



# Electoral (Finance Reform and Advance Voting) Amendment Act 2010

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Commencement see section 2

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**Part 6AA**  
**Election advertising**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Electoral (Finance Reform and Advance Voting) Amendment Act 2010.

**2 Commencement**

This Act comes into force on 1 January 2011.

**Part 1**

**Amendments to principal Act**

**3 Principal Act amended**

This Part amends the Electoral Act 1993.

**4 Interpretation**

- (1) Section 3(1) is amended by repealing the definition of **candidate** and substituting the following definition:

“**candidate**—

- “(a) means a constituency candidate; and
- “(b) includes a list candidate (other than in Parts 6AA and 6A); and
- “(c) in the definition of **candidate advertisement** and in section 3A and Parts 6AA, 6A, 7, and 8 includes a person who has declared his or her intention of becoming a constituency candidate; and
- “(d) in Parts 7 and 8 includes a person who has declared his or her intention of becoming a list candidate”.

- (2) Section 3(1) is amended by repealing the definition of **party** and substituting the following definition:

“**party**, in Parts 6AA and 6A,—

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

- “(b) includes a political party that at any time during the regulated period has been registered under Part 4”.
- (3) Section 3(1) is amended by inserting the following definitions in their appropriate alphabetical order:
- “**candidate advertisement** means an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to do either or both of the following:
- “(a) to vote for a constituency candidate (whether or not the name of the candidate is stated):
- “(b) not to vote for a constituency candidate (whether or not the name of the candidate is stated)
- “**election advertisement** has the meaning given to it by section 3A
- “**party advertisement** means an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to do either or both of the following:
- “(a) to vote for a party (whether or not the name of the party is stated):
- “(b) not to vote for a party (whether or not the name of the party is stated)
- “**regulated period** has the meaning given to it by section 3B”.
- (4) The definition of **public inspection period** in section 3(1) is amended by inserting “206ZC,” after “206I.”

## 5 New sections 3A to 3F and heading inserted

The following sections are inserted after section 3:

### “3A Meaning of election advertisement

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

- “(a) means an advertisement in any medium that may reasonably be regarded as encouraging or persuading voters to do either or both of the following:
- “(i) to vote, or not to vote, for a type of candidate described or indicated by reference to views or positions that are, or are not, held or taken (whether or not the name of the candidate is stated):
- “(ii) to vote, or not to vote, for a type of party described or indicated by reference to views or pos-

- itions that are, or are not, held or taken (whether or not the name of the party is stated); and
- “(b) includes—
    - “(i) a candidate advertisement; and
    - “(ii) a party advertisement.
  - “(2) None of the following are election advertisements:
    - “(a) an advertisement that—
      - “(i) is published, or caused or permitted to be published, by the Electoral Commission, the Chief Registrar of Electors, or any other agency charged with responsibilities in relation to the conduct of any official publicity or information campaign to be conducted on behalf of the Government of New Zealand; and
      - “(ii) relates to electoral matters or the conduct of any general election or by-election; and
      - “(iii) contains either—
        - “(A) a statement indicating that the advertisement has been authorised by that officer or agency; or
        - “(B) a symbol indicating that the advertisement has been authorised by that officer or agency;
    - “(b) contact information (as defined in subsection (3)) published in any medium by a member of Parliament that satisfies all of the following requirements:
      - “(i) the information was published by a member of Parliament in the course of performing his or her role and functions as a member of Parliament; and
      - “(ii) the information was prepared for publication and published by the member of Parliament using funding received under Vote Parliamentary Service; and
      - “(iii) the information was routinely published in that medium before the commencement of the regulated period and continues to be published in that medium during the regulated period; and



- “(iv) the information is published during the regulated period no more often and to no greater extent than before the commencement of the regulated period; and
  - “(v) the information is published during the regulated period in the same form and style as before the commencement of the regulated period; and
  - “(vi) the information is not included, combined, or associated with an election advertisement (as defined in subsection (1)), or with any other information so as to constitute an election advertisement, that is published by—
    - “(A) the member of Parliament; or
    - “(B) the secretary of the party to which the member of Parliament belongs; or
    - “(C) any other person with the authority of the member of Parliament:
  - “(c) the editorial content of—
    - “(i) a periodical:
    - “(ii) a radio or television programme:
    - “(iii) a publication on a news media Internet site:
  - “(d) any transmission (whether live or not) of proceedings in the House of Representatives:
  - “(e) any publication on the Internet, or other electronic medium, of personal political views by an individual who does not make or receive a payment in respect of the publication of those views.
- “(3) In this section,—
- “**contact information**, in relation to a member of Parliament, means information that—
- “(a) must include—
    - “(i) the name of the member of Parliament; and
    - “(ii) the contact details of the member of Parliament, being 1 or more of the following:
      - “(A) telephone number:
      - “(B) physical or postal address:
      - “(C) email address; and
    - “(iii) the name of the electoral district that the member of Parliament represents or, if the member has

not been elected to represent an electoral district, the fact that the member has been elected from a party list; and

- “(b) may include 1 or more of the following:
  - “(i) a photograph of the member of Parliament:
  - “(ii) the website address of either or both—
    - “(A) the member of Parliament:
    - “(B) the party to which the member of Parliament belongs:
  - “(iii) the name of the party to which the member of Parliament belongs:
  - “(iv) the logo of the party to which the member of Parliament belongs:
  - “(v) the times when the member of Parliament is available for consultation by the public

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

- “(a) was established for purposes unrelated to the conduct of election campaigns; and
- “(b) since its establishment has been—
  - “(i) published at regular intervals; and
  - “(ii) generally available to members of the public.

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

### “3B Meaning of regulated period

- “(1) In this Act, **regulated period**, in relation to a general election, has the meaning given to it by subsections (2) and (3).
- “(2) If before the close of the default day the Prime Minister gives public notice of the day that is to be polling day for the election, the regulated period—
  - “(a) commences on the later of the following days:
    - “(i) the day after the date on which the Prime Minister gives that public notice:
    - “(ii) the day that is 3 months before polling day; and
  - “(b) ends with the close of the day before polling day.
- “(3) If at the close of the default day the Prime Minister has not given public notice of the day that is to be polling day for the election, the regulated period—

- “(a) commences on the close of the default day; and
  - “(b) ends with the close of the day before polling day.
- “(4) In this Act, **regulated period**, in relation to a by-election, means the period that—
- “(a) commences on the day after the notice of the vacancy to be filled by the by-election is published under section 129(1); and
  - “(b) ends with the close of the day before polling day.
- “(5) In this section,—
- “**default day** means the day that is 2 years and 9 months after the polling day for the preceding general election
  - “**give public notice** means issue a media statement.

“3C **Electoral Commission to publish details relating to regulated period**

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

- “(a) the date on which the regulated period commenced; and
- “(b) the date on which the regulated period will end.

“3D **Meaning of publish**

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

- “(a) including—
  - “(i) displaying on any medium:
  - “(ii) distributing by any means:
  - “(iii) delivering to an address:
  - “(iv) leaving at a place:
  - “(v) sending by post or otherwise:
  - “(vi) printing in a newspaper or other periodical:
  - “(vii) broadcasting by any means:
  - “(viii) disseminating by means of the Internet or any other electronic medium:
  - “(ix) storing electronically in a way that is accessible to the public:
  - “(x) incorporating in a device for use with a computer:

- “(xi) inserting in a film or video; but
- “(b) excluding addressing 1 or more persons face to face.

