

DHB Elections 2010 : Nomination Facts

Introduction

This handbook outlines information which you need to know as a candidate in 2010 local authority elections.

The elections are being conducted by postal vote with election day on Saturday, 9 October 2010.

The conduct of local authority elections is regulated by legislation, namely:

- Local Electoral Act 2001 (LEA)
- Local Electoral Regulations 2001 (LER)
- Local Government Act 2002
- New Zealand Public Health and Disability Act 2000 (for District Health Board elections)
- Crown Entities Act 2004 (for District Health Board elections)
- Sale of Liquor Act 1989 (for licensing trust elections).

Key Dates

Relevant key dates for the 2010 elections are:

- Nominations open: Friday, 23 July 2010
- Nominations close: noon, Friday, 20 August 2010
- Delivery of voting documents: Friday, 17 September – Wednesday, 22 September 2010
- Appointment of scrutineers: by noon, Friday, 8 October 2010
- Close of voting: noon, Saturday, 9 October 2010
- Preliminary results available: as soon as practicable after close of voting on Saturday, 9 October 2010
- Official declaration of results: approximately Tuesday, 19 October 2010
- Return of expenses form: approximately Monday, 13 December 2010.

Electoral Officers

MidCentral District Health Board's Electoral Officer is John Annabell of Palmerston North City Council.

He is supported by Electoral Officers at the five territorial authorities within MidCentral's district, namely:

- Warwick Lampp, Horowhenua District Council
126 Oxford Street, Levin
- Jude Wadsworth, Kapiti Coast District Council (Otaki ward), 175 Rimu Road, Paraparaumu
- Warwick Lampp, Manawatu District Council
135 Manchester Street, Feilding
- John Annabell, Palmerston North City Council
32 The Square, Palmerston North 4410
- Abby Hemopo, Taranaki District Council
26 Gordon Street, Dannevirke

Delivery Address for Nominations

Nomination forms must be delivered or posted to the District Health Board's Electoral Officer John Annabell at Palmerston North City Council. See over (page 9) for full address and contact details.

Note: Completed nomination forms **will not be** accepted at MidCentral District Health Board offices or Taranaki, Manawatu, Horowhenua or Kapiti Coast District Council offices, or on the Palmerston North City Council Website.

Electoral Rolls

Copies of the preliminary electoral roll are available for public inspection during normal business hours from the electoral offices as listed in "Electoral Officers" above.

Nomination Forms

All nominations must be made on the official Nomination form – see enclosed. Further copies are available from the Electoral Officers listed above.

Candidate Consent

Nominations must have the **consent** of the candidate.

Candidates must be Nominated by Two Electors

Each candidate must be nominated by **two electors** whose name appears on the Electoral Roll for the constituency of MidCentral District Health Board.

Nomination Fee

Completed nomination forms must be submitted to the Electoral Officer at Palmerston North City Council, and must be accompanied by a deposit of **\$200** (GST inclusive). The amount is refunded if a candidate polls greater than 25% of the lowest polling successful candidate.

Cheques for this nomination fee should be made out to **Palmerston North City Council**. Eftpos facilities are available.

Nomination Deadline

Nominations open on Friday, 23 July 2010.

Nominations close at 12 noon on Friday, 20 August 2010.

Lodgement of nomination papers **should not be left to the last minute**.

Before a nomination can be confirmed, it is necessary for it to be checked to ensure it is in order. If a nomination paper is submitted close to the 12 noon deadline on the last day there may be insufficient time to attend to any necessary corrections and the nomination paper could be invalidated.

Profile Statement and Photograph

All candidates have the opportunity to submit a profile statement regarding themselves, his or her policies and intentions if elected to office. All such statements will be published in a booklet, and provided to voters with their voting documents.

All profile statements must be submitted prior to the closing date for nominations, and candidates are encouraged to lodge them at the same time as their nomination form.

Typewritten copy of candidate profile statements is preferred. A candidate may also submit a profile statement in electronic form if prior arrangements have been made.

Should all or part of a candidate profile statement be provided in any language that uses other than English or Maori symbols (eg Japanese), it is preferable that the statement be provided in an electronic graphic file. All translations need to be supplied as a single image (if more than one language is translated, they need to be supplied together in the single image) as follows:

- EPS Bit map
- black and white
- 600dpi

- 1mm white space included around the head and left hand side of the image
- the image being 55mm high and 85mm wide.

