

**Reprint
as at 1 March 2009**



Electoral Finance Act 2007

Public Act 2007 No 111
Date of assent 19 December 2007
Commencement see section 2

Electoral Finance Act 2007: repealed, on 1 March 2009, by section 15 of the
Electoral Amendment Act 2009 (2009 No 1).

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

The Electoral Finance Act 2007 is administered by the Ministry of Justice.

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1 Title

This Act is the Electoral Finance Act 2007.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is to strengthen the law governing electoral financing and broadcasting, in order to—

- (a) maintain public and political confidence in the administration of elections; and
- (b) promote participation by the public in parliamentary democracy; and
- (c) prevent the undue influence of wealth on electoral outcomes; and
- (d) provide greater transparency and accountability on the part of candidates, parties, and other persons engaged in election activities in order to minimise the perception of corruption; and
- (e) ensure that the controls on the conduct of election campaigns—
 - (i) are effective; and
 - (ii) are clear; and
 - (iii) can be efficiently administered, complied with, and enforced.

4 Interpretation

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

address means,—

- (a) in relation to an individual, the full address of the place where that person usually lives;
- (b) in relation to a body corporate or unincorporated, the full address of its principal place of business or head office

candidate means a constituency candidate, and a person who becomes a candidate is deemed to be a candidate on and from the beginning of the regulated period

candidate advertisement means any form of words or graphics, or both, that can reasonably be regarded as encouraging or persuading voters to do either or both of the following:

- (a) to vote for a candidate in the candidate's capacity as a candidate for an electoral district (whether or not the name of the candidate is stated):
- (b) not to vote for another candidate (whether or not the name of the candidate is stated)

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

election advertisement has the meaning given to it by section 5

financial agent,—

- (a) in subpart 1 of Part 2, means a financial agent appointed under section 6, 7, or 8:
- (b) in subpart 2 of Part 2 means a financial agent appointed under section 7 or 8:
- (c) in subparts 3 and 7 of Part 2, means a financial agent appointed under section 6:
- (d) in subparts 4 and 8 of Part 2, means a financial agent appointed under section 7:
- (e) in subparts 5 and 9 of Part 2, means a financial agent appointed under section 8

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

party—

- (a) means a political party registered under Part 4 of the Electoral Act 1993; and
- (b) includes a political party that at any time during the regulated period has been registered under Part 4 of the Electoral Act 1993

party advertisement means any form of words or graphics, or both, that can reasonably be regarded as encouraging or persuading voters to do either or both of the following:

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

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

promoter—

- (a) means a person on whose initiative an election advertisement is published; and
- (b) includes, without limitation, a person—
 - (i) who enters into a contract, arrangement, or understanding with another person to the effect that the other person publish an election advertisement; or
 - (ii) who publishes an election advertisement in the absence of such a contract, arrangement, or understanding

public inspection period means, in relation to a return filed under sections 45, 51, 54, 58, 86, 106, or 127, the period—

- (a) beginning 3 working days after the date of receipt by the Chief Electoral Officer or the Electoral Commission, as the case may be, of the duly completed return; and
- (b) ending with the close of polling day for the second general election that takes place after the date of receipt by the Chief Electoral Officer or the Electoral Commission, as the case may be, of the duly completed return

publish, in relation to an advertisement, means to—

- (a) print or insert in a periodical published or distributed in New Zealand; or
- (b) issue, hand out, or display, to the public; or
- (c) send to any member of the public by any means; or

- (d) deliver to any member of the public, or leave at a place owned or occupied by a member of the public; or
- (e) broadcast (for example, in the form of a radio or television broadcast); or
- (f) include in a film or video displayed to the public; or
- (g) disseminate to the public by means of the Internet or any other electronic medium; or
- (h) store electronically in a way that is accessible to the public

registered elector means a person registered as an elector of an electoral district

regulated period means,—

- (a) where a general election is held in the year in which Parliament is due to expire, whichever is the longer of the following periods:
 - (i) the period that commences on 1 January of that year and ends with the close of polling day; or
 - (ii) the period that commences 3 months before polling day and ends with the close of polling day;
- (b) subject to subsection (2), where a general election is held in any other year on the dissolution of Parliament, the period that commences 3 months before polling day and ends with the close of polling day

statutory declaration means a declaration made before a person authorised under the Oaths and Declarations Act 1957 to take declarations

third party—

- (a) means a promoter for the time being listed as a third party under section 18; and
- (b) includes a promoter who at any time during the regulated period has been listed as a third party under section 18.

- (2) Where a general election is held in a year other than a year in which Parliament is due to expire, **regulated period**, in sections 19, 58, and 63 (which affect third parties), and subpart 9 of Part 2 (which relates to third parties' election expenses), means the period that—

- (a) commences,—

- (i) if the Prime Minister tables a statement in the House of Representatives stating that a general election is to be held in that year, on the later of the following days:
 - (A) the day after the date on which the statement is tabled;
 - (B) the day that is 3 months before polling day; and
 - (ii) in any other case, on the day after the day on which Parliament is dissolved; and
 - (b) ends with the close of polling day.
- (3) Unless the context otherwise requires, terms and expressions used and not defined in this Act, but defined in the Electoral Act 1993, have the same meaning as in that Act.

5 Meaning of election advertisement

- (1) In this Act, **election advertisement**—
- (a) means any form of words or graphics, or both, that can reasonably be regarded as doing 1 or more of the following:
 - (i) encouraging or persuading voters to vote, or not to vote, for 1 or more specified parties or for 1 or more candidates or for any combination of such parties and candidates;
 - (ii) encouraging or persuading voters to vote, or not to vote, for a type of party or for a type of candidate that is described or indicated by reference to views, positions, or policies that are or are not held, taken, or pursued (whether or not the name of a party or the name of a candidate is stated); and
 - (b) includes—
 - (i) a candidate advertisement; and
 - (ii) a party advertisement.
- (2) The following are not election advertisements:
- (a) an advertisement that is published by the Chief Electoral Officer, the Chief Registrar of Electors, the Electoral Commission, or any other agency charged with responsibilities in relation to the conduct of any official

publicity or information campaign to be conducted on behalf of the Government of New Zealand and relating to electoral matters or the conduct of any general election or by-election and which either contains a statement indicating that the advertisement has been authorised by that officer or agency, or contains a symbol indicating that the advertisement has been authorised by that officer or agency:

- (b) any editorial material, other than advertising material, in a periodical that is written by, or is selected by or with the authority of, the editor solely for the purpose of informing, enlightening, or entertaining readers:
- (c) any content of a radio or television programme, other than advertising material, that has been selected by, or with the authority of, a broadcaster (within the meaning of the Broadcasting Act 1989) solely for the purpose of informing, enlightening, or entertaining its audience:
- (d) any editorial material, other than advertising material, published on a news media Internet site that is written by, or selected by or with the authority of, the editor or person responsible for the Internet site solely for the purpose of informing, enlightening, or entertaining readers:
- (e) a book that is sold for no less than its commercial value, if the book was planned to be made available to the public regardless of any election:
- (f) a document published directly by—
 - (i) an incorporated body to its shareholders or members:
 - (ii) an unincorporated body to its members:
- (g) the publication by an individual, on a non-commercial basis, on the Internet of his or her personal political views (being the kind of publication commonly known as a blog).

Appointments

6 Appointment of financial agent for candidate

- (1) A candidate must appoint a financial agent to be responsible for administering the candidate's finances in relation to the candidate's election campaign.
- (2) A candidate who is eligible to be appointed as a financial agent is deemed to have appointed himself or herself under subsection (1) if—
 - (a) the candidate has not appointed any other person under subsection (1); or
 - (b) the person appointed under subsection (1)—
 - (i) becomes ineligible to be appointed as a financial agent; or
 - (ii) is absent from New Zealand for a period exceeding 10 working days; or
 - (iii) becomes incapacitated; or
 - (iv) dies.
- (3) After appointing a financial agent, the candidate must send to the Chief Electoral Officer—
 - (a) the name, address, and contact details of the financial agent in the form required by the Chief Electoral Officer; and
 - (b) the financial agent's signed consent to the appointment.
- (4) A candidate may at any time appoint a new financial agent.
- (5) If at any time a candidate appoints a new financial agent, the candidate must—
 - (a) notify the Chief Electoral Officer; and
 - (b) send to the Chief Electoral Officer—
 - (i) the name, address, and contact details of the new financial agent in the form required by the Chief Electoral Officer; and
 - (ii) the new financial agent's signed consent to the appointment.

7 Appointment of financial agent for party

- (1) The secretary of a party must appoint a financial agent to be responsible for administering the party's finances.

- (2) The secretary of a party that was registered under Part 4 of the Electoral Act 1993 before the commencement of this Act who is eligible to be appointed as a financial agent is deemed to have appointed himself or herself under subsection (1), if—
 - (a) the secretary has not appointed any other person under subsection (1); or
 - (b) the person appointed under subsection (1)—
 - (i) becomes ineligible to be appointed as a financial agent; or
 - (ii) is absent from New Zealand for a period exceeding 10 working days; or
 - (iii) becomes incapacitated; or
 - (iv) dies.
- (3) On the registration of a party under section 67 of the Electoral Act 1993 after the commencement of this Act, the person named, under section 63(2)(c)(viii) of that Act, as the party's financial agent in the application for registration is to be taken to have been appointed under subsection (1).
- (4) A secretary may at any time appoint a new financial agent for the party.
- (5) If at any time a secretary appoints a new financial agent, the secretary must—
 - (a) notify the Electoral Commission; and
 - (b) send to the Electoral Commission—
 - (i) the name, address, and contact details of the new financial agent in the form required by the Electoral Commission; and
 - (ii) the new financial agent's signed consent to the appointment.

8 Appointment of financial agent for third party

- (1) A third party must appoint a financial agent to be responsible for administering the third party's finances in relation to the promotion of election advertisements.
- (2) If the third party is an individual, the third party may appoint himself or herself under subsection (1).
- (3) On the listing of a third party under section 18, the person named, under section 15(3)(b)(i), as the third party's financial

agent in the application for the listing is to be taken to have been appointed under subsection (1).

- (4) A third party may at any time appoint a new financial agent for the third party.
- (5) If at any time a third party appoints a new financial agent, the third party must—
 - (a) notify the Electoral Commission; and
 - (b) send to the Electoral Commission—
 - (i) the name, address, and contact details of the new financial agent in the form required by the Electoral Commission; and
 - (ii) the new financial agent's signed consent to the appointment.

9 Persons eligible to be appointed as financial agent

A person is eligible to be appointed as a financial agent under section 6, 7, or 8 if the person—

- (a) is a registered elector; and
- (b) is resident in New Zealand; and
- (c) has not been convicted of—
 - (i) a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961); or
 - (ii) a corrupt practice under this Act or the Electoral Act 1993; and
- (d) is not an undischarged bankrupt; and
- (e) is not ineligible to be a director of a company under section 151(2) of the Companies Act 1993.

10 Appointment of auditor for party

- (1) A party must appoint an auditor.
- (2) On the registration of a party under section 67 of the Electoral Act 1993, the person named, under section 63(2)(c)(v) of that Act, as the party's auditor in the application for the registration is to be taken to have been appointed under subsection (1).
- (3) A party must without delay appoint another auditor if the auditor appointed by the party under subsection (1), or taken to have been appointed under subsection (2),—
 - (a) does not for any reason commence to hold office; or

- (b) ceases to hold office; or
 - (c) becomes ineligible to hold office.
- (4) If at any time a party appoints a new auditor under subsection (3), the party must—
- (a) notify the Electoral Commission; and
 - (b) send to the Electoral Commission—
 - (i) the name, address, and contact details of the new auditor; and
 - (ii) the new auditor's signed consent to the appointment.

11 Appointment of auditor for third party

- (1) A third party must appoint an auditor if the third party is required by section 128 to obtain an auditor's report on his, her, or its return of election expenses.
- (2) A third party must without delay appoint another auditor if the auditor appointed by the third party under subsection (1)—
- (a) does not for any reason commence to hold office; or
 - (b) ceases to hold office; or
 - (c) becomes ineligible to hold office.

12 Persons eligible to be appointed as auditor

A person is eligible to be appointed as an auditor under section 10 or 11 if that person is not—

- (a) a candidate; or
- (b) a person whose name is specified in a party list submitted under section 127 of the Electoral Act 1993; or
- (c) an employee or partner of a candidate or a person referred to in paragraph (b); or
- (d) an officer or employee of a party or third party; or
- (e) a body corporate; or
- (f) a person who, by virtue of section 199(1) of the Companies Act 1993, may not be appointed to act as an auditor of a company; or
- (g) a financial agent appointed under section 6, 7, or 8; or
- (h) a Returning Officer.