**“3E Meaning of advertising expenses**

- “(1) In this Act, **advertising expenses**, in relation to an election advertisement—
- “(a) includes—
    - “(i) the cost incurred in the preparation, design, composition, printing, postage, and publication of the advertisement; and
    - “(ii) the reasonable market value of any material used for or applied towards the advertisement, including any such material that is provided free of charge or below reasonable market value; but
  - “(b) excludes the cost of—
    - “(i) the conduct of any survey or public opinion poll; and
    - “(ii) any framework (other than a commercial framework) that supports a hoarding on which the advertisement is displayed; and
    - “(iii) the labour of any person that is provided free of charge by that person; and
    - “(iv) the replacement of any material used in respect of the advertisement if that advertisement has been destroyed or rendered unusable by—
      - “(A) 1 or more persons, other than the person promoting the advertisement (**person A**):
      - “(B) the occurrence of an event beyond the control of person A, or any person acting on behalf of person A.
- “(2) To avoid doubt, advertising expenses does not include the cost (including running costs) of any vehicle used to display an election advertisement if the use of the vehicle for that purpose is not the subject of a contract, arrangement, or understanding for the payment of money or money’s worth.
- “(3) In this section, **vehicle** has the meaning given to it by section 2(1) of the Land Transport Act 1998.

*“Extraterritorial application***“3F Application of Act to conduct outside New Zealand**

- “(1) The provisions of Part 6AA and 6A apply in respect of the publication of an election advertisement—
- “(a) in New Zealand, in any case where the promoter of the advertisement is outside New Zealand; and
  - “(b) outside New Zealand, in any case where the promoter of the advertisement is in New Zealand.
- “(2) Subsection (1) does not affect the application of the provisions of this Act (other than those provisions in Parts 6AA and 6A that apply in respect of the publication of an election advertisement) in respect of an offence that under any provision of the Crimes Act 1961 is deemed to be committed in New Zealand.”

**6 Special voters**

Section 61 is amended by adding the following subsection:

- “(3) A person whose name appears on the main roll or any supplementary roll for an electoral district and who is qualified to vote at an election in that district may vote as a special voter if the person—
- “(a) applies to vote in person before polling day; and
  - “(b) does so within that district or at an office maintained by the Returning Officer of that district.”

**7 New Part 6AA inserted**

The following Part is inserted after section 204:

**“Part 6AA****“Election advertising***“Interpretation provisions***“204A Interpretation**

In this Part, unless the context otherwise requires,—

“**address** means—

- “(a) in relation to an individual,—
  - “(i) the full street address of the place where that individual usually lives; or

- “(ii) the full street address of any other place where that individual can usually be contacted between the hours of 9 am and 5 pm on any working day:
- “(b) in relation to a body corporate or unincorporated,—
  - “(i) the full street address of the body’s principal place of business; or
  - “(ii) the full street address of the body’s head office
- “**contact details** for a person means that person’s—
  - “(a) address; and
  - “(b) telephone numbers; and
  - “(c) email address (if any)
- “**election advertisement** has the meaning given to it by section 3A
- “**promoter** means a person who initiates or instigates an election advertisement that—
  - “(a) is published; or
  - “(b) is to be published
- “**register** means the register of registered promoters established and maintained under section 204R
- “**registered promoter**—
  - “(a) means a promoter who is registered under section 204N; and
  - “(b) includes a promoter who at any time in the regulated period has been registered under section 204N
- “**unregistered promoter** means a promoter who is not—
  - “(a) a registered promoter; or
  - “(b) a constituency candidate; or
  - “(c) a list candidate; or
  - “(d) a party; or
  - “(e) a person involved in the administration of—
    - “(i) the affairs of a candidate in relation to the candidate’s election campaign; or
    - “(ii) the affairs of a party.

“Subpart 1—General rules governing  
election advertisements

“**204B Persons who may promote election advertisements**

- “(1) A person is entitled to promote an election advertisement if the person is—
- “(a) a party secretary:
  - “(b) a candidate:
  - “(c) a registered promoter:
  - “(d) an unregistered promoter who does not incur advertising expenses exceeding \$12,000 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A) in relation to election advertisements published during the regulated period.
- “(2) The amount in subsection (1)(d) is inclusive of goods and services tax.
- “(3) Every person who wilfully promotes an election advertisement without being entitled to do so under subsection (1) is guilty of an illegal practice.
- “Compare: 2007 No 111 s 63(3), (4)

“**204C Apportionment of advertising expenses for publication of election advertisement promoted by unregistered promoter both before and during regulated period**

- “(1) This section applies if an election advertisement that is promoted by an unregistered promoter—
- “(a) is published both before the commencement of the regulated period and during the regulated period; or
  - “(b) is published before the commencement of the regulated period and continues to be published during the regulated period.
- “(2) If this section applies,—
- “(a) the election advertisement is deemed to have been published during the regulated period; but
  - “(b) the advertising expenses for the publication of the election advertisement must be apportioned so that only a fair proportion of the expenses is attributed to being incurred during the regulated period.

“(3) Only the advertising expenses attributed to being incurred during the regulated period determined in accordance with subsection (2) are advertising expenses for the purposes of section 204B(1)(d).

“Compare: 1993 No 87 ss 205C, 206C (pre-1 January 2011)

“**204D Offence to avoid limit set out in section 204B(1)(d)**

“(1) An unregistered promoter may not enter into an agreement, or enter into an arrangement or understanding, with any other person for the purpose of circumventing the maximum amount prescribed in section 204B(1)(d).

“(2) A body corporate or unincorporated may not encourage its members to take any action for the purpose of circumventing the maximum amount prescribed in section 204B(1)(d).

“(3) No person may incorporate or form 2 or more bodies corporate or unincorporated for the purpose of circumventing the maximum amount prescribed in section 204B(1)(d).

“(4) Every person who wilfully contravenes subsection (1), (2), or (3) is guilty of an illegal practice.

“Compare: 2007 No 111 s 64

“**204E Obligation to retain records necessary to verify promoter’s advertising expenses**

“(1) This section applies to a promoter who—

“(a) is an unregistered promoter:

“(b) at any time during the regulated period has been an unregistered promoter.

“(2) A promoter to whom this section applies must take all reasonable steps to retain the records, documents, and accounts that are necessary to enable verification of the advertising expenses incurred as an unregistered promoter in relation to an election advertisement.

“(3) Subsection (2) applies until the close of the day that is 3 years after polling day for the election to which the advertisement relates.

“(4) Every promoter who fails, without reasonable excuse, to comply with subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.



**“204F Election advertisement to include promoter statement**

- “(1) A person may publish or cause or permit to be published an election advertisement only if the advertisement includes a promoter statement.
- “(2) A promoter statement referred to in subsection (1) must state the name and address of the promoter of the election advertisement.
- “(3) If the promoter is a registered promoter, the name and address of the promoter stated in the promoter statement must be the same name and address of the promoter that appear in the register.
- “(4) If the promoter is an unregistered promoter and is a body corporate or unincorporated, the promoter statement must also include the name of a member of the body who is the duly authorised representative of the promoter.
- “(5) If the election advertisement is published in a visual form, the promoter statement must be clearly displayed in the advertisement.
- “(6) If the election advertisement is published only in an audible form, the promoter statement when published must be no less audible than the other content of the advertisement.
- “(7) A person who wilfully contravenes any of subsections (1) to (6) is guilty of an illegal practice.