The following contact details are given for a translation company, for those candidates who are unable to prepare the translation image themselves or do not know of anyone to do this for them:

Pacific International Translations (NZ) Ltd
P O Box 8567, Symonds Street, Auckland
Phone: 09 9135290 Fax: 09 9135291
Email: info@pactrans.co.nz
www.pactrans.co.nz

The translation service will provide the translations in the above format to meet the requirements of the printer, the cost of which is to be met by the candidate.

Profile statements can be written in English and/or Maori (maximum 150 words in either language), or in any other language (not exceeding 150 words in total).

Profile statements must be true and accurate, and the Electoral Officer is not required to verify or investigate any information included in the statement.

English text statements must be in plain text with **no** special formatting, eg no bold, italic or underlined type, no tabs, no quote marks, no accent marks, and no bullet points.

<p>I am an astronaut, and live in Smallsville with my wife and 2 children. My pledge to voters is to: The quick brown fox; jumps over the lazy; dog the quick brown; and, fox jumps over the.</p> <p>✓ Correct format</p>	<p>I am an astronaut, and live in Smallsville with my wife and 2 children. My pledge to voters is to:</p> <ul style="list-style-type: none"> • The quick brown fox • Jumps over the lazy • Dog the quick brown • Fox jumps over the <p>X Incorrect format</p>
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Sample only

Candidates may also elect to include a recent photograph with the profile statement. In this event, **two** copies of the photograph should be provided with the candidate's name written on the **back** of both copies. Alternatively an electronic digital photograph may be provided, but only by prior arrangement with the Electoral Officer.

Translation of Non-English Profile Statement

Should all or parts of a candidate profile be provided in a language other than English, a translation must be provided.

Candidates must pay for their own translation costs.

Conflict of Interest Statement

All nominations **must** be supported by a Conflict of Interest statement, stating any current or potential conflicts of interest which the candidate may have.

Conflict of Interest statements must be written (typewritten if possible) and signed and be lodged prior to the closing date for nominations. An electronic copy of Conflict of Interest will not be accepted.

Further information on these statements, and examples, are contained in the Ministry of Health's Candidate Information Book (see enclosed).

Affiliation

The nomination form provides for a candidate to have an affiliation. An affiliation is described in section 57(3) LEA as "an endorsement by any organisation or group (whether incorporated or unincorporated)".

Individual candidates not part of a political party or group may wish to identify their affiliation as "Independent" or leave as blank (if left blank, nothing will show alongside the name of the candidate on the voting document).

A candidate requiring a specific party affiliation should have authority to adopt the affiliation from the party, organisation or group concerned (ie the electoral officer may require a letter of consent from the party, organisation or group giving its consent for the candidate to use the affiliation). This is a safety measure to avoid any illegal adoption of party, group or organisation affiliations.

No affiliation that might cause offence, is unreasonably long, includes a title (eg Sir or Dame), or is likely to confuse or mislead electors, will be accepted.

Nomination Completeness

Nominations are not complete, and cannot be accepted, until all component parts have been lodged. These are:

- nomination form
- nomination fee
- conflict of interest statement

Submission of a profile statement and photograph is optional.

Names on Voting Documents

The names of candidates on voting documents will be arranged alphabetically by surname.

Titles, such as Dr, JP, Sir and Dame, are not permitted next to the candidate's name on the voting paper or candidate profile statement.

Campaigning

Election campaigning can commence at any time and may continue up to and including election day, Saturday, 9 October 2010.

Each District/City Council will have bylaws relating to election signs or hoardings. MidCentral District Health Board's district includes the following District City Councils: Palmerston North City Council, Manawatu District Council, Horowhenua District Council, Tararua District Council and Kapiti Coast District Council (Otaki Ward).

Please check with the District/City Council concerned about their requirements.

Election advertising using any media must identify the person under whose authority it has been produced. The publication of any advertisements (in any newspaper, periodical, notice, poster, pamphlet, handbill, billboard or card, or broadcast over radio or television) for candidates requires the written authorisation of the candidate or the candidate's agent. The advertisement must contain a statement setting out the true name of the person or persons for whom, or at whose direction, it is published and the street address (not a PO Box or Private Bag or website) of his or her residence or business. This applies during the candidate's entire campaign.