Listing of third parties

13 Persons eligible to be third party

- (1) A person is eligible to be listed as a third party if the person is—
- (a) a New Zealand citizen or ordinarily resident in New Zealand; or
 - (b) a body corporate that is not an overseas person within the meaning of the Overseas Investment Act 2005; or
 - (c) an unincorporated body of which the majority of its members are persons described in paragraph (a).
- (2) The following are ineligible to be a third party:
- (a) a party (other than a non-contesting party):
 - (b) a candidate:
 - (c) a person whose name is specified in a party list submitted under section 127 of the Electoral Act 1993:
 - (d) the financial agent of a party or a candidate:
 - (e) each of the following persons or bodies:
 - (i) the chief executive (however described) of a department of State or Crown entity:
 - (ii) a department of State:
 - (iii) a Crown entity:
 - (iv) a State enterprise (within the meaning of section 2 of the State-Owned Enterprises Act 1986) or a Crown-owned company:
 - (v) any other instrument of the Crown:
 - (f) a person involved in the administration of—
 - (i) the affairs of a party; or
 - (ii) the affairs of a candidate in relation to his or her election campaign.
- (3) For the purposes of this section, a **non-contesting party** is a party that—
- (a) is listed as a third party under section 18 (being a party that has submitted a non-contest declaration under section 15(4)); or
 - (b) has submitted a non-contest declaration under section 15(4) and is awaiting a decision on whether it is to be listed as a third party under section 18.

14 Electoral Commission to establish, maintain, and publish list of third parties

- (1) The Electoral Commission must establish and maintain a list that contains the names of the third parties listed under section 18.
- (2) The Electoral Commission must publish the list in any manner that the Electoral Commission considers appropriate.

15 Application to be listed as third party

- (1) A person who proposes to become a promoter and who anticipates incurring expenses in relation to election advertisements that exceed the amounts specified in section 63(3)(d) must apply to the Electoral Commission to be listed as a third party.
- (2) An application under subsection (1) must be made,—
 - (a) if the promoter is an individual, by that individual; or
 - (b) if the promoter is a body corporate, by a person who is duly authorised by the board or other governing body of the body corporate to make the application; or
 - (c) if the promoter is an unincorporated body, by the representative of the body who is, or appears to be, authorised by the body for the purpose.
- (3) An application to be listed as a third party must—
 - (a) be in the form required by the Electoral Commission; and
 - (b) be accompanied by—
 - (i) a notice in the form required by the Electoral Commission setting out the name, address, and contact details of the person (being a person who is eligible for appointment under section 9) who is to be appointed as the financial agent of the third party; and
 - (ii) the signed consent to the appointment of the person referred to in subparagraph (i); and
 - (iii) a statutory declaration made by the applicant declaring that to the best of the applicant's knowledge the applicant is eligible under section 13 to be listed as a third party.

- (4) An application by or on behalf of a political party to be listed as a third party must, in addition to satisfying the requirements in subsection (3), be accompanied by a statutory declaration (a **non-contest declaration**) that—
- (a) the secretary of the political party will not, while the party is listed as a third party—
 - (i) submit a list of candidates under section 127 of the Electoral Act 1993;
 - (ii) lodge a bulk nomination under section 146B of that Act;
 - (iii) allow any constituency candidate to contest any election using the party's logo or any other form of nomenclature; and
 - (b) the secretary of the political party has not—
 - (i) submitted a list of candidates under section 127 of the Electoral Act 1993 in connection with any forthcoming election;
 - (ii) lodged a bulk nomination under section 146B of that Act in connection with any forthcoming election;
 - (iii) allowed any constituency candidate to be nominated using the party's logo or any other form of nomenclature associated with the party, in connection with any forthcoming election.

16 Times when listing prohibited

When an election is to be held, the Electoral Commission may not list a promoter as a third party in the period that—

- (a) commences,—
 - (i) in the case of a general election that is held in a year in which Parliament is due to expire, on the 21st day before polling day;
 - (ii) in the case of any other election, on the 14th day before polling day; and
- (b) ends with the day appointed as the latest day for the return of the writ.

17 Grounds on which listing must be refused

- (1) The Electoral Commission must refuse an application by a promoter to be listed as a third party if—
 - (a) the application does not comply with section 15; or
 - (b) in the case of an application to which section 15(4) applies, the declaration given under that subsection is incorrect; or
 - (c) the Electoral Commission is not satisfied, on the basis of the application, that the applicant is eligible to be listed as a third party; or
 - (d) the name of the promoter is—
 - (i) offensive; or
 - (ii) likely to cause confusion with the name of a candidate or a party; or
 - (iii) likely to mislead members of the public.
- (2) Unless section 16 or subsection (1) applies, the Electoral Commission must list the promoter as a third party.

18 Listing of, or refusal to list, third party

- (1) If the Electoral Commission determines that there are no grounds under section 17 for refusing an application to be listed as a third party, the Electoral Commission must—
 - (a) list the promoter as a third party; and
 - (b) give written notice to the third party of the listing.
- (2) If the Electoral Commission determines that there are grounds under section 17 for refusing an application to be listed as a third party, the Electoral Commission must, as soon as is reasonably practicable, and in any case not later than 10 working days after the date of the determination, give the promoter written notice that the Electoral Commission has refused the application, and set out the reasons for the refusal.

19 Changes to be notified to Electoral Commission

- (1) If there is a change in any of the particulars given for a third party under section 15(3)(b)(i), the financial agent of the third party must promptly notify the Electoral Commission of the change.
- (2) Every financial agent of a third party that is listed as at the first day of any regulated period must, within 20 working days

of that date, give the Electoral Commission a written notice that—

- (a) confirms that the particulars of the third party recorded in the Electoral Commission's list are still correct; or
- (b) corrects the particulars that are incorrect.

20 Cancellation of listing

(1) The Electoral Commission must cancel the listing of a third party if—

- (a) the third party's financial agent, or a person duly authorised by the third party's board or other governing body, or the representative of an unincorporated third party, or the third party himself or herself (if an individual) requests the Electoral Commission to do so; or
- (b) the Electoral Commission is satisfied that—
 - (i) the third party is not eligible to be listed; or
 - (ii) the third party does not have a financial agent; or
 - (iii) the Electoral Commission has not received the written notice that the Electoral Commission should have received under section 19(2).

(2) If the Electoral Commission cancels the listing of a third party under subsection (1)(b), 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 financial agent or the third party written notice that the Electoral Commission has cancelled the listing, and set out the reasons for the cancellation.

Part 2

Election campaigns

Subpart 1—General provisions relating to donations

21 Interpretation

(1) In this subpart, unless the context otherwise requires, **donation** means—

- (a) a candidate donation; or
- (b) a party donation; or
- (c) a third party donation.

- (2) In this subpart and subparts 2 to 5 of this Part, unless the context otherwise requires,—

anonymous, in relation to a donation, means a donation that is made in such a way that the financial agent who receives the donation—

- (a) does not know the identity of the donor; and
- (b) could not, in the circumstances, reasonably be expected to know the identity of the donor

candidate donation means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things) that is made to a candidate, or to any person on the candidate's behalf, for use in the candidate's campaign for election and—

- (a) includes,—
 - (i) where goods or services are provided to a candidate, or to any person on the candidate's behalf, under a contract or arrangement at a value less than their reasonable market value, the latter being a value which exceeds \$200, the amount of the difference between the former value and the reasonable market value of those goods or services; and
 - (ii) where goods or services are provided by a candidate under a contract or arrangement at a value that is more than their reasonable market value, the amount of the difference between that value and the reasonable market value of those goods or services; and
 - (iii) where credit is provided to a candidate on terms and conditions substantially more favourable than the commercial terms and conditions prevailing at the time for the same or similar credit, the value to the candidate of those more favourable terms and conditions; but
- (b) excludes the labour of any person that is provided to a candidate free of charge by that person

contribution means any thing (being money or the equivalent of money or goods or services or a combination of those

things) that makes up a donation or is included in a donation or has been used to wholly or partly fund a donation, and that—

- (a) was given—
 - (i) to the donor; or
 - (ii) to a person who was required or expected to pass on all or any of its amount or value to the donor, whether directly or indirectly (for example, through 1 or more intermediaries, trustees, or nominees); and
- (b) would have been a donation if it had been given directly to the candidate, party, or third party; and
- (c) was given in the knowledge or expectation (whether by reference to a trust, agreement, or understanding) that it would be wholly or partly applied to make up, or to be included in, or to fund, a donation

contributor means a person who makes a contribution and who immediately before making the contribution—

- (a) beneficially holds any money, or the equivalent of money, or any goods that make up the contribution or are included in the contribution; or
- (b) provides any services that make up the contribution or are included in the contribution or pays for those services out of money that the person beneficially holds

donation funded from contributions means a donation that is made up of, includes, or is wholly or partly funded from, 1 or more contributions

donor means a person who makes a donation

election expense, in relation to a third party, has the meaning given to it by section 114

list candidate means any person whose name is specified in a party list submitted to the Chief Electoral Officer under section 127 of the Electoral Act 1993

party donation means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things) that is made to a party, or to any person or body of persons on behalf of the party who are involved in the administration of the affairs of the party, and—

- (a) includes,—

- (i) where goods or services are provided to a party, or to any person on the party's behalf, under a contract or arrangement at a value less than their reasonable market value, the latter being a value which exceeds \$1,000, the amount of the difference between the former value and the reasonable market value of those goods or services; and
 - (ii) where goods or services are provided by a party under a contract or arrangement at a value that is more than their reasonable market value, the amount of the difference between that value and the reasonable market value of those goods or services; and
 - (iii) where credit is provided to a party on terms and conditions substantially more favourable than the commercial terms and conditions prevailing at the time for the same or similar credit, the value to the party of those more favourable terms and conditions; but
- (b) excludes—
- (i) the labour of any person that is provided to a party free of charge by that person; and
 - (ii) any candidate donation that is included in a return made by a candidate under section 86

receive, in relation to a donation, means to get a donation that has been given or sent by—

- (a) the donor directly; or
- (b) the donor indirectly, via a transmitter

third party donation means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things) that is made to a third party, or to any person on the third party's behalf, to fund, or to contribute directly or indirectly towards the funding of, the election expenses of the third party and—

- (a) includes,—
 - (i) where goods or services are provided to a third party, or to any person on the third party's behalf, under a contract or arrangement at a value less than their reasonable market value, the latter

being a value which exceeds \$200, the amount of the difference between the former value and the reasonable market value of those goods or services; and

- (ii) where goods or services are provided by a third party under a contract or arrangement at a value that is more than their reasonable market value, the amount of the difference between that value and the reasonable market value of those goods or services; and
 - (iii) where credit is provided to a third party on terms and conditions substantially more favourable than the commercial terms and conditions prevailing at the time for the same or similar credit, the value to the third party of those more favourable terms and conditions; but
- (b) excludes the labour of any person that is provided to a third party free of charge by that person

transmitter means a person to whom a donor gives or sends a donation for transmittal to a candidate, party, or third party.

- (3) To avoid doubt, a **third party donation** does not include a donation that—
- (a) is made with no indication from the donor that it is, or includes, a contribution towards the funding of third party election expenses; and
 - (b) is made in circumstances where no such purpose can reasonably be inferred; and
 - (c) is made—
 - (i) for any general purposes of the third party or for any purpose the third party considers appropriate; or
 - (ii) with no indication as to the use to which the donation may be put; or
 - (iii) for use for a specified purpose that does not include a contribution towards the funding of the third party's election expenses.
- (4) For the purposes of sections 23, 24, 26, 28, 30, and 54,—
- (a) **donation** does not include a donation protected from disclosure (as defined in section 37); and

- (b) **party donation** does not include a donation protected from disclosure (as defined in section 37); and
- (c) **third party donation** does not include a donation protected from disclosure (as defined in section 37).

22 Donations and contributions include GST

All references to an amount or value of a donation or contribution are inclusive of any goods and services tax incurred by the donor or contributor in respect of the good or service donated or contributed.

23 Donations to be transmitted to financial agent

- (1) Every person to whom a candidate donation is given or sent must, within 10 working days after receiving the donation, transmit the donation to the candidate's financial agent.
- (2) Every person to whom a party donation is given or sent must, within 10 working days after receiving the donation, transmit the donation to the party's financial agent.
- (3) Every person to whom a third party donation is given or sent must, within 10 working days after receiving the donation, transmit the donation to the third party's financial agent.

24 Contributors to be identified

- (1) This section applies to a donation that is funded from contributions.
- (2) If this section applies to a donation, the donor must, at the time of making the donation,—
 - (a) disclose the fact that the donation is funded from contributions; and
 - (b) if 1 or more contributions are each in sum or value \$1,000 or less, disclose the total amount of those contributions; and
 - (c) if 1 or more contributions are each in sum or value more than \$1,000, disclose the following information about those contributions:
 - (i) the total amount of those contributions; and
 - (ii) the information described in subsection (3) about those contributions.

- (3) The information that must be disclosed about contributions under subsection (2)(c)(ii) is—
 - (a) the name and address of each contributor of those contributions, and whether each contributor is an overseas person within the meaning of section 32(1); and
 - (b) the amount of each contributor's contribution.
- (4) The financial agent must give back to the donor the entire amount of the donation, or its entire value, if the financial agent knows, or has reasonable grounds to believe, that the donor has failed to comply with subsection (2) in any respect.
- (5) For the purposes of any of sections 45, 51, and 58 any amount given back by the financial agent under subsection (4) is taken not to have been received by the financial agent.

25 Offence relating to contravention of section 24

A donor who fails to comply with section 24 with the intention of concealing the identity of any or all of the contributors commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.