“Compare: 1993 No 87 s 221(2)(b), (3)(b), (4) (pre-January 2011)

**“204G Publication of candidate advertisement promoting candidate**

- “(1) A person may publish or cause or permit to be published a candidate advertisement that may reasonably be regarded as encouraging or persuading voters to vote for a constituency candidate only if the publication of the advertisement is authorised in writing by the candidate.
- “(2) A person may publish or cause or permit to be published an election advertisement comprising 2 or more candidate advertisements of the kind described in subsection (1) only if the publication of the advertisement is authorised in writing by each of the candidates.

“(3) A person who wilfully contravenes subsection (1) or (2) is guilty of an illegal practice.

“Compare: 1993 No 87 s 221(1)(a), (2)(a), (4), (5) (pre-1 January 2011)

“**204H Publication of party advertisement promoting party**

“(1) A person may publish or cause or permit to be published a party advertisement that may reasonably be regarded as encouraging or persuading voters to vote for a party only if the publication of the advertisement is authorised in writing by the party secretary.

“(2) A person who wilfully contravenes subsection (1) is guilty of an illegal practice.

“Compare: 1993 No 87 s 221(1)(b), (3), (4), (5) (pre-1 January 2011)

“**204I Electoral Commission to provide advice on application of definition of election advertisement**

“(1) Any person (a **requestor**) may request the Electoral Commission to provide advice on whether, in the opinion of the Electoral Commission, an advertisement constitutes an election advertisement.

“(2) A request made under subsection (1) must be accompanied by the advertisement in the form required by the Electoral Commission.

“(3) On receipt of a request under subsection (1), the Electoral Commission must, as soon as is reasonably practicable, provide an opinion to the requestor.

“(4) During the period specified in subsection (6), the Electoral Commission must treat the following documents as confidential:

“(a) an advertisement received under subsection (2):

“(b) any supporting material made available by the requestor to the Electoral Commission:

“(c) advice given by the Electoral Commission to a requestor under subsection (3).

“(5) Notwithstanding subsection (4), the Electoral Commission may, upon request or on its own initiative, make available to the New Zealand Police copies of the documents referred to in

that subsection to assist with the investigation or prosecution of any offence or suspected offence relating to an election.

- “(6) The period specified for the purposes of subsection (4) is, in relation to a document, the period that—
- “(a) begins on the day the Electoral Commission receives the document; and
  - “(b) ends on the day after the day for the return of the writ for the election to which the advertisement relates.
- “(7) Subsection (4) overrides the Official Information Act 1982 and the Privacy Act 1993.

**“204J Duty of Electoral Commission to report suspected offences**

- “(1) If the Electoral Commission believes that any person has committed an offence specified in this subpart, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.
- “(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

“Subpart 2—Registered promoters

**“204K Promoters eligible to be registered**

A promoter (including a corporation sole, a body corporate, and an unincorporated body) is eligible to be a registered promoter if the promoter is not—

- “(a) a constituency candidate;
- “(b) a list candidate;
- “(c) a party;
- “(d) an overseas person as defined in section 207K;
- “(e) a person involved in the administration of—
  - “(i) the affairs of a candidate in relation to the candidate’s election campaign; or
  - “(ii) the affairs of a party.

“Compare: 2007 No 111 s 13

**“204L Application for registration**

- “(1) An application to be a registered promoter must be made to the Electoral Commission and made,—
- “(a) if the promoter is an individual, by that individual; or
  - “(b) if the promoter is a company, by a person who is duly authorised by the board of directors to make the application; or
  - “(c) if the promoter is not an individual or a company, by the promoter’s representative who is duly authorised by the promoter to make the application.
- “(2) An application to be a registered promoter must be made in the form required by the Electoral Commission and set out—
- “(a) the name and contact details of—
    - “(i) the promoter; and
    - “(ii) the person described in subsection (1)(b) or (c) who made the application, if the promoter is not an individual; and
  - “(b) the names of the persons occupying a position in the body that is comparable with that of a director of a company, if the promoter is not an individual or a company; and
  - “(c) the names of the trustees, if the promoter is a trust.
- “(3) An application to be a registered promoter must be accompanied by evidence of the authority to make the application, if the application is made by a person described in subsection (1)(b) or (c).

“Compare: 2007 No 111 s 15(2), (3)(a)

**“204M Grounds on which application for registration must be refused**

The Electoral Commission must refuse an application by a promoter to be registered if—

- “(a) the application does not comply with section 204L; or
- “(b) the Electoral Commission is not satisfied that the promoter is eligible under section 204K to be registered; or
- “(c) the name of the promoter is—
  - “(i) indecent or offensive; or
  - “(ii) likely to cause confusion or mislead electors.

“Compare: 1993 No 87 s 65(a), (c); 2007 No 111 s 17(1)(a), (c)

**“204N Electoral Commission’s decision on application**

- “(1) If there are no grounds under section 204M to refuse an application by a promoter to be registered, the Electoral Commission must, as soon as is reasonably practicable after receiving the application,—
- “(a) register the promoter; and
  - “(b) notify the person who made the application of the date of registration of the promoter.
- “(2) If there are grounds under section 204M to refuse an application, the Electoral Commission must, as soon as is reasonably practicable after receiving the application,—
- “(a) refuse the application; and
  - “(b) notify the person who made the application of the refusal and the reasons.

“Compare: 2007 No 111 s 18

**“204O Obligation to notify Electoral Commission of change in contact details**

A registered promoter must give written notice to the Electoral Commission of any change in the information provided under section 204L(2) within 10 working days after the change.

“Compare: 2007 No 111 s 19(1)

**“204P Cancellation of registration**

- “(1) The Electoral Commission must cancel the registration of a promoter if—
- “(a) the Electoral Commission is satisfied that the promoter is not eligible to be registered; or
  - “(b) the promoter—
    - “(i) requests that it do so; and
    - “(ii) has not incurred expenses in relation to election advertisements that exceed the amount specified in section 204B(1)(d).
- “(2) If the Electoral Commission cancels the registration of a promoter under subsection (1), the Electoral Commission must, as soon as is reasonably practicable, and in any case not later than 10 working days after the date of the cancellation, give the promoter written notice of—
- “(a) the cancellation; and

“(b) the reason for the cancellation.

“Compare: 2007 No 111 s 20

**“204Q Expiry of registration**

Unless earlier cancelled under section 204P, a promoter’s registration expires on the close of polling day for the next election following the date of the promoter’s registration.

**“204R Establishment of register**

- “(1) The Electoral Commission must establish and maintain a register of registered promoters.
- “(2) The Electoral Commission must enter in the register in respect of every registered promoter—
  - “(a) the name of the registered promoter; and
  - “(b) the address of the registered promoter; and
  - “(c) the names of the persons set out in the promoter’s application, if any, provided under section 204L(2)(a)(ii), (b), and (c).
- “(3) The Electoral Commission may enter in the register any other information that the Electoral Commission considers necessary or desirable for the purposes of the register.

**“204S Purposes of register**

The purposes of the register are—

- “(a) to enable members of the public to ascertain—
  - “(i) whether a person is a registered promoter and, if so, the address of that person; and
  - “(ii) whether an election advertisement is promoted by a registered promoter; and
- “(b) to assist with the enforcement of the provisions of this Part.

**“204T Form of register**

The register may be kept—

- “(a) as an electronic register (for example, on the Electoral Commission’s Internet site); or
- “(b) in any other manner that the Electoral Commission thinks fit.