Voting papers are **not** permitted to be collected from electors by candidates or their assistants. Each elector is required by law to post or deliver his or her own voting paper to the Returning Officer.

Campaign Expenses

Election expenditure is limited, and is based on the size of the constituency population. The population of MidCentral District Health Board's constituency falls within the 150,000 to 250,000 band, and the maximum expenditure for campaigning is **\$60,000**.

The period for which campaign expenditure applies is three

months before Election Day (ie 9 July 2010 to 9 October 2010).

A “Return of Electoral Expenses and Electoral Donations” form is required to be supplied to the Electoral Officer within 55 days after the official declaration of results – copy enclosed. This Return becomes a public document and can be inspected by anyone for a period of seven years after it is received.

Election Offences

The Local Electoral Act 2001 sets out a number of offences in relation to elections.

A copy of the appropriate sections of the Local Electoral Act 2001 is included at the back of this publication. These offences also cover offences relating to electoral expenses.

Scrutineers

Candidates may appoint scrutineers to oversee various functions of the election. These functions include the Scrutiny of the Roll, the Preliminary Count and the Official Count. Scrutineers however, may not oversee early processing of voting papers where this process is undertaken by local authority Electoral Officers. Early processing of voting papers is instead overseen by a Justice of the Peace.

Each candidate may appoint one or more scrutineers but only one scrutineer for each candidate may be present at any one time. The candidate or member of the local authority cannot be a scrutineer. The candidate is required to advise the Electoral Officer in writing of any scrutineer or scrutineer appointed by him/her by 12 noon, Friday, 8 October 2010. This date is a legal requirement, and scrutineers cannot be appointed by candidates after that stage. Such letters should be sent to the District Health Board Electoral Officer, John Annabell.

Candidates should note that the role of scrutineers is now limited as the majority of voting documents are processed early, ie before the close of voting. As stated above, early processing is overseen by a Justice of the Peace.

Votes from all territorial areas, except Kapiti Coast will be processed in Christchurch at the electionz.com processing centre, 95A Sawyers Arms Road, Papanui, Christchurch.

More information will be provided by the DHB Electoral Officer shortly after the close of nominations.

Eligibility

Details of eligibility are outlined in the Ministry of Health's Candidate Information Book (see enclosed).

Candidates do not have to live in MidCentral DHB's district to stand for election to its board.

Candidates **cannot** stand for election in more than one DHB.

Announcement of Results

Progress results will be announced by the DHB Electoral Officer at around 5pm on Saturday, 9 October and completed preliminary results at around 5pm on Sunday, 10 October 2010.

Final results will be issued as soon as possible within the following ten days.

Election Expenses

The main features of the electoral expense and candidate advertising regime are:

- a set of tiered electoral expense limits determined by population that apply to all candidates for all forms of local election
- a 3 month applicable period for limits on electoral expenses
- fair apportionment of electoral expenses when electoral activity is conducted both before and during the 3 month applicable period
- equitable apportionment of electoral expenses when electoral activity relates to more than one candidate
- a requirement for candidate advertising to be authorised by the candidate or candidate's agent with certain prescribed exceptions
- a requirement for actual campaign expenses and donations to be declared
- offence provisions related to excessive expenditure, unauthorised expenditure, failure to file a return and false returns
- a requirement for returns of electoral expenses and donations to be open for public inspection and kept for 7 years after the election to which they relate
- definitions of electoral activity, electoral expenses and (anonymous) electoral donations.

A copy of the appropriate sections of the Local Electoral Act 2001 is included at the back of this publication.

The deadline for submitting electoral expenses for 2010 DHB election is within 55 days of the final election results being published.

Electoral expense form is included in this pack together with information sheet.