26 Identity of donor to be disclosed by transmitter, if known

- (1) When a transmitter transmits a donation to the financial agent on behalf of the donor, the transmitter must disclose to the financial agent—
 - (a) the fact that the donation is transmitted on behalf of the donor; and
 - (b) the name and address of the donor; and
 - (c) whether section 24 applies to the donation and, if so, all information disclosed by the donor under subsections (2) and (3) of that section.
- (2) Where a transmitter does not disclose, or is unable to disclose, the information required by subsection (1)(b), then the donation must be treated as an anonymous donation.

27 Offence relating to contravention of section 26

A transmitter who fails to comply with section 26 with the intention of concealing the identity of the donor or any or all of

the contributors commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.

28 Disclosure of identity of donor

- (1) Where a candidate or any person involved in the administration of the affairs of a candidate in relation to his or her election campaign knows the identity of the donor of an anonymous candidate donation exceeding \$1,000, the candidate or person must disclose the identity of the donor to the candidate's financial agent.
- (2) Where a party secretary, candidate, list candidate, or any person involved in the administration of the affairs of a party knows the identity of the donor of an anonymous party donation exceeding \$1,000, the party secretary, candidate, list candidate, or person must disclose the identity of the donor to the party's financial agent.
- (3) Where any person involved in the administration of the affairs of a third party knows the identity of the donor of an anonymous third party donation exceeding \$1,000, the person must disclose the identity of the donor to the third party's financial agent.

29 Offence relating to contravention of section 28

A person who fails to comply with section 28 with the intention of concealing the identity of the donor commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.

30 Anonymous donation may not exceed \$1,000

- (1) If an anonymous candidate donation exceeding \$1,000 is received by a candidate's financial agent, the financial agent must, within 20 working days of receipt of the donation, pay to the Chief Electoral Officer the amount of the donation, or its value, less \$1,000.
- (2) If an anonymous party donation exceeding \$1,000 is received by a party's financial agent, the financial agent must, within 20 working days of receipt of the donation, pay to the Elect-

oral Commission the amount of the donation, or its value, less \$1,000.

- (3) If an anonymous third party donation exceeding \$1,000 is received by a third party's financial agent, the financial agent must, within 20 working days of receipt of the donation, pay to the Electoral Commission the amount of the donation, or its value, less \$1,000.
- (4) All amounts received by the Chief Electoral Officer and the Electoral Commission under this section must be paid into a Crown Bank Account.

31 Offence relating to contravention of section 30

- (1) Every person who enters into an agreement or enters into an arrangement or understanding with any other person that has the effect of circumventing section 30(1), (2), or (3) is guilty of—
 - (a) a corrupt practice if the circumvention is wilful; and
 - (b) an illegal practice in any other case.
- (2) A financial agent who contravenes section 30 is guilty of an illegal practice.

32 Overseas donation may not exceed \$1,000

- (1) For the purposes of this section **overseas person** means—
 - (a) an individual who—
 - (i) resides outside New Zealand; and
 - (ii) is not a New Zealand citizen or registered as an elector; or
 - (b) a body corporate incorporated outside New Zealand; or
 - (c) an unincorporated body that has its head office or principal place of business outside New Zealand.
- (2) If a donation exceeding \$1,000 is received from an overseas person by a financial agent, the financial agent must, within 20 working days of receipt of the donation,—
 - (a) return to the overseas person the amount of the donation, or its value, less \$1,000; or
 - (b) if this is not possible, pay the amount of the donation, or its value, less \$1,000—

- (i) to the Chief Electoral Officer, in the case of a candidate donation; or
 - (ii) to the Electoral Commission, in the case of a party donation, or third party donation.
- (3) If a financial agent receives, from a donor who is not an overseas person (within the meaning of section 32(1)), a donation funded from contributions that include any contribution exceeding \$1,000 from an overseas person, the financial agent must, within 20 working days after notification of that fact under section 24,—
 - (a) give back to the donor the amount of the donation, or its value; or
 - (b) if this is not possible, pay the amount of the donation, or its value,—
 - (i) to the Chief Electoral Officer, in the case of a candidate donation; or
 - (ii) to the Electoral Commission, in the case of a party donation or third party donation.
- (4) All amounts received by the Chief Electoral Officer and the Electoral Commission under subsection (2) or (3) must be paid into a Crown Bank Account.

33 Offence relating to contravention of section 32

- (1) Every person who enters into an agreement or enters into an arrangement or understanding with any other person that has the effect of circumventing section 32(2) or (3) is guilty of—
 - (a) a corrupt practice if the circumvention is wilful; and
 - (b) an illegal practice in any other case.
- (2) A financial agent who contravenes section 32(2) or (3) is guilty of an illegal practice.

34 Records of donations

- (1) Every financial agent must keep proper records of all donations received by him or her.
- (2) Every financial agent 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.

35 Duty of Chief Electoral Officer in relation to donations

If the Chief Electoral Officer believes that any person has committed an offence against this subpart in relation to candidate donations or subpart 3 of this Part, the Chief Electoral Officer must report the facts upon which that belief is based to the New Zealand Police, unless the Chief Electoral Officer considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

36 Duty of Electoral Commission in relation to donations

If the Electoral Commission believes that any person has committed an offence against this subpart in relation to party donations or third party donations or subpart 2, 4, or 5 of this Part, the Electoral Commission must report the facts upon which that belief is based to the New Zealand Police, unless 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—Donations protected from
disclosure

37 Interpretation

In this subpart, unless the context otherwise requires,—
authorised person has the meaning set out in section 43
donation protected from disclosure means a donation made under section 38(2) in accordance with section 38(3).

38 Method of making donation protected from disclosure

- (1) This section applies to any person who intends to make a donation in excess of \$1,000 to a political party or third party while preventing the disclosure of the person's identity to—
 - (a) the political party or third party concerned; and
 - (b) the public generally.
- (2) A person to whom this section applies may send a donation in excess of \$1,000 by way of a cheque, cash, or a bank draft to the Electoral Commission.
- (3) A donation under subsection (2) must be accompanied by a statement identifying—

- (a) the name of the political party or third party that is to receive the donation; and
 - (b) the full name and address of the donor; and
 - (c) if the donation made by the donor includes or comprises contributions from others, the name and address of every person who has contributed in excess of \$1,000.
- (4) The Electoral Commission may request the donor to provide any further information the Commission considers necessary to confirm the identification of the donor or other details provided by the donor, and the donor must take all reasonable steps to comply with such a request as soon as is practicable.

39 Maximum limit on donations protected from disclosure

- (1) The maximum amount that a political party may be paid in donations made to the Electoral Commission for the benefit of that party during a specified period is 10% (excluding any interest paid under section 42(2)) of the maximum amount of election expenses allowed under section 98(1) to be incurred, in respect of any regulated period, by a political party that is listed in the part of the ballot paper that relates to the party vote and that has a candidate contesting every electoral district.
- (2) The maximum amount that a third party may be paid in donations made to the Electoral Commission for the benefit of that third party during a specified period is 10% (excluding any interest paid under section 42(2)) of the maximum amount of election expenses allowed under section 118 to be incurred, in respect of any regulated period, by a third party.
- (3) The maximum amount that a political party may be paid in donations made to the Electoral Commission for the benefit of the party from the same donor during any specified period is 15% (excluding any interest paid under section 42(2)) of the amount that may be paid to that party under subsection (1).
- (4) The maximum amount that a third party may be paid in donations made to the Electoral Commission for the benefit of the third party from the same donor during any specified period is 15% (excluding any interest paid under section 42(2)) of the amount that may be paid to that party under subsection (2).
- (5) For the purposes of this section,—

- (a) a **specified period** is—
 - (i) the period beginning with the commencement of this Act and ending with the close of the day before polling day for the general election due to be held in 2008; and
 - (ii) any subsequent period between polling day at one general election and polling day at the following general election:
- (b) to avoid doubt, if there is a change in the name of a donor, political party, or third party, the donor, political party, or third party must be treated as the same donor, political party, or third party (as the case may be) as the donor, political party, or third party was prior to the change of name.

40 Duty of Electoral Commission to provide advice on actual figures under section 39

The Electoral Commission—

- (a) must, as soon as practicable after the commencement of this Act, publish on its Internet site, and by any other means the Commission considers appropriate, guidance specifying the relevant figures that constitute the maximum amounts referred to in section 39(1), (2), (3), and (4); and
- (b) may alter that guidance from time to time to reflect any changes in the relevant figures.

41 Duties of Electoral Commission on receipt of donation

- (1) The Electoral Commission, on receiving a donation under section 38(2), must pay it to the financial agent of a political party or third party for whom it is intended, unless—
 - (a) the requirements of section 38(3) or (4) have not been complied with; or
 - (b) payment of the donation would contravene a maximum limit set out in section 39.
- (2) If subsection (1)(a) applies, the Electoral Commission must,—
 - (a) if the name and contact details of the donor are known or can be readily ascertained, return the donation to the donor:

- (b) in any other case, pay the donation into a Crown Bank Account.
- (3) If subsection (1)(b) applies the Electoral Commission must—
 - (a) if the name and contact details of the donor are known or can be readily ascertained, return any portion of the donation that exceeds a maximum limit set out in section 39 to the donor:
 - (b) in any other case pay any portion of the donation that exceeds a maximum limit set out in section 39 into a Crown Bank Account.

42 Timing of payment to political parties and third parties

- (1) The Electoral Commission must pay all outstanding amounts due to a political party or third party under section 41(1)—
 - (a) weekly, during the period between writ day and the return of the writ, at any general election:
 - (b) monthly, at any other time.
- (2) If any interest is earned on a donation received under section 38(2) for a political party or third party, that interest, so far as it can reasonably be calculated, must be added to—
 - (a) any sum paid by the Electoral Commission to the financial agent of that political party or third party; or
 - (b) any sum returned by the Electoral Commission to the donor; or
 - (c) any sum paid by the Electoral Commission into a Crown Bank Account.

43 Offence of prohibited disclosure

- (1) No person may disclose the name or other identifying details of a donor or contributor in respect of a donation made, or proposed to be made, under section 38(2) in a manner that indicates or suggests that the person has made, or proposes to make, such a donation or contribution, to—
 - (a) any financial agent or person involved in the administration of the affairs of the political party or third party for whom the donation is intended; or
 - (b) any other person (other than an authorised person).

- (2) Every person who contravenes subsection (1) without reasonable excuse commits an offence and is guilty of an illegal practice.
- (3) In this section, **authorised person** means—
- (a) a member or employee or other person engaged by the Electoral Commission:
 - (b) a donor or contributor and any officer, employee, relative, adviser, or agent of the donor or contributor:
 - (c) any other person to whom the identifying details must be supplied to enable the donation to be made (eg, an employee of a bank who processes a cheque by which the donation is made):
 - (d) any person to whom the identifying details must be supplied to comply with 1 or more of the Inland Revenue Acts (within the meaning of section 3(1) of the Tax Administration Act 1994):
 - (e) the Auditor-General:
 - (f) any other person entitled to the information in question in accordance with any search warrant, summons, or any process under rules of court, or in the course of any proceedings.
- (4) Except as provided in this section, if there is any inconsistency between subsection (1) and any other enactment, subsection (1) prevails.

44 Duty of Electoral Commission to report

- (1) The Electoral Commission must, in the manner required by subsection (2), report on—
- (a) the total amounts received in donations under section 38(2):
 - (b) the amounts paid to the financial agent of any political party or third party under section 41(1) during the period being reported on:
 - (c) the amount of money returned to donors under section 41(2)(a) or (3)(a) during the period being reported on:
 - (d) the amount of money paid into a Crown Bank Account under section 41(2)(b) or (3)(b) during the period being reported on.

- (2) The Electoral Commission must report on the matters set out in subsection (1)—
- (a) in each annual report, in relation to the financial year to which the report relates; and
 - (b) quarterly, by publication on the Commission's Internet site and by any other means the Commission considers appropriate, in respect of the preceding 3-month period.

Subpart 3—Disclosure of candidate donations

45 Return of candidate donations

- (1) A financial agent of a candidate must, at the same time as filing a return under section 86, file with the Chief Electoral Officer a return setting out—
- (a) the details specified in subsection (2) in respect of every candidate donation (other than a donation of the kind referred to in paragraphs (c) and (d)) received by him or her that either on its own, or when aggregated with all other donations made by or on behalf of the same donor for use in the same campaign, exceeds \$1,000 in sum or value; and
 - (b) whether section 24 applies to any donation, and if so, and to the extent known or ascertainable from the information supplied under that section, the details specified in subsection (3) in respect of every contribution referred to in section 24 notified to him or her that either on its own or when aggregated with other contributions made by or on behalf of the same person for use in the same campaign exceeds \$1,000 in sum or value; and
 - (c) the details specified in subsection (4) in respect of every anonymous candidate donation received by him or her exceeding \$1,000; and
 - (d) the details specified in subsection (5) in respect of every candidate donation, or contribution to a candidate donation, received by him or her from an overseas person exceeding \$1,000.
- (2) The details referred to in subsection (1)(a) are—
- (a) the name of the donor; and

- (b) the address of the donor; and
 - (c) the amount of the donation; and
 - (d) the date the donation was received.
- (3) The details referred to in subsection (1)(b) are—
- (a) the name of the contributor; and
 - (b) the address of the contributor; and
 - (c) the amount of each contribution made by the contributor; and
 - (d) the date on which each related donation funded from contributions was made.
- (4) The details referred to in subsection (1)(c) are—
- (a) the date the donation was received; and
 - (b) the amount of the donation; and
 - (c) the amount paid to the Chief Electoral Officer under section 30(1), and the date that payment was made.
- (5) The details referred to in subsection (1)(d) are—
- (a) the date the donation or contribution was received; and
 - (b) the amount of the donation or contribution; and
 - (c) the amount paid to the overseas person or to the Chief Electoral Officer under section 32(2) or (3), and the date that payment was made.
- (6) Every return filed under subsection (1) must be in the form required by the Chief Electoral Officer and include a statutory declaration made by the financial agent and the candidate, each declaring that, to the best of his or her knowledge and belief,—
- (a) the return correctly sets out all the details required by subsections (2) to (5); and
 - (b) a fair assessment has been made of the reasonable market value of donations, if any, of the kind described in paragraph (a)(i) or (ii) of the definition of candidate donation in section 21(2).