**“204U Alterations to register**

The Electoral Commission may at any time make any amendments to the register that are necessary to—

- “(a) reflect any changes in the information referred to in section 204O; or
- “(b) correct any error or omission on the part of the Electoral Commission or any person to whom the Electoral Commission has delegated its functions, duties, or powers.

**“204V Register to be public**

The Electoral Commission must—

- “(a) make the register available for public inspection at its office during ordinary office hours, without fee; and
- “(b) supply to a person copies of all or part of the register on request, subject to the payment of any charges that may be made under the Official Information Act 1982.

**“204W Search of register**

A person may search the register for a purpose set out in section 204S.

**“204X When search constitutes interference with privacy of individual**

A search of the register for personal information that has not been carried out for a purpose specified in section 204S constitutes an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.”

**8 New heading and sections 205 to 205EA substituted**

Sections 205 to 205E and the heading above section 205 are repealed and the following heading and sections substituted:

“Subpart 1—Election expenses of candidates

**“205 Interpretation and application**

- “(1) In this subpart, unless the context otherwise requires,—
  - “**advertising expenses** has the meaning given to it by section 3E
  - “**candidate advertisement** has the meaning given to it by section 3(1)

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

“**election expenses**, in relation to a candidate,—

“(a) means the advertising expenses incurred in relation to a candidate advertisement that—

“(i) is published, or continues to be published, during the regulated period; and

“(ii) is promoted by—

“(A) the candidate; or

“(B) any person (including a registered promoter) authorised by the candidate; and

“(b) includes—

“(i) any election expense of an election advertisement that is apportioned to a candidate under section 205E or 205EA; and

“(ii) as required by section 40 of the Electoral Referendum Act 2010, any referendum expenses incurred in relation to an advertisement that comprises both—

“(A) a candidate advertisement; and

“(B) a referendum advertisement (within the meaning of section 31 of the Electoral Referendum Act 2010)

“**party advertisement** has the meaning given to it by section 3(1).

“(2) For the purposes of the definition of **election expenses**, it is immaterial whether an election expense is paid or incurred before, during, or after the regulated period.

“(3) Nothing in sections 205K to 205R applies to a person who has not been nominated as a candidate for a seat in the House of Representatives.

“**205A Persons who may incur election expenses in relation to candidate advertisement**

An election expense in relation to a candidate advertisement may only be incurred by—

“(a) a candidate; or

“(b) a party secretary in relation to an election advertisement described in section 205EA; or



- “(c) a promoter authorised by the candidate under section 204G.

**“205B Offence to incur unauthorised election expense**

Every person is guilty of—

- “(a) a corrupt practice who wilfully contravenes section 205A; and
- “(b) an illegal practice who contravenes section 205A in any other case.

“Compare: 2007 No 111 s 75

**“205C Maximum amount of candidate’s total election expenses**

- “(1) The total election expenses of a candidate in respect of any regulated period must not exceed—

- “(a) \$25,000 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A), in the case of a candidate at a general election; and
- “(b) \$50,000 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A), in the case of a candidate at a by-election.

- “(2) The amounts in subsection (1) are inclusive of goods and services tax.

“Compare: 1993 No 87 s 205B (pre-1 January 2011)

**“205D Apportionment of advertising expenses for publication of candidate advertisement both before and during regulated period**

- “(1) This section applies if a candidate advertisement—

- “(a) is published both before the commencement of the regulated period and during the regulated period; or
- “(b) is published before the commencement of the regulated period and continues to be published during the regulated period.

- “(2) If this section applies,—

- “(a) the candidate advertisement is deemed to have been published during the regulated period; but
- “(b) the advertising expenses for the publication of the candidate advertisement must be apportioned so that only

a fair proportion of the expenses is attributed to being incurred during the regulated period.

- “(3) Only the advertising expenses attributed to being incurred during the regulated period in accordance with subsection (2) are election expenses.

“Compare: 1993 No 87 s 205C (pre-1 January 2011)

“**205E Apportionment of election expenses of election advertisement between candidates**

- “(1) This section applies if an election advertisement comprises 2 or more candidate advertisements.

- “(2) If this section applies, the election expenses of the election advertisement must be apportioned among the candidates in proportion to the coverage the advertisement provides to each candidate.

- “(3) For the purposes of this section,—

“(a) **election expenses of the election advertisement** means the total of the election expenses of all of the candidate advertisements comprised in the election advertisement; and

“(b) the coverage provided by an election advertisement must be calculated in such a manner as is appropriate in relation to the form of the advertisement.

- “(4) Only the expenses apportioned to a candidate in accordance with this section are election expenses of that candidate.

“Compare: 1993 No 87 s 205D (pre-1 January 2011)

“**205EA Apportionment of election expenses of election advertisement between candidate and party**

- “(1) This section applies if an election advertisement comprises both—

“(a) a candidate advertisement; and

“(b) a party advertisement.

- “(2) If this section applies, the election expenses of the election advertisement must be apportioned between the candidate and the party in proportion to the coverage the advertisement provides to the candidate and to the party.

- “(3) For the purposes of this section,—

- “(a) **election expenses of the election advertisement** means the advertising expenses incurred in relation to both the candidate advertisement and the party advertisement; and
- “(b) the coverage provided by an election advertisement must be calculated in such a manner as is appropriate in relation to the form of the election advertisement.
- “(4) Only the expenses apportioned to the candidate in accordance with this section are election expenses of the candidate.”

**9 Offence to pay election expenses in excess of prescribed maximum**

Section 205F is amended by adding the following subsection:

- “(3) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing either of the maximum amounts prescribed in section 205C is guilty of a corrupt practice.”

**10 Periods for claiming and paying candidate’s election expenses**

Section 205G(1) is amended by omitting “, or an agent of a candidate,”.

**11 Duty of Electoral Commission**

Section 205P is amended by adding the following subsection as subsection (2):

- “(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.”

**12 New heading and sections 206 to 206CC substituted**

Sections 206 to 206C and the heading above section 206 are repealed and the following heading and sections substituted:

“Subpart 2—Election expenses of parties

**“206 Interpretation**

- “(1) In this subpart,—

“**advertising expenses** has the meaning given to it by section 3E

“**candidate advertisement** has the meaning given to it by section 3(1)

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

“**election expenses**, in relation to a party,—

“(a) means the advertising expenses incurred in relation to a party advertisement that—

“(i) is published, or continues to be published, during the regulated period; and

“(ii) is promoted by—

“(A) the party secretary; or

“(B) any person (including a registered promoter) authorised by the party secretary; and

“(b) includes—

“(i) any election expense of an election advertisement that is apportioned to a party under section 206CB or 206CC; and

“(ii) as required by section 40 of the Electoral Referendum Act 2010, any referendum expenses incurred in relation to an advertisement that comprises both—

“(A) a party advertisement; and

“(B) a referendum advertisement (within the meaning of section 31 of the Electoral Referendum Act 2010); but

“(c) excludes—

“(i) the costs representing the time allocated to a party under section 73 or 76A of the Broadcasting Act 1989; and

“(ii) the costs of broadcasting election programmes (as defined in section 69 of the Broadcasting Act 1989) that are paid by the Electoral Commission out of money allocated to the party under section 74A or 76A of the Broadcasting Act 1989

“**party advertisement** has the meaning given to it by section 3(1).

“(2) For the purposes of the definition of **election expenses**, it is immaterial whether an election expense is paid or incurred before, during, or after the regulated period.

