returning Officer. The declaration may also be witnessed by the Registrar of Electors when a scrutineer is attending at the checking of special voting declarations at the office of the Registrar.
- 3.2** Every scrutineer is obliged to maintain, and aid in maintaining, the secrecy of the voting and may use or disclose any information acquired only in accordance with his or her duty as a scrutineer. Full details of the requirements of section 203 of the Act which relates to maintaining the secrecy of the ballot are reproduced on the declaration of secrecy form E20-H. Scrutineers must read it before completing the declaration.

### **4 POLLING BOOTHS**

#### **4.1 Introduction**

The hours of polling are from 9 a.m. to 7 p.m. One scrutineer for each electorate candidate may be present before the commencement of the poll at 9 a.m. to inspect the ballot box before it is secured prior to the commencement of the poll and again, after it is opened at the close of the poll. The scrutineer may remain in the booth or polling place and observe the poll throughout the hours of polling and during the election night count. However, not more than one scrutineer per electorate candidate may be present in a polling booth at any one time. A scrutineer may be replaced during the day and may in turn replace another scrutineer in a polling booth or polling place.

It is suggested that a scrutineer who is going to spend any length of time in a polling booth must make sure that he or she takes suitable clothing as polling booths are often sited in community halls, etc., where heating cannot always be guaranteed on a cold day.

#### **4.2 Lists of persons who have voted**

A scrutineer appointed to a particular polling booth may compile lists, or mark up copies of the roll, to show the names and roll numbers of electors who have voted. This can be done by recording the page and line reference to a voter's name on the roll as it is called out by the poll clerk. Such a list or copy of the roll may be sent out of the polling booth during the day. 'Runners' are entitled to enter any polling place for the purpose of taking away such a list or copy of the roll. These 'Runners' are not entitled to speak to any voter in the polling place or communicate with any scrutineer except for the purpose of taking away the list of persons who have voted or the scrutineer's marked copy of the electoral roll. Candidates (both electorate and party list) will not be permitted to act as 'Runners'.

#### **4.3 Voters not to be spoken to**

A scrutineer may not speak to a voter in a polling booth.

#### **4.4 Questions to voters**

A scrutineer may require a Deputy Returning Officer to put the following questions in writing to a person attending to cast a vote, before in fact the voter casts his or her vote;

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

It is an offence for any person not to answer these questions, or to answer the first question

in the negative, and the second in the affirmative. Any such person may not vote at that election. The Deputy Returning Officer has supplies of a form E30-I containing these questions.

A scrutineer has the right to ask a Deputy Returning Officer to put these questions to a voter.

#### **4.5 Election night count**

While a scrutineer cannot get into a debate with a Deputy Returning Officer over any decision as to whether or not a vote or votes should be treated as informal and therefore not counted, the Deputy Returning Officer should nevertheless if asked, give a brief reason as to why a party or electorate vote or both is being treated as an informal vote. The Returning Officer will examine each informal ballot paper at the official count and make a final decision. Scrutineers are not to be involved in the physical count of votes on election night.

#### **4.6 How scrutineers may display party affiliation**

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:

- (a) streamers;
- (b) ribbons;
- (c) rosettes (but see also the special rule about party lapel badges below);
- (d) items of a similar nature.

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 a party name, emblem, slogan or logo.

None of the above items may be displayed on bags or briefcases.

Political parties will be asked to supply the Chief Electoral Office with a sample of their rosette prior to polling day

### **5 SCRUTINY OF THE ROLLS**

The Returning Officer is obliged to give notice in writing to each electorate candidate or their scrutineers of the time and place at which he or she will commence the scrutiny of the rolls. This scrutiny involves comparing all the printed rolls used at the election upon which there is recorded the fact that an elector has voted. By this comparison, the Returning Officer will ensure that there are not dual votes. Any dual votes are disallowed.

An electorate candidate may appoint in writing or by facsimile transmission one or more scrutineers to be present at the scrutiny of the rolls provided that not more than one scrutineer per candidate may be present at the scrutiny at any one time except with the approval of the Returning Officer. If the Returning Officer is to divide the rolls then the Returning Officer will advise the electorate candidate of the number of divisions. One Scrutineer per electorate candidate is able to be present at the scrutiny of each division of the roll. Scrutineers are entitled to be replaced and in turn may replace another scrutineer during the scrutiny of the rolls.

The scrutiny of the rolls will commence at the time notified by the Returning Officer irrespective of whether scrutineers are present or not. A scrutineer who arrives late is not entitled to ask that the task be recommenced.