46 Nil return

Where a financial agent considers there is no relevant information to disclose under section 45, the financial agent must file a nil return under that section.

47 Obligation to retain records necessary to verify return of candidate donations

- (1) A financial agent must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable a return under section 45 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) Every financial agent 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.

48 Offences relating to return of candidate donations

- (1) Every financial agent who fails, without reasonable excuse, to comply with section 45 commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.
- (2) Where a candidate who is his or her own financial agent and who has been elected fails, without reasonable excuse, to comply with section 45, the candidate is liable on summary conviction to—
 - (a) the penalty in subsection (1); and
 - (b) a further fine not exceeding \$400 for every day he or she sits or votes in the House of Representatives until the return is filed.
- (3) Every financial agent who files a return under section 45 that is false in any material particular is guilty of—
 - (a) a corrupt practice if the financial agent filed the return knowing it to be false in any material particular;
 - (b) an illegal practice in any other case unless the financial agent proves—
 - (i) that he or she had no intention to misstate or conceal the facts; and
 - (ii) that he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.

49 Return of candidate donations to be sent by Chief Electoral Officer to Electoral Commission

As soon as practicable after receiving a return filed under section 45, the Chief Electoral Officer must send a copy of the return to the Electoral Commission.

50 Return of candidate donations to be publicly available

- (1) The Chief Electoral Officer may publish, in any manner that the Chief Electoral Officer considers appropriate, every return filed under section 45.
- (2) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return received from the Chief Electoral Officer under section 49.
- (3) During the public inspection period, the Chief Electoral Officer must make available for public inspection a copy of every return filed under section 45.
- (4) The Chief Electoral Officer may make inspection under subsection (3) subject to the payment of any charges that may be made under the Official Information Act 1982.

Subpart 4—Disclosure of party donations

51 Annual return of party donations

- (1) A financial agent of a party must file with the Electoral Commission, by 30 April in each year, a return of the party donations setting out, for the year ending with the immediately preceding 31 December,—
 - (a) the details specified in subsection (2) for every party donation (other than a donation of the kind referred to in paragraphs (c) to (e)) received by him or her that either on its own, or when aggregated with all other donations made by or on behalf of the same donor during the year, exceeds \$10,000 in sum or value; and
 - (b) whether section 24 applies to any donation, and if so, and to the extent known or ascertainable from the information supplied under that section, the details specified in subsection (3) in respect of every contribution referred to in section 24 notified to him or her that either on its own or when aggregated with other contributions

- made by or on behalf of the same person during the year exceeds \$10,000 in sum or value; and
- (c) the details specified in subsection (4) in respect of every anonymous party donation received by him or her exceeding \$1,000; and
 - (d) the details specified in subsection (5) in respect of every party donation, or contribution to a party donation, received by him or her from an overseas person exceeding \$1,000; and
 - (e) the details specified in subsection (6) in respect of each payment of donations received from the Electoral Commission under section 41.
- (2) The details referred to in subsection (1)(a) are—
- (a) the name of the donor; and
 - (b) the address of the donor; and
 - (c) the amount of the donation; and
 - (d) the date the donation was received.
- (3) The details referred to in subsection (1)(b) are—
- (a) the name of the contributor; and
 - (b) the address of the contributor; and
 - (c) the amount of each contribution made by the contributor; and
 - (d) the date on which each related donation funded from contributions was made.
- (4) The details referred to in subsection (1)(c) are—
- (a) the date the donation was received; and
 - (b) the amount of the donation; and
 - (c) the amount paid to the Electoral Commission under section 30(2), and the date that payment was made.
- (5) The details referred to in subsection (1)(d) are—
- (a) the date the donation or contribution was received; and
 - (b) the amount of the donation or contribution; and
 - (c) the amount paid to the overseas person or to the Electoral Commission under section 32(2) or (3), and the date that payment was made.
- (6) The details referred to in subsection (1)(e) are—
- (a) the date the payment was received; and
 - (b) the amount of the payment; and
 - (c) the amount of interest included in the payment.

- (7) Every return filed under subsection (1) must be—
- (a) in the form required by the Electoral Commission and include a statutory declaration made by the financial agent and the party secretary, each declaring that, to the best of his or her knowledge and belief,—
 - (i) the return correctly sets out all the details required by subsections (2) to (6); and
 - (ii) a fair assessment has been made of the reasonable market value of donations, if any, of the kind described in paragraph (a)(i) or (ii) of the definition of party donation in section 21(2); and
 - (b) accompanied by an auditor's report obtained under section 52.
- (8) Despite anything in subsection (1), where a financial agent is required to file under that subsection a return of party donations that relates to the year in which the party became registered under Part 4 of the Electoral Act 1993, that return is to relate to the period beginning with the date of registration of the party and ending with 31 December of that year.

52 Auditor's report on annual return of party donations

- (1) Every financial agent must, before the Electoral Commission receives the return required by section 51, obtain from the auditor appointed under section 10 a report on the return.
- (2) The auditor must state in the report whether or not, in the auditor's opinion, the return fairly reflects the party donations received by the financial agent.
- (3) The auditor must make any examinations that the auditor considers necessary.
- (4) The auditor must specify in the report any case in which—
- (a) the return does not, in the auditor's opinion, fairly reflect the party donations received by the financial agent;
 - (b) the auditor has not received from the financial agent all the information that the auditor requires to carry out his or her duties;
 - (c) proper records of party donations have not, in the auditor's opinion, been kept by the financial agent.
- (5) The auditor—

- (a) must have access at all reasonable times to all records, documents, and accounts that relate to the party donations and that are held by the financial agent; and
- (b) may require the financial agent to provide any information and explanations that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

53 Nil return

Where a financial agent considers there is no relevant information to disclose under section 51, the financial agent must file a nil return under that section.

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

- (1) Every financial agent must file with the Electoral Commission a return in respect of every party donation that exceeds \$20,000.
- (2) Every financial agent must file with the Electoral Commission a return in respect of every party donation that—
 - (a) the financial agent knows is from a donor who in the 12 months immediately preceding the date of receipt of the donation (the **last 12 months**) has made 1 or more previous donations; and
 - (b) when aggregated with all previous donations received from the donor in the last 12 months exceeds \$20,000.
- (3) If a return is made under subsection (2), the donations disclosed in that return must be disregarded when applying this section in relation to a party donation that is made after that return is filed.
- (4) A return filed under subsection (1) must be in the form required by the Electoral Commission and set out—
 - (a) the name of the donor (if known); and
 - (b) the address of the donor (if known); and
 - (c) the amount of the donation; and
 - (d) the date the donation was received.
- (5) A return filed under subsection (2) must be in the form required by the Electoral Commission and set out—
 - (a) the name of the donor; and

- (b) the address of the donor; and
 - (c) the amount of the donation; and
 - (d) the amounts of all previous donations; and
 - (e) the date the donation was received; and
 - (f) the dates all previous donations were received.
- (6) A return must be filed under subsection (1) or (2) within 10 working days of the donation being received by the financial agent.

55 Obligation to retain records necessary to verify return of party donations

- (1) A financial agent must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable returns under sections 51 and 54 to be verified are retained until the expiry of the period within which a prosecution may be commenced under this Act in relation to the returns or in relation to any matter to which the returns relate.
- (2) Every financial agent 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.

56 Offences relating to return of party donations

- (1) Every financial agent who fails, without reasonable excuse, to comply with section 51 or 54 commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.
- (2) Every financial agent who files a return under section 51 or 54 that is false in any material particular is guilty of—
- (a) a corrupt practice if the financial agent filed the return knowing it to be false in any material particular;
 - (b) an illegal practice in any other case unless the financial agent proves—
 - (i) that he or she had no intention to misstate or conceal the facts; and
 - (ii) that he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.

57 Return of party donations to be publicly available

- (1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, the following returns and reports:
 - (a) a return filed under section 51; and
 - (b) a report obtained under section 52 accompanying the return referred to in paragraph (a); and
 - (c) a return filed under section 54.
- (2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return and report referred to in subsection (1).
- (3) The Electoral Commission may make inspection under subsection (2) subject to the payment of any charges that may be made under the Official Information Act 1982.

Subpart 5—Disclosure of third party donations**58 Return of third party donations**

- (1) A financial agent of a third party must, at the same time as filing a return under section 127, file with the Electoral Commission a return setting out—
 - (a) the details specified in subsection (2) in respect of every third party donation (other than a donation of the kind referred to in paragraphs (c) to (e)) received by him or her that either on its own, or when aggregated with all other donations made by or on behalf of the same donor in respect of the same general election, exceeds \$5,000 in sum or value; and
 - (b) whether section 24 applies to any donation, and if so, and to the extent known or ascertainable from the information supplied under that section, the details specified in subsection (3) in respect of every contribution referred to in section 24 notified to him or her that either on its own or when aggregated with other contributions made by or on behalf of the same person in respect of the same general election exceeds \$5,000 in sum or value; and

- (c) the details specified in subsection (4) in respect of every anonymous third party donation received by him or her exceeding \$1,000; and
 - (d) the details specified in subsection (5) in respect of every third party donation, or contribution to a third party donation, received by him or her from an overseas person exceeding \$1,000; and
 - (e) the details specified in subsection (6) in respect of each payment of donations received from the Electoral Commission under section 41.
- (2) The details referred to in subsection (1)(a) are—
- (a) the name of the donor; and
 - (b) the address of the donor; and
 - (c) the amount of the donation; and
 - (d) the date the donation was received.
- (3) The details referred to in subsection (1)(b) are—
- (a) the name of the contributor; and
 - (b) the address of the contributor; and
 - (c) the amount of each contribution made by the contributor; and
 - (d) the date on which each related donation funded from contributions was made.
- (4) The details referred to in subsection (1)(c) are—
- (a) the date the donation was received; and
 - (b) the amount of the donation; and
 - (c) the amount paid to the Electoral Commission under section 30(3), and the date that payment was made.
- (5) The details referred to in subsection (1)(d) are—
- (a) the date the donation or contribution was received; and
 - (b) the amount of the donation or contribution; and
 - (c) the amount paid to the overseas person or to the Electoral Commission under section 32(2) or (3), and the date that payment was made.
- (6) The details referred to in subsection (1)(e) are—
- (a) the date the payment was received; and
 - (b) the amount of the payment; and
 - (c) the amount of interest included in the payment.

- (7) Every return filed under subsection (1) must be in the form required by the Electoral Commission and include a statutory declaration made by the financial agent and the person who made the application for the third party listing, each declaring that, to the best of his or her or its knowledge and belief,—
- (a) the return correctly sets out all the details required by subsections (2) to (6); and
 - (b) a fair assessment has been made of the reasonable market value of donations, if any, of the kind described in paragraph (a)(i) or (ii) of the definition of third party donation in section 21(2).

59 Nil return

Where a financial agent considers there is no relevant information to disclose under section 58, the financial agent must file a nil return under that section.

60 Obligation to retain records necessary to verify return of third party donations

- (1) A financial agent must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable a return under section 58 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) Every financial agent 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.

61 Offences relating to return of third party donations

- (1) Every financial agent who fails, without reasonable excuse, to comply with section 58 commits an offence and is liable on summary conviction to a fine not exceeding \$40,000.
- (2) Every financial agent who files a return under section 58 that is false in any material particular is guilty of—
- (a) a corrupt practice if the financial agent filed the return knowing it to be false in any material particular;
 - (b) an illegal practice in any other case unless the financial agent proves—

- (i) that he or she had no intention to misstate or conceal the facts; and
- (ii) that he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.

62 Return of third party donations to be publicly available

- (1) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return filed under section 58.
- (2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return filed under section 58.
- (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.