“**206A Persons who may incur election expenses in relation to party advertisement**

An election expense in relation to a party advertisement may only be incurred by—

- “(a) the party secretary; or
- “(b) a candidate in relation to an election advertisement described in section 206CC; or
- “(c) a promoter authorised by the party secretary under section 204H.

“**206B Offence to incur unauthorised election expense**

Every person is guilty of—

- “(a) a corrupt practice who wilfully contravenes section 206A; and
- “(b) an illegal practice who contravenes section 206A in any other case.

“Compare: 2007 No 111 s 97

“**206C Maximum amount of party’s total election expenses**

“(1) If a party is listed in the part of the ballot paper that relates to the party vote, the total election expenses of that party in respect of any regulated period must not exceed—

- “(a) \$1,032,000 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A); and
- “(b) \$25,000 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A) for each electoral district contested by a candidate for the party.

“(2) If a party is not listed in the part of the ballot paper that relates to the party vote, the total election expenses of that party in respect of any regulated period must not exceed \$25,000 for each electoral district contested by a candidate for the party.

“(3) The amounts in subsections (1) and (2) are inclusive of goods and services tax.

“Compare: 1993 No 87 s 206B (pre-1 January 2011)

“**206CA Apportionment of advertising expenses for publication of party advertisement both before and during regulated period**

“(1) This section applies if a party advertisement—

“(a) is published both before the commencement of the regulated period and during the regulated period; or

“(b) is published before the commencement of the regulated period and continues to be published during the regulated period.

“(2) If this section applies,—

“(a) the party advertisement is deemed to have been published during the regulated period; but

“(b) the advertising expenses for the publication of the party advertisement must be apportioned so that only a fair proportion of the expenses is attributed to being incurred during the regulated period.

“(3) Only the advertising expenses attributed to being incurred during the regulated period in accordance with subsection (2) are election expenses.

“Compare: 1993 No 87 s 206C (pre-1 January 2011)

“**206CB Apportionment of election expenses of election advertisement between parties**

“(1) This section applies if an election advertisement comprises 2 or more party advertisements.

“(2) If this section applies, the election expenses of the election advertisement must be apportioned among the parties in proportion to the coverage the advertisement provides to each party.

“(3) For the purposes of this section,—

“(a) **election expenses of the election advertisement** means the total of the election expenses of all of the party advertisements comprised in the election advertisement; and

- “(b) the coverage provided by an election advertisement must be calculated in such a manner as is appropriate in relation to the form of the advertisement.
- “(4) Only the expenses apportioned to a party in accordance with this section are election expenses of that party.

**“206CC Apportionment of election expenses of election advertisement between party and candidate**

- “(1) This section applies if an election advertisement comprises both—
  - “(a) a party advertisement; and
  - “(b) a candidate advertisement.
- “(2) If this section applies, the election expenses of the election advertisement must be apportioned between the party and the candidate in proportion to the coverage the advertisement provides to the party and to the candidate.
- “(3) For the purpose of this section,—
  - “(a) **election expenses of the election advertisement** means the advertising expenses incurred in relation to both the candidate advertisement and the party advertisement; and
  - “(b) the coverage provided by an election advertisement must be calculated in such a manner as is appropriate in relation to the form of the election advertisement.
- “(4) Only the expenses apportioned to the party in accordance with this section are election expenses of the party.”

**13 Offence to pay election expenses in excess of prescribed maximum**

Section 206D is amended by adding the following subsection:

- “(3) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing either of the maximum amounts prescribed in section 206C is guilty of a corrupt practice.”

**14 Duty of Electoral Commission**

Section 206P is amended by adding the following subsection as subsection (2):

“(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.”

**15 New subpart 2A inserted**

The following subpart is inserted after section 206R:

“Subpart 2A—Election expenses of  
registered promoters

**“206S Interpretation**

“(1) In this subpart,—

“**advertising expenses** has the meaning given to it by section 3E

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

“**election expenses**, in relation to a registered promoter,—

“(a) means the advertising expenses incurred in relation to an election advertisement that—

“(i) is published, or continues to be published, during the regulated period; and

“(ii) is promoted by the registered promoter; and

“(b) includes, as required by section 40 of the Electoral Referendum Act 2010, any referendum expenses incurred in relation to an advertisement that comprises both—

“(i) an election advertisement; and

“(ii) a referendum advertisement (within the meaning of section 31 of the Electoral Referendum Act 2010)

“**registered promoter** has the meaning given to it by section 204A.

“(2) For the purposes of the definition of **election expenses**, it is immaterial whether an election expense is paid or incurred before, during, or after the regulated period.

**“206T Persons who may incur election expenses in relation to election advertisement promoted by registered promoter**

An election expense in relation to an election advertisement promoted by a registered promoter may only be incurred by—



- “(a) the registered promoter; or
- “(b) a person authorised by the registered promoter.

**“206U Offence to incur unauthorised election expense**

Every person is guilty of—

- “(a) a corrupt practice who wilfully contravenes section 206T; and
- “(b) an illegal practice who contravenes section 206T in any other case.

“Compare: 2007 No 111 s 117(1)

**“206V Maximum amount of registered promoter’s total election expenses**

- “(1) The total election expenses of a registered promoter in respect of any regulated period must not exceed \$300,000 (or such other amount as is prescribed by the Governor-General by Order in Council under section 266A).
- “(2) The amount in subsection (1) is inclusive of goods and services tax.

**“206W Apportionment of advertising expenses for publication of election advertisement promoted by registered promoter both before and during regulated period**

- “(1) This section applies if an election advertisement that is promoted by a registered promoter—
  - “(a) is published both before the commencement of the regulated period and during the regulated period; or
  - “(b) is published before the commencement of the regulated period and continues to be published during the regulated period.
- “(2) If this section applies,—
  - “(a) the election advertisement is deemed to have been published during the regulated period; but
  - “(b) the advertising expenses for the publication of the election advertisement must be apportioned so that only a fair proportion of the expenses is attributed to being incurred during the regulated period.

“(3) Only the advertising expenses attributed to being incurred during the regulated period in accordance with subsection (2) are election expenses.

“Compare: 2007 No 111 s 119

“**206X Offence to pay election expenses in excess of prescribed maximum**

“(1) This section applies to any registered promoter or other person who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any election expenses any sum in excess of the maximum amount prescribed by section 206V.

“(2) The registered promoter or other person is guilty of—

“(a) a corrupt practice if he or she knew the payment was in excess of the prescribed maximum amount; or

“(b) an illegal practice in any other case, unless he or she proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the prescribed maximum amount.

“(3) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing the maximum amount prescribed in section 206V is guilty of a corrupt practice.

“Compare: 2007 No 111 s 122

“**206Y Periods for claiming and paying registered promoter’s election expenses**

“(1) A claim for any election expenses against a registered promoter is recoverable only if it is sent to the registered promoter within 20 working days after the day on which the declaration required by section 179(2) is made.

“(2) A claim that is sent to a registered promoter in accordance with subsection (1) must be paid within 40 working days after the day on which that declaration is made, and not otherwise.

“(3) A person who makes a payment in breach of this section is guilty of an illegal practice.

“(4) This section is subject to sections 206Z and 206ZA.