### **6 CHECKING OF SPECIAL VOTE DECLARATIONS AT THE OFFICE OF THE REGISTRAR OF ELECTORS**

### **6.1 Introduction**

Where the Returning Officer cannot find the name of a special voter on the printed roll or on the list of late enrolments supplied by the Registrar of Electors the special voting declaration is forwarded to the Registrar of Electors (a NZ Post official responsible for the compilation of the electoral roll) for checking the qualification of the person named in the declaration to vote.

### **6.2 Time and Place**

Each Registrar of Electors, will, before polling day, write to each candidate standing for election in his or her electorate informing him or her of the time and place at which the checking of special voting declarations will commence. An electorate candidate may in writing appoint one or more scrutineers to be present at the office of the Registrar of Electors when the Registrar is checking declarations in respect of special votes.

Not more than one scrutineer for each electorate candidate may be present at the office of the Registrar of Electors at any one time.

### **6.3 Information for scrutineers**

Before polling day the Registrar of Electors will supply each electorate candidate with information on the checking of special vote declarations.

Special votes received in time by a polling official have 10 days after polling day in which to be despatched by that official and received by the Returning Officer for the appropriate electorate.

Because of the 10-day period allowed for the receipt of the special votes in the office of the appropriate Returning Officer, the Registrar of Electors will be required to continue the checking of special voting declarations, that are received progressively from a Returning Officer, for at least 11 days after polling day.

The Registrar of Electors will inform each electorate candidate of the time at which the checking of special voting declarations will first commence and, unless the candidate is advised to the contrary, the same time will be appointed in respect of each working day.

### **6.4 Late arrival**

A scrutineer who arrives late is not entitled to ask the Registrar to go back for his or her benefit and recheck the declarations that have already been dealt with.

### **6.5 Inspection of records**

A scrutineer while acting as such is entitled to inspect the documents that the Registrar uses for the purpose of checking special voting declarations while the Registrar is checking those documents.

### **6.6 Decision of Registrar of Electors**

If there is disagreement between a scrutineer and the Registrar of Electors over a decision made by the Registrar then it is incumbent upon the two parties to try and resolve those differences. However, the Registrar has the ultimate responsibility for making any decisions in respect to the qualification or non-qualification of a Special Voting declaration. If a scrutineer considers that a Registrar's decision is incorrect then he or she should make a note of the decision and report it to the electorate candidate.

## **7 OFFICIAL COUNT**

### **7.1. Introduction**

The official count involves the Returning Officer or designated staff opening the packages of voting papers received from the individual polling booths and counting the votes again.

The official count is conducted in the presence of a Justice of the Peace.

The scrutineers appointed by an electorate candidate for the scrutiny of the rolls may be present at the official count provided not more than one scrutineer per electorate candidate is present at any one time. It is important to remember that only those scrutineers appointed for the scrutiny of the rolls may be present at the official count. It is not possible to appoint fresh scrutineers after the completion of the scrutiny of the rolls, and before the official count.

## **7.2 Informal votes**

During the official count the Returning Officer will be required to make decisions as to whether a vote is to be counted or regarded as informal and not counted. In accordance with a 1980 Court of Appeal declaratory judgment, (although this only dealt with an electorate candidate, it now will obviously apply to both sides of the ballot paper) the Returning Officer may not reject a ballot paper as informal unless the paper does not clearly indicate the party on the party vote part of the ballot paper or the electorate candidate on the electorate vote part of the ballot paper for whom the voter desired to vote.

If there is disagreement between a scrutineer and Returning Officer over a decision made by the Returning Officer then it is incumbent upon the two parties to try and resolve those differences. However, the Returning Officer has the ultimate responsibility for making any decision in respect of whether or not a particular vote is counted. If a scrutineer considers that a Returning Officer's decision is incorrect then he or she should make a note of that decision and report it to the electorate candidate or party.

## **8 RECOUNTS**

### **8.1 Electorate Candidates**

Any electorate candidate may apply within three working days after the public declaration of the result of the poll to a District Court Judge for a recount of the votes.

In the event of a recount being applied for, either the scrutineers appointed by each electorate candidate for the scrutiny of the rolls or those specifically appointed by the electorate candidate for the recount may be present during the recount provided that not more than one scrutineer per candidate may be present at any one time unless the District Court Judge or the Officer appointed by the District Court Judge otherwise permits.