Subpart 6—General rules governing election advertisements

63 Election advertisements not to be published in regulated period unless certain conditions met

- (1) Despite references in this section to a regulated period, this section does not apply to polling day; section 197 of the Electoral Act 1993 applies to polling day.
- (2) No promoter may, during a regulated period, publish, or cause or permit to be published, any election advertisement unless—
 - (a) the advertisement contains a statement that sets out the name and address of the promoter of the advertisement; and
 - (b) the promoter is entitled to promote the advertisement.
- (3) For the purposes of subsection (2)(b), a promoter is entitled to promote an election advertisement if the promoter is—
 - (a) the financial agent of a party, but only if the advertisement is a party advertisement promoted by, or on behalf of, that party; or
 - (b) the financial agent of a candidate, but only if the advertisement is a candidate advertisement promoted by, or on behalf of, 1 or more candidates; or

- (c) the financial agent of a third party; or
 - (d) a promoter who promotes election advertisements during the regulated period in respect of which expenses are incurred that—
 - (i) in total do not exceed \$12,000 (inclusive of goods and services tax); and
 - (ii) in the case of advertisements that relate to a candidate in the candidate's capacity as a candidate for an electoral district (whether or not the name of the candidate is stated), do not exceed \$1,000 (inclusive of goods and services tax).
- (4) Every promoter is guilty of an illegal practice who wilfully contravenes subsection (2).

64 Offence to avoid limits set out in section 63

- (1) A person may not enter into an agreement or enter into an arrangement or understanding with any other person for the purpose of circumventing either of the maximum amounts prescribed in section 63(3)(d).
- (2) A body corporate or unincorporated may not split itself into 2 or more bodies for the purpose of circumventing either of the maximum amounts prescribed in section 63(3)(d).
- (3) Every person is guilty of an illegal practice who wilfully contravenes subsection (1) or (2).

65 Requirements for election advertisements that promote parties or candidates

- (1) A promoter must not publish, or cause or permit to be published, an election advertisement that encourages or persuades, or appears to encourage or persuade, voters to vote for a party unless the publication of the advertisement—
 - (a) is authorised in writing by the financial agent of the party; and
 - (b) contains a statement that sets out the name and address of the promoter of the advertisement.
- (2) A promoter must not publish, or cause or permit to be published, an election advertisement that encourages or persuades,

or appears to encourage or persuade, voters to vote for a candidate unless the publication of the advertisement—

- (a) is authorised in writing by the financial agent of that candidate; and
 - (b) contains a statement that sets out the name and address of the promoter of the advertisement.
- (3) A promoter must not publish, or cause or permit to be published, an election advertisement that encourages or persuades, or appears to encourage or persuade, voters to vote for 2 or more candidates unless the publication of the advertisement—
- (a) is authorised in writing by the financial agent of each of those candidates; and
 - (b) contains a statement that sets out the name and address of the promoter of the advertisement.
- (4) Every promoter is guilty of an illegal practice who wilfully contravenes any provision of this section.

66 Offence to incur election expenses exceeding maximum amounts prescribed by section 118(1)

- (1) Every person who promotes election advertisements during the regulated period and incurs election expenses that exceed either of the maximum amounts prescribed by section 118(1) is guilty of a corrupt practice.
- (2) This section does not apply to a person who is—
- (a) the financial agent of a candidate acting in that capacity; or
 - (b) the financial agent of a party acting in that capacity; or
 - (c) the financial agent of a third party acting in that capacity.
- (3) In this section, **election expense** has the meaning given to it by section 114(1)(b) to (7).

67 Certain persons and bodies may not promote an election advertisement

- (1) The following persons and bodies may not publish, or cause or permit to be published, any election advertisement:
- (a) the chief executive (however described) of a department of State or a Crown entity;
 - (b) a department of State:

- (c) a Crown entity;
 - (d) a State enterprise (within the meaning of section 2 of the State-Owned Enterprises Act 1986) or a Crown-owned company;
 - (e) any other instrument of the Crown.
- (2) To avoid doubt, subsection (1) does not—
- (a) prevent any broadcaster from broadcasting any election programme, or Television New Zealand or Radio New Zealand from broadcasting opening or closing addresses, under Part 6 of the Broadcasting Act 1989; or
 - (b) prevent any person or body referred to in subsection (1) that is in the business of broadcasting or publishing advertising material, from publishing or causing or permitting to be published an election advertisement in the course of business; or
 - (c) prevent any individual referred to in subsection (1) who is or desires to become a candidate for election as a member of Parliament from publishing, or causing or permitting to be published, an election advertisement relating in whole or in part to his or her election campaign.

68 Payment for exhibition of election advertisement

- (1) No payment or contract for payment may be made to any elector on account of the exhibition of, or the use of any house, land, building, or premises for the exhibition of, any election advertisement, unless it is the ordinary business of the elector to exhibit advertisements for payment and the payment or contract is made in the ordinary course of that business.
- (2) If any payment or contract for payment is knowingly made in contravention of this section before, during, or after an election, the person making the payment or contract and, if he or she knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract is guilty of an illegal practice.

69 Display of advertisement of a specified kind

- (1) During the period beginning 2 months before polling day and ending with the close of the day before polling day, the display of an advertisement of a specified kind is not subject to—
- (a) any prohibition or restriction imposed in any other enactment or bylaw, or imposed by any local authority, that applies in relation to the period when an advertisement of a specified kind may be displayed; or
 - (b) any prohibition or restriction imposed in any bylaw, or imposed by any local authority, that applies in relation to the content or language used in an advertisement of a specified kind.
- (2) In this section, **advertisement of a specified kind** means an advertisement displayed in a public place or on private property that does not exceed 3 square metres in size and that—
- (a) encourages or persuades, or appears to encourage or persuade, voters to vote for a party; or
 - (b) is used, or appears to be used, to promote or procure the election of a candidate; but
 - (c) does not include—
 - (i) an advertisement published in any newspaper, periodical, or handbill, or in any poster less than 150 square centimetres in size; or
 - (ii) an advertisement broadcast over any television station or by any electronic means of communication.
- (3) Nothing in this section limits or prevents the display before polling day of any advertisement relating to an election that complies with any prohibition or restriction imposed in any enactment or bylaw, or imposed by any local authority.

70 Duties of Chief Electoral Officer and Electoral Commission

If either the Chief Electoral Officer or the Electoral Commission believe that any person has committed an offence against this subpart, the Chief Electoral Officer or the Electoral Commission, as the case may be, must report the facts upon which that belief is based to the New Zealand Police, unless the Chief Electoral Officer or the Electoral Commission, as the case may

be, considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

Subpart 7—Candidates' election expenses

71 Interpretation

In this subpart, unless the context otherwise requires,—

candidate activity, in relation to a candidate at an election in any district, means an activity—

- (a) that is undertaken by, or with the authority of,—
 - (i) the candidate; or
 - (ii) the candidate's financial agent; and
- (b) that constitutes publishing a candidate advertisement in any form (for example, in the form of a radio or television broadcast, notice, poster, pamphlet, billboard, or electronic message); and
- (c) that relates to the campaign for the return of the candidate in the candidate's capacity as a candidate for the district and not to the candidate—
 - (i) in his or her capacity as a member of Parliament or as the holder of any other office; or
 - (ii) in any other capacity; and
- (d) that is undertaken, or deemed by section 77 to have been undertaken, during the regulated period

candidate advertisement has the meaning given to it by section 4

candidate's election expenses has the meaning given to it by section 73

election expense has the meaning given to it by section 72

publish has the meaning given to it by section 4

regulated period includes, in the case of a by-election, the period that commences 3 months before the polling day appointed for the by-election and ends with the close of that polling day.

72 Meaning of election expense

(1) In this subpart, **election expense** means an expense that—

- (a) is incurred in undertaking a candidate activity; and

- (b) is incurred in respect of any of the following costs:
 - (i) the cost of the preparation, design, composition, printing, distribution, postage, and publishing a candidate advertisement:
 - (ii) the cost of any material used for or applied towards a candidate advertisement:
 - (iii) the cost of displaying a candidate advertisement on any advertising space on any land or building of a specified kind that is used solely or principally for commercial or industrial purposes.
- (2) Despite subsection (1)(b), **election expense** does not include the cost of—
 - (a) travel:
 - (b) the conduct of any survey or public opinion poll:
 - (c) the labour of any person that is provided free of charge by that person:
 - (d) the replacement of any material used in respect of a candidate advertisement that has been destroyed or rendered unusable by 1 or more persons (other than the candidate or any person acting on his or her behalf) or by the occurrence of an event beyond the control of the candidate and any person acting on his or her behalf:
 - (e) hiring an interpreter to enable a candidate who is deaf or who suffers from impaired hearing to undertake or participate in a candidate activity.
- (3) For the purposes of subsection (1)(b)(iii), **any land or building of a specified kind**—
 - (a) means any land or building situated in a city, town, or village where 50 or more people are ordinarily resident; but
 - (b) does not include—
 - (i) any land or building used principally or solely for agricultural purposes:
 - (ii) any land or building used principally or solely as a residential dwelling:
 - (iii) any land or building used principally or solely as a place of worship, school, or hospital:
 - (iv) any land or building owned and occupied by the Crown:

- (v) any land or building owned and occupied by a local authority within the meaning of section 5(1) of the Local Government Act 2002:
 - (vi) any road or road reserve:
 - (vii) any land that is a conservation area within the meaning of section 2(1) of the Conservation Act 1987:
 - (viii) any land that is a reserve within the meaning of section 2(1) of the Reserves Act 1977:
 - (ix) any other kind of land or building declared by regulations made under section 147 not to be land or a building of a specified kind for the purposes of this section.
- (4) Where any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii) is provided free of charge, the commercial value of that material or advertising space must be included as an election expense.
- (5) Where any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii) is provided at less than its commercial value, the amount of the difference between the contract price of the material or advertising space and the commercial value of that material or advertising space must be included as an election expense.
- (6) However, subsections (4) and (5) do not apply where the aggregate commercial value of the material or advertising space provided to the candidate by a provider (on 1 or more occasions) is less than \$200.
- (7) For the purposes of subsections (4) to (6), **commercial value**, in relation to any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii), means the lowest amount charged at the time the material or advertising space was provided, for the same kind and quantity, by—
- (a) the person who provided it, if that person is in the business of providing that material or advertising space; or
 - (b) another person who provides that material or advertising space on a commercial basis in the area where it was provided, if the person who provided the material or advertising space is not in that business.

73 Meaning of candidate's election expenses

In this subpart, **candidate's election expenses** means the total election expenses in relation to a candidate, whether paid or incurred before, during, or after the regulated period and includes—

- (a) any election expense of an election activity that is apportioned to the candidate under section 79; and
- (b) any election expense in relation to a party advertisement deemed to be an election expense of the candidate under section 80.

74 Persons who may incur election expense in relation to candidate activity

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

- (a) a candidate's financial agent; or
- (b) a third party's financial agent acting under an authority given under section 65(2)(a) or (3)(a); or
- (c) a party's financial agent in relation to an advertisement that the agent has authorised under section 65(3), or in relation to an election activity described in section 79(2); or
- (d) a promoter in respect of whom section 63(3)(d) applies.

75 Offence to incur unauthorised election expense

- (1) Every person is guilty of—
 - (a) a corrupt practice who wilfully contravenes section 74; and
 - (b) an illegal practice who contravenes section 74 in any other case.
- (2) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing section 74 is guilty of an illegal practice.

76 Maximum amount of candidate's election expenses

- (1) A candidate's election expenses in respect of any regulated period must not exceed—

- (a) the amount of \$20,000 in the case of a candidate at a general election; and
 - (b) the amount of \$40,000 in the case of a candidate at a by-election.
- (2) The amounts in subsection (1) are inclusive of goods and services tax.

77 Apportionment of election expense for candidate activity undertaken both before and within regulated period

- (1) This section applies where a candidate activity as described in paragraphs (a) to (c) of the definition of that term in section 71 is—
- (a) undertaken both before and within the regulated period; or
 - (b) undertaken before the regulated period and continues to be undertaken within the regulated period.
- (2) Where this section applies,—
- (a) the candidate activity is deemed to have been undertaken in the regulated period; but
 - (b) the election expense must be apportioned so that a fair proportion of the expense is attributed to being incurred within the regulated period.
- (3) Only the fair proportion of the election expense determined in accordance with subsection (2) is an election expense.

78 Apportionment of election expense of election activity between candidates

- (1) This section provides for the apportionment between candidates of the election expense of an election activity.
- (2) In this section, **election activity** means an activity that comprises 2 or more candidate activities.
- (3) The election expense of an election activity must be apportioned among the candidates in proportion to the coverage the activity provides to each candidate's candidate activity.
- (4) However, where an election activity provides a candidate's candidate activity less than 10% coverage, the candidate's apportionment of the election expenses of the election activity is not to be included as an election expense of the candidate.

- (5) For the purposes of this section,—
- (a) **election expense of an election activity** means the total of the election expense in relation to all of the candidate activities to which this section applies; and
 - (b) the coverage provided by an election activity must be calculated in such a manner as is appropriate in relation to the form of the activity.

79 Apportionment of election expense of election activity between candidate and party

- (1) This section provides for the apportionment between a candidate and a party of the election expense of an election activity.
- (2) In this section, **election activity** means an activity that comprises a candidate activity and a party activity (as defined in section 93).
- (3) The election expense of an election activity must be apportioned between the candidate and the party in proportion to the coverage the activity provides to the candidate's candidate activity and the party's party activity.
- (4) For the purposes of this section,—
 - (a) **election expense of an election activity** means the election expense in relation to the candidate activity and the election expense in relation to the party activity; and
 - (b) the coverage provided by an election activity must be calculated in such a manner as is appropriate in relation to the form of the election activity.