“Compare: 2007 No 111 s 82

**“206Z Procedure if claim disputed**

- “(1) If a registered promoter, in the case of a claim for election expenses sent to a registered promoter within the period specified in section 206Y(1), disputes the claim or fails to pay the claim within the period of 40 working days specified in section 206Y(2), then—
- “(a) the claim is to be treated as a disputed claim; and
  - “(b) the claimant may, if he or she thinks fit, within 20 working days after the expiry of that period of 40 working days, bring an action for the disputed claim in any court of competent jurisdiction.
- “(2) Any sum paid by the registered promoter in accordance with a judgment or order of the court in any such action is to be treated as paid within the period specified in section 206Y(2).  
“Compare: 2007 No 111 s 83

**“206ZA Leave to pay claim after time limitation**

- “(1) On the application of a claimant or a registered promoter, a District Court may make an order granting leave to the registered promoter to pay—
- “(a) a claim for election expenses sent after the period specified in section 206Y(1); or
  - “(b) a claim not paid in the period specified in section 206Y(2); or
  - “(c) a disputed claim in respect of which an action was not brought within the period specified in section 206Z(1)(b).
- “(2) Any sum paid by the registered promoter in accordance with an order made under subsection (1) is to be treated as having been paid within the period specified in section 206Y(2).  
“Compare: 2007 No 111 s 84

**“206ZB Invoice and receipt required for election expenses of \$50 or more**

- “(1) Every payment made in respect of any election expenses of a registered promoter must be vouched by an invoice stating the particulars, and by a receipt.
- “(2) Subsection (1) does not apply to a payment less than \$50.

**“206ZC Return of registered promoter’s election expenses**

- “(1) This section applies to a registered promoter whose total election expenses in respect of any regulated period exceed \$100,000 (inclusive of goods and services tax).
- “(2) Within 70 working days after polling day, the registered promoter must file a return of election expenses with the Electoral Commission.
- “(3) If the registered promoter is not an individual or a company, the return must be filed by the registered promoter’s representative who is duly authorised to file the return.
- “(4) A return filed under subsection (2) must be in the form required by the Electoral Commission.

**“206ZD Electoral Commission may require auditor’s report on return of registered promoter’s election expenses**

- “(1) If the Electoral Commission has reasonable grounds to believe that a return filed under section 206ZC may contain any false or misleading information, the Electoral Commission may require the registered promoter (at the registered promoter’s expense) to obtain from an auditor a report on the return.
- “(2) The auditor must state in the report—
  - “(a) the position shown by the return in respect of the requirement that the registered promoter’s total election expenses must not exceed the maximum amount prescribed by section 206V; and
  - “(b) either—
    - “(i) whether, in the auditor’s opinion, the position stated under paragraph (a) is correct; or
    - “(ii) that the auditor has been unable to form an opinion as to whether the position stated under paragraph (a) is correct.
- “(3) The auditor must make any examinations that the auditor considers necessary.
- “(4) The auditor must specify in the report any case in which—
  - “(a) the auditor has not received from the registered promoter all the information that the auditor requires to carry out his or her duties; or

- “(b) proper records of the registered promoter’s election expenses have not, in the auditor’s opinion, been kept by the registered promoter.
  - “(5) The auditor—
    - “(a) must have access at all reasonable times to all records, documents, and accounts that relate to the registered promoter’s election expenses and that are held by the registered promoter; and
    - “(b) may require the registered promoter to provide any information and explanation that, in the auditor’s opinion, may be necessary to enable the auditor to prepare the report.
- “Compare: 2007 No 111 s 128

**“206ZE Offences relating to return of registered promoter’s election expenses**

- “(1) A registered promoter who fails, without reasonable excuse, to comply with section 206ZC is liable on summary conviction to a fine not exceeding \$40,000.
  - “(2) A registered promoter who files a return under section 206ZC that is false in any material particular is guilty of—
    - “(a) a corrupt practice if the registered promoter filed the return knowing it to be false in any material particular:
    - “(b) an illegal practice in any other case unless the registered promoter proves that—
      - “(i) he or she had no intention to misstate or conceal the facts; and
      - “(ii) he or she took all reasonable steps in the circumstances to ensure that the information was accurate.
  - “(3) If the registered promoter is not an individual or a company, the registered promoter’s representative who files the return in accordance with section 206ZC(3) is liable under subsections (1) and (2).
  - “(4) Subsection (3) does not limit the liability of a registered promoter under subsection (1) or (2).
- “Compare: 2007 No 111 s 130

**“206ZF Obligation to retain records necessary to verify return of registered promoter’s election expenses**

“(1) A registered promoter must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable a return filed under section 206ZC to be verified are retained until the expiry of the period within which a prosecution may be commenced under this Act in relation to the return or in relation to any matter to which the return relates.

“(2) A registered promoter who fails, without reasonable excuse, to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.

“Compare: 2007 No 111 s 131

**“206ZG Duty of Electoral Commission**

“(1) If the Electoral Commission believes that any person has committed an offence specified in this subpart, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.

“(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

“Compare: 2007 No 111 s 132

**“206ZH Return of registered promoter’s election expenses to be publicly available**

“(1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return filed under section 206ZC.

“(2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return filed under section 206ZC.

“(3) The Electoral Commission may make inspection under subsection (2) subject to the payment of any charges that may be made under the Official Information Act 1982.

“Compare: 2007 No 111 s 133”.

**16 Interpretation**

- (1) Paragraph (a)(i) of the definition of **candidate donation** in section 207(2) is amended by omitting “\$200” and substituting “\$300”.
- (2) Section 207(2) is amended by repealing paragraph (b) of the definition of **candidate donation** and substituting the following paragraph:
  - “(b) excludes,—
    - “(i) the labour of any person that is provided to a candidate free of charge by that person; and
    - “(ii) goods or services provided 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.”
- (3) Paragraph (a)(i) of the definition of **party donation** in section 207(2) is amended by omitting “\$1,000” and substituting “\$1,500”.
- (4) Section 207(2) is amended by repealing paragraph (b)(ii) of the definition of **party donation** and substituting the following subparagraphs:
  - “(ii) goods or services provided free of charge to a party, or to any person on the party’s behalf, that have a reasonable market value of \$1,500 or less; and
  - “(iii) any candidate donation that is included in a return made by a candidate under section 209”.

**17 Donations to be transmitted to candidate or party secretary**

Section 207B is amended by repealing subsection (2) and substituting the following subsection:

- “(2) Every person to whom a party donation is given or sent must, within 10 working days after receiving the donation, either—
  - “(a) transmit the donation to the party secretary; or
  - “(b) deposit the donation into a bank account nominated by the party secretary.”

**18 Contributors to be identified**

- (1) Section 207C(1) is amended by inserting “(other than an anonymous donation)” after “donation”.
- (2) Section 207C(2) is amended by omitting “\$1,000” in each place where it appears and substituting in each case “\$1,500”.

**19 Disclosure of identity of donor**

Section 207G is amended by omitting “\$1,000” in each place where it appears and substituting in each case “\$1,500”.

**20 Anonymous donation may not exceed \$1,000**

- (1) The heading to section 207I is amended by omitting “\$1,000” and substituting “\$1,500”.
- (2) Section 207I is amended by omitting “\$1,000” in each place where it appears and substituting in each case “\$1,500”.