### **8.2 Party Vote Recount**

Any Secretary of a political party that is listed on the part of the ballot paper that relates to the party vote may apply within three working days after the public declaration of the result of the poll in an electoral district apply to a District Court Judge for a recount of the party votes in that electorate. In addition, the Secretary of a political party instead of making one or more separate applications may apply to the Chief District Court Judge for recounts of the party votes to be conducted in every electoral district.

In the event of a recount being applied for, any political party affected may appoint one or more scrutineers to be present during the recount provided that not more than one scrutineer per political party may be present at any one time unless the District Court Judge or the Officer appointed by the District Court Judge otherwise permits.

## **9 REMUNERATION**

No remuneration will be paid to scrutineers by the Chief Electoral Officer the Returning Officer or the Registrar of Electors.

## APPENDIX I

\_\_\_\_\_ 199

I \_\_\_\_\_ an electorate candidate

for the \_\_\_\_\_ appoint \_\_\_\_\_

insert name of party or independent

to act as a scrutineer at \_\_\_\_\_

*Delete those that are not applicable*

1. Booth Number(s) \_\_\_\_\_, \_\_\_\_\_ Polling Place
2. The Scrutiny of the Rolls
3. The office of the Registrar of Electors when he or she is performing his or her duties in relation to declarations in respect of Special Votes
4. The Official Count
5. The recount of electorate votes.

\_\_\_\_\_  
*Electorate candidate*

### *Notes for Scrutineers*

- (i) Please hand to the officials in charge of the activity in which you are acting as a scrutineer
- (ii) Scrutineers are not permitted to assist in the counting of votes

### **Declaration by Polling Officer or Scrutineer**

I, .....

*Print full name*

.....

*Print full address*

.....

*Occupation*



solemnly and sincerely declare that I will well and truly serve in the office of

- \* Returning Officer
- \* Deputy Returning Officer
- \* Poll Clerk
- \* Usher
- \* Interpreter
- \* Scrutineer for ..... , a candidate,

at the poll in the ..... Electoral District,  
and that I will not do anything forbidden by section 203 of the Electoral Act 1993.

Declared at .....

this ..... day of ..... 19 .....  
*Signature*

before me .....

- \* Justice of the Peace      \* Solicitor
- \* Returning Officer      \* Deputy Returning Officer
- \* Registrar of Electors

**NOTE:**

- (1) Declarations by Returning Officers must be made before a Justice of the Peace or a Solicitor.
- (2) Registrars of Electors may take declarations only pursuant to section 172(5) of the Electoral Act 1993.

Section 203 of the Electoral Act 1993 is printed on the back of this form and must be read by or to the declarant.

## **THE ELECTORAL ACT 1993 - SECTION**

### **203. Infringement of secrecy -**

- (1) Every official, clerk, scrutineer, interpreter, or other person appointed for the purposes of this Act shall use or disclose information acquired by him or her in that capacity only in accordance with his or her official duty or his or her duty as a scrutineer, as the case may require.
- (2) No person, except for some purpose authorised by law, shall -
  - (a) Interfere with or attempt to interfere with a voter when marking his or her vote:
  - (b) Attempt to obtain in a polling booth information as to the candidate for whom or the party for which any voter in a booth is about to vote or has voted:
  - (c) Communicate at any time to any person any information obtained in a polling booth as to the candidate for whom or the party for which any voter at the booth is about to vote or has voted, or as to the consecutive number on the ballot paper given to any voter at the booth.

- (3) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at the counting as to the candidate for whom or the party for which any vote is given in any particular ballot paper.
- (4) No person shall directly or indirectly induce any voter to display his or her ballot paper after he or she has marked it, so as to make known to any person the name of any candidate for or against whom he or she has voted or the name of the party for which he or she has voted.

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- (2) No person, except for some purpose authorised by law, shall
  - (a) Interfere with or attempt to interfere with a voter when marking his or her vote:
  - (b) Attempt to obtain in a polling booth information as to the candidate for whom or the party for which any voter in a booth is about to vote or has voted:
  - (c) Communicate at any time to any person any information obtained in a polling booth as to the candidate for whom or the party for which any voter at the booth is about to vote or has voted, or as to the consecutive number on the ballot paper given to any voter at the booth.
- (3) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at the counting as to the candidate for whom or the party for which any vote is given in any particular ballot paper.
- (4) No person shall directly or indirectly induce any voter to display his or her ballot paper after he or she has marked it, so as to make known to any person the name of any candidate for or against whom he or she has voted or the name of the party for which he or she has voted.