80 Cost of party activity deemed to be election expense of candidate in particular case

- (1) This section applies where a party advertisement features a candidate—
 - (a) in his or her capacity as a list candidate; or
 - (b) as endorsing or supporting the party, or the list submitted by the party under section 127 of the Electoral Act 1993.
- (2) Where the party advertisement gives more than 10% coverage to the candidate and is published in the electoral district in re-

spect of which the candidate has been nominated, the election expense in relation to the party advertisement is deemed to be an election expense of the candidate.

- (3) However, this section does not apply where the party advertisement is published—
- (a) in the electoral district in respect of which the candidate has been nominated; and
 - (b) in at least 10 other electoral districts.
- (4) For the purposes of this section—
- candidate** means a person who is both a constituency candidate and a list candidate
- list candidate** has the meaning given to it by section 21(1).
- (5) For the purposes of this section the coverage provided by a party advertisement must be calculated in such manner as is appropriate in relation to the form of the advertisement.

81 Offences in relation to candidate's election expenses

- (1) If a candidate's election expenses exceed either of the maximum amounts prescribed by section 76, the candidate's financial agent is guilty of—
- (a) a corrupt practice if the financial agent knew the candidate's total election expenses exceeded the maximum amount; or
 - (b) an illegal practice in any other case, unless the financial agent proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the maximum amount.
- (2) 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 76(1) is guilty of a corrupt practice.

82 Periods for claiming and paying candidate's election expenses

- (1) A claim against a candidate's financial agent in respect of any election expense is recoverable only if it is sent to the financial agent within 20 working days after the day on which the dec-

laration required by section 179(2) of the Electoral Act 1993 is made.

- (2) A claim that is sent to a candidate's financial agent in accordance with subsection (1) must be paid by the financial agent, and no other person, within 40 working days after the day on which that declaration is made, and not otherwise.
- (3) Every person who makes any payment in breach of subsection (2) is guilty of an illegal practice.
- (4) This section is subject to sections 83 and 84.

83 Procedure where claim disputed

- (1) If a financial agent, in the case of a claim for an election expense sent to the candidate's financial agent within the period specified in section 82(1), disputes the claim, or fails to pay the claim within the period of 40 working days specified in section 82(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 expiration 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 financial agent in accordance with a judgment or order of the court in any such action is to be treated as paid within the time specified by section 82(2).

84 Leave to pay claim after time limitation

- (1) On the application of a claimant or candidate's financial agent, a District Court may make an order granting leave to a financial agent to pay—
 - (a) a claim for election expenses sent after the period specified in section 82(1); or
 - (b) a claim not paid in the period specified in section 82(2); or
 - (c) a disputed claim in respect of which an action was not brought within the period specified in section 83(1)(b).
- (2) Any sum specified in the order granting that leave may be paid by the candidate's financial agent, and when so paid is to be

treated as having been paid within the period specified in section 82(2).

85 Election expense to be invoiced

No payment in respect of any election expense exceeding \$50 may be made without an invoice.

86 Return of candidate's election expenses

- (1) Within 70 working days after polling day, a candidate's financial agent must file with the Chief Electoral Officer a return setting out the candidate's election expenses.
- (2) Every return filed under subsection (1) must—
 - (a) be in the form required by the Chief Electoral Officer; and
 - (b) include a statutory declaration made by the financial agent and the candidate, each declaring that, to the best of his or her knowledge and belief,—
 - (i) the return correctly sets out all the information required to be provided; and
 - (ii) a fair assessment has been made of the commercial value of any materials and advertising spaces used in candidate advertisements.

87 Nil return

Where a financial agent considers there is no relevant information to disclose under section 86, the financial agent must file a nil return under that section.

88 Offences relating to return of candidate's election expenses

- (1) Every financial agent who fails, without reasonable excuse, to comply with section 86 is liable on summary conviction to a fine not exceeding \$40,000.
- (2) Where a candidate who is his or her own financial agent and who has been elected fails, without reasonable excuse, to comply with section 86, the candidate is liable on summary conviction to—
 - (a) the penalty in subsection (1); and

- (b) a further fine not exceeding \$400 for every day he or she sits or votes in the House of Representatives until the return is filed.
- (3) Every financial agent who files a return under section 86 that is false in any material particular is guilty of—
 - (a) a corrupt practice if the financial agent filed the return knowing it to be false in any material particular:
 - (b) an illegal practice in any other case unless the financial agent proves—
 - (i) that he or she had no intention to misstate or conceal the facts; and
 - (ii) that he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.

89 Obligation to retain records necessary to verify return of candidate's election expenses

- (1) A financial agent must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable a return under section 86 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) Every financial agent 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.

90 Duty of Chief Electoral Officer

If the Chief Electoral Officer believes that any person has committed an offence specified in this subpart, the Chief Electoral Officer must report the facts upon which that belief is based to the New Zealand Police, unless the Chief Electoral Officer considers that the offence is so inconsequential that there is no public interest in reporting those facts to the New Zealand Police.

91 Return of candidate's election expenses to be sent by Chief Electoral Officer to Electoral Commission

As soon as practicable after receiving a return filed under section 86, the Chief Electoral Officer must send a copy of the return to the Electoral Commission.

92 Return of candidate's election expenses to be publicly available

- (1) The Chief Electoral Officer may publish, in any manner that the Chief Electoral Officer considers appropriate, every return filed under section 86.
- (2) The Electoral Commission may publish, in any manner that the Electoral Commission considers appropriate, every return received from the Chief Electoral Officer under section 91.
- (3) During the public inspection period, the Chief Electoral Officer must make available for public inspection a copy of every return filed under section 86.
- (4) The Chief Electoral Officer may make inspection under subsection (3) subject to the payment of any charges that may be made under the Official Information Act 1982.

Subpart 8—Parties' election expenses

93 Interpretation

In this subpart, unless the context otherwise requires,—
election expense has the meaning given to it by section 94

party activity, in relation to a party, means an activity—

- (a) that is undertaken by, or with the authority of,—
 - (i) the party secretary; or
 - (ii) the party's financial agent; and
- (b) that constitutes publishing a party advertisement in any form (for example, in the form of a radio or television broadcast, notice, poster, pamphlet, billboard, or electronic message); and
- (c) that is undertaken, or deemed by section 99 to have been undertaken, during the regulated period; and
- (d) does not include anything done in relation to a member of Parliament in his or her capacity as a member of Parliament

party advertisement has the meaning given to it by section 4

party's election expenses has the meaning given to it by section 95

publish has the meaning given to it by section 4.

94 Meaning of election expense

- (1) In this subpart, **election expense** means an expense that—
- (a) is incurred in undertaking a party activity; and
 - (b) is incurred in respect of any of the following costs:
 - (i) the cost of the preparation, design, composition, printing, distribution, postage, and publishing a party advertisement:
 - (ii) the cost of any material used for or applied towards a party advertisement:
 - (iii) the cost of displaying a party advertisement on any advertising space on any land or building of a specified kind that is used solely or principally for commercial or industrial purposes.
- (2) Despite subsection (1)(b), **election expense** does not include the cost of—
- (a) travel:
 - (b) the conduct of any survey or public opinion poll:
 - (c) the labour of any person that is provided free of charge by that person:
 - (d) the replacement of any material used in respect of a party advertisement which has been destroyed or rendered unusable by 1 or more persons (other than a person acting on behalf of the party) or by the occurrence of an event beyond the control of any person acting on behalf of the party:
 - (e) the election expense of any of the party's candidates:
 - (f) allocations of time and money made to the party by the body responsible for such allocations under the Broadcasting Act 1989:
 - (g) any publications that relate to a member of Parliament in his or her capacity as a member of Parliament.
- (3) For the purposes of subsection (1)(b)(iii) **any land or building of a specified kind**—

- (a) means any land or building situated in a city, town, or village where 50 or more people are ordinarily resident; but
- (b) does not include—
 - (i) any land or building used principally or solely for agricultural purposes:
 - (ii) any land or building used principally or solely as a residential dwelling:
 - (iii) any land or building used principally or solely as a place of worship, school, or hospital:
 - (iv) any land or building owned and occupied by the Crown:
 - (v) any land or building owned and occupied by a local authority within the meaning of section 5(1) of the Local Government Act 2002:
 - (vi) any road or road reserve:
 - (vii) any land that is a conservation area within the meaning of section 2(1) of the Conservation Act 1987:
 - (viii) any land that is a reserve within the meaning of section 2(1) of the Reserves Act 1977:
 - (ix) any other kind of land or building declared by regulations made under section 147 not to be land or building of a specified kind for the purposes of this section.
- (4) Where any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii) is provided free of charge, the commercial value of that material or advertising space must be included as an election expense.
- (5) Where any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii) is provided at less than its commercial value, the amount of the difference between the contract price of the material or advertising space and the commercial value of that material or advertising space must be included as an election expense.
- (6) However, subsections (4) and (5) do not apply where the aggregate commercial value of the material or advertising space provided to a party by a provider (on 1 or more occasions) is less than \$1,000.

- (7) For the purposes of subsections (4) to (6), **commercial value**, in relation to any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii), means the lowest amount charged at the time the material or advertising space was provided, for the same kind and quantity, by—
- (a) the person who provided it, if that person is in the business of providing that material or advertising space; or
 - (b) another person who provides that material or advertising space on a commercial basis in the area where it was provided, if the person who provided the material or advertising space is not in that business.

95 Meaning of party's election expenses

In this subpart, **party's election expenses**—

- (a) means the total election expenses in relation to a party, whether paid or incurred before, during, or after the regulated period; and
- (b) includes any election expense of an election activity that is apportioned to the party under section 79 or 100.

96 Persons who may incur election expense in relation to party activity

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

- (a) a party's financial agent; or
- (b) a candidate's financial agent in relation to an election activity described in section 79(2); or
- (c) a third party's financial agent acting under an authority given under section 65(1)(a); or
- (d) a promoter in respect of whom section 63(3)(d) applies.

97 Offence to incur unauthorised election expense

(1) Every person is guilty of—

- (a) a corrupt practice who wilfully contravenes section 96; and
- (b) an illegal practice who contravenes section 96 in any other case.

- (2) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing section 96 is guilty of an illegal practice.

98 Maximum amount of party's election expenses

- (1) Where a party is listed in the part of the ballot paper that relates to the party vote, the party's election expenses in respect of any regulated period must not exceed the amount of \$1,000,000 plus the amount of \$20,000 for each electoral district contested by a candidate for the party.
- (2) Where 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 the amount of \$20,000 for each electoral district contested by a candidate for the party.
- (3) The amounts in subsection (1) are inclusive of goods and services tax.

99 Apportionment of election expense for party activity undertaken both before and within regulated period

- (1) This section applies where a party activity as described in paragraphs (a) and (b) of the definition of that term in section 93 is—
- (a) undertaken both before and within the regulated period; or
- (b) undertaken before the regulated period and continues to be undertaken within the regulated period.
- (2) Where this section applies,—
- (a) the party activity is deemed to have been undertaken in the regulated period; but
- (b) the election expense of the party activity must be apportioned so that a fair proportion of the expense is attributed to being incurred within the regulated period.
- (3) Only the fair proportion of the election expense determined in accordance with subsection (2) is an election expense.

100 Apportionment of election expense of election activity between parties

- (1) This section provides for the apportionment between parties of the election expense of an election activity.
- (2) In this section, **election activity** means an activity that comprises 2 or more party activities.
- (3) The election expense of an election activity must be apportioned among the parties in proportion to the coverage the activity provides to each party's party activity.
- (4) For the purposes of this section,—
 - (a) **election expense of an election activity** means the total of the election expense of all of the party activities to which this section applies; and
 - (b) the coverage provided by an election activity must be calculated in such a manner as is appropriate in relation to the form of the election activity.

101 Offences in relation to party's election expenses

- (1) If a party's election expenses exceed either of the maximum amounts prescribed by section 98, the party's financial agent is guilty of—
 - (a) a corrupt practice if the financial agent knew the party's total election expenses exceeded the maximum amount; or
 - (b) an illegal practice in any other case, unless the financial agent proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the maximum amount.
- (2) 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 98 is guilty of a corrupt practice.

102 Periods for claiming and paying party's election expenses

- (1) No claim against a party's financial agent in respect of a party's election expense is recoverable unless it is sent to the financial agent within 20 working days after the day on which the dec-

laration required by section 193(5) of the Electoral Act 1993 is made.

- (2) A claim that is sent to a party's financial agent in accordance with subsection (1) must be paid by the financial agent, and no other person, within 40 working days after the day on which that declaration is made, and not otherwise.
- (3) Every person who makes any payment in breach of subsection (2) is guilty of an illegal practice.
- (4) This section is subject to sections 103 and 104.

103 Procedure where claim disputed

- (1) If a financial agent, in the case of a claim for an election expense sent to the party's financial agent within the period specified in section 102(1), disputes the claim, or fails to pay the claim within the period of 40 working days specified in section 102(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 expiration 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 financial agent in accordance with a judgment or order of the court in any such action is to be treated as paid within the time specified by section 102(2).