**21 Overseas donation may not exceed \$1,000**

- (1) Section 207K is amended by omitting the heading and substituting the following heading: “**Overseas donation or contribution may not exceed \$1,500**”.
- (2) Section 207K is amended by repealing subsection (2) and substituting the following subsections:
  - “(2) If a candidate receives from an overseas person a donation that either on its own or when aggregated with all other donations made by or on behalf of the same overseas person for use in the same campaign exceeds \$1,500, the candidate must, within 20 working days of receipt of the donation,—
    - “(a) return to the overseas person the total amount donated by the overseas person, or its value, less \$1,500; or
    - “(b) if this is not possible, pay the total amount donated by the overseas person, or its value, less \$1,500 to the Electoral Commission.
  - “(2A) If a party secretary receives from an overseas person a donation that either on its own or when aggregated with all other donations made by or on behalf of the same overseas person during the same year ending 31 December exceeds \$1,500, the party secretary must, within 20 working days of receipt of the donation,—



- “(a) return to the overseas person the total amount donated by the overseas person, or its value, less \$1,500; or
  - “(b) if this is not possible, pay the total amount donated by the overseas person, or its value, less \$1,500 to the Electoral Commission.”
- (3) Section 207K(3) is amended by omitting “\$1,000” and substituting “\$1,500”.

**22 New section 207LA inserted**

The following section is inserted after section 207L:

**“207LA Offence relating to splitting party donation or contribution to party donation**

- “(1) A person is guilty of a corrupt practice who directs or procures, or is actively involved in directing or procuring, 2 or more bodies corporate to split between the bodies corporate a party donation in order to conceal the total amount of the donation and avoid the donation’s inclusion by the party secretary in the return of party donations under section 210(1)(a).
- “(2) A person is guilty of a corrupt practice who directs or procures, or is actively involved in directing or procuring, 2 or more bodies corporate to split between the bodies corporate a contribution to a party donation in order to conceal the total amount of the contribution and avoid the contribution’s inclusion by the party secretary in the return of party donations under section 210(1)(b).”

**23 New section 207O substituted**

Section 207O is repealed and the following section substituted:

**“207O Duty of Electoral Commission in relation to donations**

- “(1) If the Electoral Commission believes that any person has committed an offence against this subpart or subparts 4 to 6 of this Part, the Electoral Commission must report the facts on which that belief is based to the New Zealand Police.
- “(2) Subsection (1) does not apply if the Electoral Commission considers that the offence is so inconsequential that there is

no public interest in reporting those facts to the New Zealand Police.

“Compare: 2007 No 111 ss 35, 36”.

**24 Section 207P repealed**

Section 207P is repealed.

**25 Method of making donation protected from disclosure**

Section 208A is amended by omitting “\$1,000” in each place where it appears and substituting in each case “\$1,500”.

**26 Return of candidate donations**

(1) Section 209(1) is amended by omitting “\$1,000” in each place where it appears and substituting in each case “\$1,500”.

(2) Section 209(1) is amended by repealing paragraph (d) and substituting the following paragraphs:

“(d) the details specified in subsection (5) in respect of every candidate donation received by him or her from an overseas person that, either on its own or when aggregated with all other donations made by or on behalf of the same overseas person for use in the same campaign, exceeds \$1,500; and

“(e) the details specified in subsection (5A) in respect of every contribution to a candidate donation received by him or her from an overseas person that exceeds \$1,500.”

(3) Section 209(2) is amended by repealing paragraphs (c) and (d) and substituting the following paragraphs:

“(c) the amount of the donation or, in the case of aggregated donations, the total amount of the donations; and

“(d) the date the donation was received or, in the case of aggregated donations, the date that each donation was received.”

(4) Section 209 is amended by repealing subsection (5) and substituting the following subsections:

“(5) The details referred to in subsection (1)(d) are—

“(a) the name of the overseas person; and

“(b) the address of the overseas person; and

- “(c) the amount of the donation or, in the case of aggregated donations, the total amount of the donations; and
  - “(d) the date the donation was received or, in the case of aggregated donations, the date each donation was received; and
  - “(e) the amount returned to an overseas person or paid to the Electoral Commission under section 207K(2), and the date of that return or payment, as the case may be.
- “(5A) The details referred to in subsection (1)(e) are—
- “(a) the name of the overseas person; and
  - “(b) the address of the overseas person; and
  - “(c) the amount of the contribution; and
  - “(d) the date on which the related donation funded from the contribution was made; and
  - “(e) the amount returned to the donor or paid to the Electoral Commission under section 207K(3), and the date of that return or payment, as the case may be.”

## **27 Annual return of party donations**

- (1) Section 210(1) is amended by omitting “\$10,000” in each place where it appears and substituting in each case “\$15,000”.
- (2) Section 210(1)(c) is amended by omitting “\$1,000” and substituting “\$1,500”.
- (3) Section 210(1) is amended by repealing paragraph (d) and substituting the following paragraphs:
  - “(d) the details specified in subsection (5) in respect of every party donation received by him or her from an overseas person that, either on its own or when aggregated with all other donations made by or on behalf of the same overseas person during the year, exceeds \$1,500; and
  - “(da) the details specified in subsection (5A) in respect of every contribution to a party donation received by him or her from an overseas person that exceeds \$1,500; and”.
- (4) Section 210(1) is amended by adding “; and” and also by adding the following paragraph:
  - “(f) the details specified in subsection (6A) in respect of all other party donations received by him or her.”

- (5) Section 210(2) is amended by repealing paragraphs (c) and (d) and substituting the following paragraphs:
- “(c) the amount of the donation or, in the case of aggregated donations, the total amount of the donations; and
  - “(d) the date the donation was received or, in the case of aggregated donations, the date that each donation was received.”
- (6) Section 210 is amended by repealing subsection (5) and substituting the following subsections:
- “(5) The details referred to in subsection (1)(d) are—
- “(a) the name of the overseas person; and
  - “(b) the address of the overseas person; and
  - “(c) the amount of the donation or, in the case of aggregated donations, the total amount of the donations; and
  - “(d) the date the donation was received or, in the case of aggregated donations, the date each donation was received; and
  - “(e) the amount returned to an overseas person or paid to the Electoral Commission under section 207K(2A), and the date of that return or payment, as the case may be.
- “(5A) The details referred to in subsection (1)(da) are—
- “(a) the name of the overseas person; and
  - “(b) the address of the overseas person; and
  - “(c) the amount of the contribution; and
  - “(d) the date on which the related donation funded from the contribution was made; and
  - “(e) the amount returned to the donor or paid to the Electoral Commission under section 207K(3), and the date of that return or payment, as the case may be.”
- (7) Section 210 is amended by inserting the following subsection after subsection (6):
- “(6A) The details referred to in subsection (1)(f) are—
- “(a) the number of anonymous party donations received of an amount not exceeding \$1,500, and the total amount of all such donations:
  - “(b) the number of overseas party donations received of an amount not exceeding \$1,500, and the total amount of all such donations:

“(c) the number of all party donations received of an amount exceeding \$1,500 but not exceeding \$5,000, and the total amount of all such donations:

“(d) the number of all party donations received of an amount exceeding \$5,000 but not exceeding \$15,000, and the total amount of all such donations.”

**28 Return of party donation received from same donor exceeding \$20,000**

Section 210C and the heading to section 210C are amended by omitting “\$20,000” and substituting in each case “\$30,000”.

**29 Offences relating to return of party donations**

Section 210D is amended by repealing subsection (1) and substituting the following subsection:

“(1) A party secretary commits an offence and is liable on summary conviction to a fine not exceeding \$40,000 who fails, without reasonable excuse, to comply with—

“(a) section 210:

“(b) section 210C.”

**30 Section 221 repealed**

Section 221 is repealed.

**31 Electoral advertisements**

Section 221A(1) is amended by inserting “(not being an election advertisement as defined in section 3A)” after “election”.

**32 Punishment for corrupt or illegal practice**

(1) Section 224(1)(b)(i) is amended by omitting “constituency candidate or a party secretary” and substituting “constituency candidate, party secretary, or registered promoter”.

(2) Section 224 is amended by repealing subsection (2) and substituting the following subsection:

“(2) Every person who is guilty of any illegal practice is liable on conviction on indictment to a fine not exceeding—

“(a) \$40,000 in the case of a person who is a constituency candidate, party secretary, or registered promoter and

who is convicted of any illegal practice under Part 6AA or 6A; or

“(b) \$40,000 in the case of a person who is an unregistered promoter and who is convicted of any illegal practice under section 204B or 204D; or

“(c) \$10,000 in any other case.”

### **33 Time limit for prosecutions**

(1) Section 226(1) is amended by repealing paragraph (d) and substituting the following paragraph:

“(d) section 210D(1)(a).”

(2) Section 226 is amended by inserting the following subsection after subsection (1):

“(1A) A prosecution under section 210D(1)(b) or 206ZE(1) must be commenced—

“(a) within 6 months of the date on which the prosecutor is satisfied that there is sufficient evidence to warrant the commencement of the proceedings; but

“(b) not later than 3 years after the offence was committed.”

### **34 New section 266A inserted**

The following section is inserted after section 266:

#### **“266A Expenditure limits to be adjusted each year by Order in Council**

“(1) The Governor-General must, by Order in Council made on the recommendation of the Minister, in the manner provided in subsections (2) to (6), adjust the amounts specified in the following provisions:

“(a) section 204B(1)(d) (which relates to the maximum amount of advertising expenses that may be incurred by an unregistered promoter):

“(b) section 205C (which relates to the maximum amount of a candidate’s election expenses):

“(c) section 206C (which relates to the maximum amount of a party’s election expenses):

“(d) section 206V (which relates to the maximum amount of a registered promoter’s election expenses).

“(2) The first Order in Council must—

- “(a) come into force on 1 July 2011; and
  - “(b) adjust the amount referred to in section 206C(1)(a) to reflect the movement between the CPI for the quarter ending 30 September 2010 and the CPI for the quarter ending 31 March 2011.
- “(3) Every subsequent Order in Council must—
- “(a) come into force on every following 1 July; and
  - “(b) adjust the amounts referred to in subsection (1) to reflect the movement between the CPI for the quarter ending 31 March of the previous year and the CPI for the quarter ending 31 March of the current year.
- “(4) If after adjustment in accordance with subsection (3)(b) any of the amounts specified in the following sections is not a whole number of hundred dollars, the adjusted amount must be rounded up to the next whole hundred dollars:
- “(a) section 204B(1)(d):
  - “(b) section 205C(1)(a) and (b):
  - “(c) section 206C(1)(b) and (2).
- “(5) If after adjustment in accordance with subsection (2)(b) or (3)(b) the amount specified in section 206C(1)(a) or 206V is not a whole number of thousand dollars, the adjusted amount must be rounded up to the next whole thousand dollars.
- “(6) If an adjusted amount has been rounded up in accordance with subsection (4) or (5), the adjustment to that amount made the following year must be based on the adjusted amount as it was before it was rounded up.
- “(7) In this section **CPI** means the Consumers Price Index All Groups published by Statistics New Zealand.  
“Compare: 2007 No 111 s 134”.

## Part 2

### Transitional provisions and consequential amendments to other enactments

#### 35 Provision relating to donations and contributions received before 1 January 2011

For the avoidance of doubt,—

- (a) any provision in this Act that amends the principal Act in respect of the amount of a donation or contribution

does not apply to any donation or contribution received before 1 January 2011; and

- (b) section 210(6A) of the principal Act (as inserted by section 27(7) of this Act) does not apply to any donation received before 1 January 2011.

### **36 Transitional elections**

- (1) In this section, a **transitional election** is—
- (a) a general election in respect of which—
- (i) polling day is a date after the commencement day but before 31 March 2011; and
- (ii) the regulated period would, had this Act been in force, have commenced before the commencement day:
- (b) a by-election in respect of which the regulated period would, had this Act been in force, have commenced before the commencement day.
- (2) In the case of a transitional election, the provisions of the Electoral Act 1993 apply as if this Act had not been enacted.
- (3) In this section, **commencement day** means the day on which this Act comes into force.

### *Amendments to Citizens Initiated Referenda Act 1993*

#### **37 Amendments to Citizens Initiated Referenda Act 1993**

Sections 38 and 39 amend the Citizens Initiated Referenda Act 1993.

#### **38 Application of Electoral Act 1993 to indicative referendum not conducted by postal voting**

Section 24(5) is amended by omitting “203, 204, 205 to 210F, 221,” and substituting “203 to 210F”.

#### **39 Application of Electoral Act 1993 to indicative referendum conducted by postal voting**

Section 24A(3) is amended by—

- (a) omitting “203, 204, 205 to 205S” and substituting “203 to 205S”; and



- (b) omitting “221,”.

*Amendment to Privacy Act 1993*

**40 Amendment to Privacy Act 1993**

- (1) This section amends the Privacy Act 1993.
- (2) The item relating to the Electoral Act 1993 in Part 1 of Schedule 2 is amended by omitting “211, and 212” and substituting “204V, 205R, 206Q, 206ZH, 209E, and 210F”.

*Amendment to Summary Proceedings Act 1957*

**41 Amendment to Summary Proceedings Act 1957**

- (1) This section amends the Summary Proceedings Act 1957.
- (2) The item relating to the Electoral Act 1993 in Part 2 of Schedule 1 is amended by inserting the following items above the item relating to section 215:
  - 204F Election advertisement to include promoter statement
  - 204G Publication of candidate advertisement promoting candidate
  - 204H Publication of party advertisement promoting party
- (3) The item relating to the Electoral Act 1993 in Part 2 of Schedule 1 is amended by omitting the item relating to section 221.

*Amendments to Electoral Regulations 1996*

**42 Amendments to Electoral Regulations 1996**

- (1) This section amends the Electoral Regulations 1996.
- (2) Regulation 21(5)(a)(i) is amended by omitting “form 16 or”.
- (3) Regulation 24(2)(b) is amended by omitting “regulations 26” and substituting “regulations 25”.
- (4) Regulation 24(3) is revoked.
- (5) Regulation 24(4) is amended by omitting “and who has made a declaration in accordance with regulation 25”.
- (6) Regulation 24(9)(b) is amended by omitting “, together with the declarations by special voters to whom this regulation applies”.
- (7) Regulation 25(1A) is amended by omitting “form 16 or”.
- (8) Schedule 1 is amended by revoking form 16.

*Amendment to Electoral (Advertisements of a  
Specified Kind) Regulations 2005*

**43 Amendment to Electoral (Advertisements of a Specified Kind) Regulations 2005**

- (1) This section amends the Electoral (Advertisements of a Specified Kind) Regulations 2005.
- (2) Regulation 8(3) is amended by revoking paragraph (b) and substituting the following paragraph:
  - “(b) the promoter statement required by section 204F of the Electoral Act 1993 to be included in the advertisement:”.

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**Legislative history**

29 April 2010	Introduction (Bill 146–1)
6 May 2010	First reading and referral to Electoral Legislation Committee
22 November 2010	Reported from Electoral Legislation Committee (Bill 146–2)
7 December 2010	Second reading
14 December 2010	Committee of the whole House (Bill 146–3)
15 December 2010	Third reading
20 December 2010	Royal assent

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This Act is administered by the Ministry of Justice.

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