104 Leave to pay claim after time limitation

- (1) On the application of a claimant or party's financial agent, a District Court may make an order granting leave to a financial agent to pay—
 - (a) a claim for election expenses sent after the period specified in section 102(1); or
 - (b) a claim not paid in the period specified in section 102(2); or
 - (c) a disputed claim in respect of which an action was not brought within the period specified in section 103(1)(b).
- (2) Any sum specified in the order granting that leave may be paid by the party's financial agent, and when so paid is to be

treated as having been paid within the period specified in section 102(2).

105 Election expense to be invoiced

No payment in respect of any election expense exceeding \$100 may be made without an invoice.

106 Return of party's election expenses

- (1) Within 50 working days after the day on which the declaration required by section 193(5) of the Electoral Act 1993 is made, a party's financial agent must file with the Electoral Commission a return setting out the party's election expenses.
- (2) Every return filed under subsection (1) must be—
 - (a) in the form required by the Electoral Commission and include a statutory declaration made by the financial agent and the party secretary, each declaring that, to the best of his or her knowledge and belief,—
 - (i) the return correctly sets out all the information required to be provided; and
 - (ii) a fair assessment has been made of the commercial value of any materials and advertising spaces used in party advertisements; and
 - (b) accompanied by an auditor's report obtained under section 107.

107 Auditor's report on return of party's election expenses

- (1) Every financial agent must, before the Electoral Commission receives the return required by section 106, obtain from the auditor appointed under section 10 a report on the return.
- (2) The auditor must state in the report—
 - (a) the position shown by the return in respect of the requirement that the party's total election expenses not exceed the maximum amount prescribed by section 98; 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 in 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 financial agent all the information that the auditor requires to carry out his or her duties;
 - (b) proper records of the party's election expenses have not, in the auditor's opinion, been kept by the financial agent.
- (5) The auditor—
 - (a) must have access at all reasonable times to all records, documents, and accounts that relate to the party's election expenses and that are held by the financial agent; and
 - (b) may require the financial agent to provide any information and explanations that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

108 Nil return

Where a financial agent considers there is no relevant information to disclose under section 106, the financial agent must file a nil return under that section.

109 Offences relating to return of party's election expenses

- (1) Every financial agent who fails, without reasonable excuse, to comply with section 106 is liable on summary conviction to a fine not exceeding \$40,000.
- (2) Every financial agent who files a return under section 106 that is false in any material particular is guilty of—
 - (a) a corrupt practice if the financial agent filed the return knowing it to be false in any material particular;
 - (b) an illegal practice in any other case unless the financial agent proves that—
 - (i) he or she had no intention to misstate or conceal the facts; and

- (ii) he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.

110 Obligation to retain records necessary to verify return of party's election expenses

- (1) A financial agent must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable a return under section 106 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) Every financial agent 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.

111 Duty of Electoral Commission

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

112 Return of party'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 106 and any accompanying auditor's report obtained under section 107.
- (2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return and report referred to in subsection (1).
- (3) The Electoral Commission may make inspection under subsection (2) subject to the payment of any charges that may be made under the Official Information Act 1982.

Subpart 9—Third parties' election expenses

113 Interpretation

In this subpart, unless the context otherwise requires,—
election advertisement has the meaning given to it by section 5

election expense has the meaning given to it by section 114

publish has the meaning given to it by section 4

third party activity, in relation to a third party, means an activity—

- (a) that is undertaken by, or with the authority of,—
 - (i) the third party; or
 - (ii) the third party's financial agent; and
- (b) that constitutes publishing an election advertisement in any form (for example, in the form of a radio or television broadcast, notice, poster, pamphlet, billboard, or electronic message); and
- (c) that is undertaken, or deemed by section 119 to have been undertaken, during the regulated period.

114 Meaning of election expense

- (1) In this subpart, **election expense** means an expense that—
 - (a) is incurred in undertaking a third party activity; and
 - (b) is incurred in respect of any of the following costs:
 - (i) the cost of the preparation, design, composition, printing, distribution, postage, and publishing an election advertisement;
 - (ii) the cost of any material used for or applied towards an election advertisement;
 - (iii) the cost of displaying an election advertisement on any advertising space on any land or building of a specified kind that is used solely or principally for commercial or industrial purposes.
- (2) Despite subsection (1)(b), **election expense** does not include the cost of—
 - (a) travel;
 - (b) the conduct of any survey or public opinion poll;
 - (c) the labour of any person that is provided free of charge by that person:

- (d) the replacement of any material used in respect of an election advertisement which has been destroyed or rendered unusable by 1 or more persons (other than the third party or any person acting on its behalf) or by the occurrence of an event beyond the control of the third party and any person acting on its behalf.
- (3) For the purposes of subsection (1)(b)(iii) **any land or building of a specified kind**—
- (a) means any land or building situated in a city, town, or village where 50 or more people are ordinarily resident; but
 - (b) does not include—
 - (i) any land or building used principally or solely for agricultural purposes;
 - (ii) any land or building used principally or solely as a residential dwelling;
 - (iii) any land or building used principally or solely as a place of worship, school, or hospital;
 - (iv) any land or building owned and occupied by the Crown;
 - (v) any land or building owned and occupied by a local authority within the meaning of section 5(1) of the Local Government Act 2002;
 - (vi) any road or road reserve;
 - (vii) any land that is a conservation area within the meaning of section 2(1) of the Conservation Act 1987;
 - (viii) any land that is a reserve within the meaning of section 2(1) of the Reserves Act 1977;
 - (ix) any other kind of land or building declared by regulations made under section 147 not to be land or building of a specified kind for the purposes of this section.
- (4) Where any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii) is provided free of charge, the commercial value of that material or advertising space must be included as an election expense of the third party.

- (5) Where any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii) is provided at less than its commercial value, the amount of the difference between the contract price of the material or advertising space and the commercial value of that material or advertising space must be included as an election expense of the third party.
- (6) However, subsections (4) and (5) do not apply where the aggregate commercial value of the material or advertising space provided to a third party by a provider (on 1 or more occasions) is less than \$200.
- (7) For the purposes of subsections (4) to (6), **commercial value**, in relation to any material referred to in subsection (1)(b)(ii) or any advertising space referred to in subsection (1)(b)(iii), means the lowest amount charged at the time the material or advertising space was provided, for the same kind and quantity, by—
- (a) the person who provided it, if that person is in the business of providing that material or advertising space; or
 - (b) another person who provides that material or advertising space on a commercial basis in the area where it was provided, if the person who provided the material or advertising space is not in that business.

115 Meaning of third party's election expenses

In this subpart, **third party's election expenses**—

- (a) means the total election expenses in relation to a third party, whether paid or incurred before, during, or after the regulated period; and
- (b) includes any election expense of an election activity that is apportioned to a third party under section 120.

116 Persons who may incur election expense in relation to third party activity

An election expense in relation to a third party activity may only be incurred by a third party's financial agent.

117 Offence to incur unauthorised election expense

- (1) Every person is guilty of—

- (a) a corrupt practice who wilfully contravenes section 116;
and
 - (b) an illegal practice who contravenes section 116 in any other case.
- (2) Every person who enters into an agreement or enters into an arrangement or understanding with any other person for the purpose of circumventing section 116 is guilty of an illegal practice.

118 Maximum amount of third party's election expenses

- (1) A third party's election expenses in respect of any regulated period must not exceed—
- (a) the amount of \$4,000 in the case of election advertisements that relate to a candidate in the candidate's capacity as a candidate for an electoral district (whether or not the name of the candidate is stated); and
 - (b) the amount of \$120,000 in any case.
- (2) The amounts in subsection (1) are inclusive of goods and services tax.

119 Apportionment of election expense for third party activity undertaken both before and within regulated period

- (1) This section applies where a third party activity as described in paragraphs (a) and (b) of the definition of that term in section 113 is—
- (a) undertaken both before and within the regulated period;
or
 - (b) undertaken before the regulated period and continues to be undertaken within the regulated period.
- (2) Where this section applies,—
- (a) the third party activity is deemed to have been undertaken in the regulated period; but
 - (b) the election expense of the third party activity must be apportioned so that a fair proportion of the expense is attributed to being incurred within the regulated period.
- (3) Only the fair proportion of the election expense determined in accordance with subsection (2) is an election expense.

120 Apportionment of election expense of election activity between third parties

- (1) This section provides for the apportionment between third parties of the election expense of an election activity.
- (2) In this section,—
election activity means an activity that comprises 2 or more third party activities
election expense of an election activity means the total of the election expense of all the third party activities comprising the election activity.
- (3) The election expense of an election activity must be apportioned equally among the third parties whose third party activities comprise the election activity.

121 Election expenses attributed in respect of advertisements authorised by candidate or party

- (1) This section applies if an election advertisement promoted by a third party is authorised in writing by the financial agent of the party or by the financial agent of 1 or more candidates.
- (2) The election expense of the election advertisement forms part of the election expenses of the third party and also forms part of the election expenses of the party or, as the case requires, the candidate whose financial agent authorised the election advertisement.

122 Offences in relation to third party's election expenses

- (1) If a third party's election expenses exceed either of the maximum amounts prescribed by section 118(1), the third party's financial agent is guilty of—
 - (a) a corrupt practice if the financial agent knew the election expenses of the third party exceeded the applicable maximum amount; or
 - (b) an illegal practice in any other case, unless the financial agent proves that he or she took all reasonable steps to ensure that the election expenses did not exceed the maximum amount.
- (2) 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 118(1) is guilty of a corrupt practice.

123 Periods for claiming and paying third party's election expenses

- (1) A claim against a third party's financial agent in respect of any election expense is recoverable only if it is sent to the financial agent within 20 working days after the day on which the declaration required by section 193(5) of the Electoral Act 1993 is made.
- (2) A claim that is sent to a third party's financial agent in accordance with subsection (1) must be paid by the financial agent, and no other person, within 40 working days after the day on which that declaration is made, and not otherwise.
- (3) Every person who makes any payment in breach of subsection (2) is guilty of an illegal practice.
- (4) This section is subject to sections 124 and 125.

124 Procedure if claim disputed

- (1) If a financial agent, in the case of a claim for an election expense sent to the third party's financial agent within the period specified by section 123(1), disputes the claim, or fails to pay the claim within the period of 40 working days specified in section 123(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 expiration 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 financial agent in accordance with a judgment or order of the court in any such action is to be treated as paid within the time specified by section 123(2).

125 Leave to pay claim after time limitation

- (1) On the application of a claimant or third party's financial agent, a District Court may make an order granting leave to a financial agent to pay—

- (a) a claim for election expenses sent after the period specified in section 123(1); or
 - (b) a claim not paid in the period specified in section 123(2); or
 - (c) a disputed claim in respect of which an action was not brought within the period specified in section 124(1)(b).
- (2) Any sum specified in the order granting that leave may be paid by the third party's financial agent, and when so paid is to be treated as having been paid within the period specified in section 123(2).

126 Election expense to be invoiced

No payment in respect of any election expense exceeding \$50 may be made without an invoice.

127 Return of third party's election expenses

- (1) Within 70 working days after polling day, a third party's financial agent must file with the Electoral Commission a return setting out the third party's election expenses.
- (2) Every return filed under subsection (1) must be—
- (a) in the form required by the Electoral Commission and include a statutory declaration made by the financial agent and the person who made the application for the third party listing, or his or her successor, each declaring that, to the best of his or her knowledge and belief,—
 - (i) the return correctly sets out all the information required to be provided; and
 - (ii) a fair assessment has been made of the commercial value of any materials and advertising spaces used in third party advertisements; and
 - (b) accompanied by an auditor's report obtained under section 128, if required.

128 Auditor's report on return of third party's election expenses

- (1) Every financial agent must, before the Electoral Commission receives the return required by section 127, obtain from the auditor appointed under section 11 a report on the return if the

third party's total election expenses exceed 25% of the maximum amount prescribed by section 118(1)(b).

- (2) The auditor must state in the report—
 - (a) the position shown by the return in respect of the requirement that the third party's total election expenses not exceed either of the amounts prescribed by section 118; 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 in 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 financial agent all the information that the auditor requires to carry out his or her duties;
 - (b) proper records of the third party's election expenses have not, in the auditor's opinion, been kept by the financial agent.
- (5) The auditor—
 - (a) must have access at all reasonable times to all records, documents, and accounts that relate to the third party's election expenses and that are held by the financial agent; and
 - (b) may require the financial agent to provide any information and explanations that, in the auditor's opinion, may be necessary to enable the auditor to prepare the report.

129 Nil return

Where a financial agent considers there is no relevant information to disclose under section 127, the financial agent must file a nil return under that section.

130 Offences relating to return of third party's election expenses

- (1) Every financial agent who fails, without reasonable excuse, to comply with section 127 is liable on summary conviction to a fine not exceeding \$40,000.
- (2) Every financial agent who files a return under section 127 that is false in any material particular is guilty of—
 - (a) a corrupt practice if the financial agent filed the return knowing it to be false in any material particular;
 - (b) an illegal practice in any other case unless the financial agent proves—
 - (i) that he or she had no intention to misstate or conceal the facts; and
 - (ii) that he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.

131 Obligation to retain records necessary to verify return of third party's election expenses

- (1) A financial agent must take all reasonable steps to ensure that all records, documents, and accounts that are necessary to enable a return under section 127 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) Every financial agent 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.

132 Duty of Electoral Commission

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

133 Return of third party'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 127 and any accompanying auditor's report obtained under section 128.
- (2) During the public inspection period, the Electoral Commission must make available for public inspection a copy of every return filed under section 127 and any accompanying auditor's report obtained under section 128.
- (3) The Electoral Commission may make inspection under subsection (3) subject to the payment of any charges that may be made under the Official Information Act 1982.

Subpart 10—Indexation of amounts

134 Amounts may be increased by Order in Council triennially

- (1) The Governor-General may by Order in Council, in the manner provided in subsection (2), amend any of the following provisions by increasing the amounts specified in those provisions:
 - (a) section 63(3)(d) (which relates to the maximum expenses that can be incurred by a promoter described in that provision):
 - (b) section 76 (which relates to the maximum amount of a candidate's election expenses):
 - (c) section 98 (which relates to the maximum amount of a party's election expenses):
 - (d) section 118 (which relates to the maximum amount of a third party's election expenses).
- (2) An Order in Council made under this section may be made only once between one general election and the following general election, and—
 - (a) in the case of the first Order in Council, must come into force on 1 October 2010, and must reflect any percentage increase between the CPI for the quarter ending with 31 December 2007 and the CPI for the quarter ending with 30 June 2010, but—

- (i) in the case of the amounts specified in section 63(3)(d), rounded up to the next whole hundred dollars; and
 - (ii) in the case of the other amounts, rounded up to the next whole thousand dollars:
 - (b) in the case of each subsequent Order in Council, must come into force on 1 October in the year before Parliament is due to expire, and must reflect any percentage increase between the CPI for the quarter ending with 30 June in the year in which the previous Order in Council was made under this section and the CPI for the quarter ending with 30 June in the year in which the new Order in Council is made, but—
 - (i) in the case of the amounts specified in section 63(3)(d), rounded up to the next whole hundred dollars; and
 - (ii) in the case of the other amounts, rounded up to the next whole thousand dollars.
- (3) Despite subsection (2), if an Order in Council is due to come into force on a 1 October that occurs during a regulated period (for example, if there is an early general election in the year before Parliament is due to expire) the Order in Council comes into force on the expiry of the regulated period.
- (4) In this section, **CPI** means the consumers price index-all groups published by Statistics New Zealand.

135 Status of Order in Council made under section 134

- (1) Every Order in Council made under section 134 and laid before the House of Representatives under the Regulations (Disallowance) Act 1989 expires on the close of the period of 12 months commencing with the date on which it was so laid, unless it is validated and confirmed by an Act of Parliament passed before that date.
- (2) Every Order in Council made under section 134 has the force of law as if it was enacted by this Act.
- (3) The validity of any Order in Council made under section 134 is not affected by reason only of the repeal of an Act of Parliament validating and confirming it.

Part 3

Miscellaneous

Subpart 1—General provisions and penalties

136 Electoral Commission may provide guidance on commercial value of advertising space

- (1) In order to facilitate and encourage compliance with sections 72(5), 94(5), and 114(5), the Electoral Commission may provide guidance, in any form or manner, and to the extent, that the Commission considers appropriate, in relation to the value that ought to be attributed to—
 - (a) free advertising space generally; or
 - (b) free advertising space of any kind or in any location specified by the Commission.
- (2) If the Commission provides guidance under subsection (1), it must publish that guidance on the Commission's website and in any other form the Commission considers appropriate.

137 Liability of candidates, party secretaries, and third parties

- (1) In this section, **principal** means—
 - (a) a candidate; or
 - (b) a party secretary; or
 - (c) a third party.
- (2) If an offence is committed against any of the provisions of this Act by the financial agent of a principal, the principal is, without prejudice to the liability of the financial agent, liable under that provision in the same manner and to the same extent as if the principal had personally committed the offence.
- (3) Subsection (2) only applies if it is proved—
 - (a) that the act that constituted the offence was committed with the principal's authority, permission, or consent; or
 - (b) that the principal knew or could reasonably have known that the offence was to be, or was being, committed and failed to take all reasonable steps to stop or prevent it.

138 Providing money for illegal purposes

Where any person knowingly provides money for any purpose that is contrary to the provisions of this Act, or for any election expenses incurred in excess of the maximum amount al-

lowed by this Act, or for repaying any money expended in any such payment or expenses, that person is guilty of an illegal practice.

139 Power to issue search warrant in respect of illegal practice

- (1) A search warrant may be issued under section 198 of the Summary Proceedings Act 1957 in respect of an illegal practice that constitutes an offence under this Act that—
 - (a) has been committed; or
 - (b) is suspected to have been committed; or
 - (c) is believed to be intended to be committed.
- (2) Subsection (1) applies even though the offence is not punishable by imprisonment.
- (3) Where a search warrant is issued under section 198 of the Summary Proceedings Act 1957, as provided for by subsection (1), the following provisions of that Act apply so far as they are applicable and with any necessary modifications:
 - (a) section 198A:
 - (b) section 198B:
 - (c) section 199.
- (4) It is declared that a person who, under section 199 of the Summary Proceedings Act 1957 (as applied by subsection (3)), has custody of any thing seized under a search warrant provided for by subsection (1), may disclose any information contained in or derived from the thing only—
 - (a) for the purposes of section 199 of that Act (as so applied); or
 - (b) for the purposes of investigating or prosecuting an offence; or
 - (c) for the purposes of an appeal or other application that relates to an offence; or
 - (d) for the purposes of complying with any enactment or any order or direction of a court of competent jurisdiction.

140 Time limit for prosecution

- (1) A prosecution against a financial agent under any of the following sections must be commenced within 6 months of the date on which the return was required to be filed:

- (a) section 48(1) or (2):
 - (b) section 56(1):
 - (c) section 61(1):
 - (d) section 88(1) or (2):
 - (e) section 109(1):
 - (f) section 130(1).
- (2) A prosecution against a financial agent or any other person for a corrupt practice or an illegal practice must be commenced—
- (a) within 6 months of the date on which the prosecutor is satisfied that there is sufficient evidence to warrant the commencement of proceedings; but
 - (b) not later than 3 years after the corrupt practice or illegal practice was committed.

141 Person charged with corrupt practice may be found guilty of illegal practice

Any person charged with a corrupt practice may, if the circumstances warrant that finding, be found guilty of an illegal practice and any person charged with an illegal practice may be found guilty of that offence even if the act constituting the offence amounted to a corrupt practice.

142 Punishment for corrupt practice

Every person who is guilty of any corrupt practice is liable on conviction on indictment to either or both of the following:

- (a) a term of imprisonment not exceeding 2 years:
- (b) a fine not exceeding—
 - (i) \$100,000 in the case of a person who is—
 - (A) a financial agent; or
 - (B) a party secretary; or
 - (ii) \$40,000 in the case of any other person.

143 Punishment for illegal practice

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—
 - (i) a financial agent; or
 - (ii) a party secretary; or
- (b) \$10,000 in the case of any other person.

144 Additional penalty

- (1) This section applies to a person who—
 - (a) is convicted of an offence under this Act; and
 - (b) has directly or indirectly received a benefit as a result of the commission of the offence.
- (2) In addition to any penalty that the court may impose under this Act in respect of the offence, the court may order the person to pay to the Crown an amount of money equal to the value of the benefit that the person has received.
- (3) For the purpose of subsection (2), the value of any benefit is assessed by the court and is recoverable in the same manner as a fine.

Subpart 2—Regulations and transitional provisions

145 Regulations relating to advertisement of a specified kind

- (1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make regulations regulating—
 - (a) all or any of the following matters in relation to an advertisement of a specified kind:
 - (i) design:
 - (ii) layout:
 - (iii) shape:
 - (iv) colour:
 - (b) the procedures to be followed by any person before displaying an advertisement of a specified kind.
- (2) Regulations made under subsection (1)(a)—
 - (a) may be made only for the purpose of ensuring that an advertisement of a specified kind does not endanger the safety of road users; and
 - (b) apply only during the period beginning 2 months before polling day and ending with the close of the day before polling day.
- (3) Regulations made under subsection (1) may—
 - (a) impose different requirements for an advertisement of a specified kind depending on how it is published:

- (b) override or modify any other enactment and any bylaw or other instrument.
- (4) In this section, **advertisement of a specified kind** has the same meaning as in section 69(2).
- (5) This section is subject to section 146.

146 Requirements before Minister can recommend that regulations be made

- (1) The Minister may not recommend the making of any regulations under section 145(1)(a) unless—
 - (a) the Minister has consulted with the Minister who is for the time being responsible for the administration of the Land Transport Act 1998; and
 - (b) the Minister is satisfied that the regulations do not restrict the rights of candidates and political parties any more than is reasonably necessary to ensure that an advertisement of a specified kind does not endanger the safety of road users; and
 - (c) the recommendation is agreed by at least half of the parliamentary leaders of all political parties represented in Parliament; and
 - (d) the members of Parliament of the political parties whose parliamentary leaders agree with the Minister's recommendation comprise at least 75% of all members of Parliament.
- (2) The Minister may not recommend the making of any regulations under section 145(1)(b) unless—
 - (a) the Minister has consulted with the Minister of Local Government; and
 - (b) the recommendation is agreed by at least half of the parliamentary leaders of all political parties represented in Parliament; and
 - (c) the members of Parliament of the political parties whose parliamentary leaders agree with the Minister's recommendation comprise at least 75% of all members of Parliament.

147 General regulations

The Governor-General may from time to time, by Order in Council, make regulations providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

148 Transitional elections

- (1) In this section, a **transitional election** is a general election or a by-election for which a writ is issued after the commencement of this Act but on or before 31 March 2008.
- (2) Any expenses incurred by or on behalf of a candidate in relation to a transitional election and any donations made to a candidate in relation to such an election are governed by sections 206 to 210A, 213, 214, and 214A of the Electoral Act 1993 instead of sections 45 to 48 and 71 to 90 of this Act.
- (3) Any expenses incurred by or on behalf of a party in relation to a transitional election (being a general election) are governed by sections 214B to 214E, 214I, 214K, and 214L of the Electoral Act 1993 instead of sections 93 to 111 of this Act.
- (4) Any advertising that relates to a transitional election is governed by sections 219, 221, 221A (as in force immediately before the commencement of this Act), 221B, 267A, and 267B of the Electoral Act 1993 instead of subpart 6 of Part 2 of this Act.
- (5) Subparts 5 and 9 of Part 2 of this Act do not apply to a transitional election.
- (6) In relation to any transitional election,—
 - (a) sections 49 and 50 of this Act must be read as if each reference to a return of a candidate's donations were a reference to a return under section 210 of the Electoral Act 1993; and
 - (b) sections 91 and 92 of this Act must be read as if each reference to a return of a candidate's election expenses were a reference to a return under section 210 of the Electoral Act 1993; and
 - (c) section 112 of this Act must be read as if the references to a return of a party's election expenses and to an auditor's report were each, respectively, references to a re-

turn under section 214C of the Electoral Act 1993 and to a report under section 214E of that Act.

- (7) This section has effect despite section 21 of the Electoral Amendment Act 2007.

149 Return of party donations in 2008

- (1) This section applies to party donations (within the meaning of section 214F of the Electoral Act 1993) made to political parties in the year ending with 31 December 2007.
- (2) Section 214F to 214I, 214K, and 214L of the Electoral Act 1993, so far as they are applicable to party donations, continue to apply to party donations to which this section applies.
- (3) Sections 51 to 53, 55, and 56 of this Act do not apply to party donations to which this section applies.
- (4) In relation to party donations to which this section applies, a reference to section 51 of this Act must be read as if it referred to the return required by section 214G of the Electoral Act 1993 and to the auditor's report on that return required by section 214H of that Act.
- (5) This section has effect despite section 21(2)(b) of the Electoral Amendment Act 2007.

Subpart 3—Consequential amendments

150 Consequential amendments

The enactments specified in the Schedule are amended in the manner set out in that schedule.

Schedule

s 150

Consequential amendments**Citizens Initiated Referenda Act 1993 (1993 No 101)**

Section 24(5): omit “206 to 214L, 221,”.

Section 24A(3): omit “206 to 214A, 215 to 219, 221” and substitute “215 to 218”.

Summary Proceedings Act 1957 (1957 No 87)

Part 2 of Schedule 1: omit the items relating to sections 219 and 221 of the Electoral Act 1993.

Part 2 of Schedule 1: insert after the items relating to the Electoral Act 1993:

Electoral Finance Act 2007	65	Requirements for election advertisements that promote parties or candidates
	68	Payment for exhibition of election advertisement
	138	Providing money for illegal purposes

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
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Notes

1 *General*

This is a reprint of the Electoral Finance Act 2007. The reprint incorporates all the amendments to the Act as at 1 March 2009, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see*

<http://www.pco.parliament.govt.nz/legislation/reprints.shtml>
or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Electoral Amendment Act 2009 (2009 No 1): section 15