Further Information and Contact Details

For further information refer to the website, www.midcentraldhb.govt.nz or contact the DHB Electoral Officer:

John Annabell
DHB Electoral Officer
c/- Palmerston North City Council
32 The Square, Private Bag 11034
Palmerston North 4410
Telephone: (06) 356 8199
Fax: (06) 355 4115
Email: john.annabell@pncc.govt.nz

ELECTORAL EXPENSES

SECTIONS 104-114 OF THE LOCAL ELECTORAL ACT 2001

104 Interpretation:

In this Part,-

applicable period before the close of polling day means the period beginning 3 months before the close of polling day and ending with the close of polling day

electoral activity, in relation to a candidate at an election, means an activity –

- (a) *that is carried out by the candidate or with the candidate's authority; and*
- (b) *that relates to the candidate solely in the candidate's capacity as a candidate and not to the candidate –*
 - (i) *in his or her capacity as a member of the local authority or community board, or as the holder of any other office; or*
 - (ii) *in any other capacity; and*
- (c) *that comprises –*
 - (i) *advertising of any kind; or*
 - (ii) *radio or television broadcasting; or*
 - (iii) *publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards; or*
 - (iv) *any electronic communication to the public, including (without limitation) the establishment or operation of a website or other method of communication to the public using the Internet; and*
- (d) *that relates exclusively to the campaign for the election of the candidate; and*
- (e) *that takes place within the applicable period before the close of polling day*

electoral donation, in relation to a candidate at an election, -

- (a) *means a donation (whether of money or the equivalent of money or of goods or services or of a combination of those things) of a sum or value of more than \$1,000 (such amount being inclusive of any goods and services tax and of a series of donations made by or on behalf of any one person that aggregate more than \$1,000) made to the candidate, or to any person on the candidate's behalf, for use by or on behalf of the candidate in the campaign for his or her election; and*
- (b) *includes, if goods or services are provided to the candidate, or to any person on the candidate's behalf, under a contract at 90% or less of their reasonable market value, the amount of the difference between the contractual price of the goods or services and the reasonable market value of those goods or services; but*
- (c) *does not include the labour of any person that is provided to the candidate free of charge by that person*

electoral expenses, in relation to a candidate at an election, -

- (a) *means expenses that are incurred by or on behalf of the candidate in respect of any electoral activity; and*
- (b) *includes expenses that are incurred by or on behalf of the candidate, before or after the applicable period before the close of polling day, in respect of any electoral activity; and*
- (c) *includes the reasonable market value of any materials applied in respect of any electoral activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and*
- (d) *includes the cost of any printing or postage in respect of any electoral activity, whether or not the expenses in respect of the printing or postage are incurred by or on behalf of the candidate; but*
- (e) *does not include the expenses of operating a vehicle on which election advertising appears if that vehicle is used in good faith by the candidate as the candidate's personal means of transport; and*

- (f) does not include expenses incurred by the candidate in preparing a candidate profile statement; and
- (g) does not include the labour of any person that is provided to the candidate free of charge by that person

population means the population, as at the day that is 3 months before the close of polling day, of a local government area as specified in a certificate issued in respect of that area by the Government Statistician.

105 Periods for claiming and paying expenses

- (1) No claim against a candidate, or against any agent of a candidate, in respect of any electoral expenses is recoverable unless it is sent to the candidate within 30 days after the day on which the successful candidates are declared to be elected.
- (2) All electoral expenses incurred by or on behalf of a candidate must be paid within 60 days after the day on which the successful candidates are declared to be elected.

106 Procedure if claim disputed

- (1) If a candidate, in the case of a claim for electoral expenses sent in to him or her within the time allowed by this Act, disputes it, or fails to pay it within 60 days,-
 - (a) the claim is a disputed claim; and
 - (b) the claimant may, if he or she thinks fit, within a further 30 days, bring an action for the disputed claim in any court of competent jurisdiction.
- (2) Any sum paid by the candidate to satisfy the judgment or order of the Court in any action referred to in **subsection (1)** is to be treated as paid within the time allowed by this Act.

107 Leave to pay claim after time limited

- (1) A District Court may, on the application of the claimant or the candidate, grant leave to the candidate to pay a disputed claim, or to pay a claim for any electoral expenses, even though it is sent in after the time allowed by this Act, if the Court considers it in the interests of justice to grant that leave.
- (2) Any sum specified in the order granting that leave may be paid by the candidate and, when paid, is to be treated as paid within the time allowed by this Act.

108 Payments to be vouched by bill

Every payment made in respect of any electoral expenses must, except when it is less than \$200 (inclusive of goods and services tax), be vouched by-

- (a) a bill stating the particulars; and
- (b) a receipt

109 Return of electoral expenses

- (1) Within 55 days after the day on which the successful candidates at any election are declared to be elected, every candidate at the election must transmit to the electoral officer a return setting out-
 - (a) the candidate's electoral expenses; and
 - (b) the name and address of each person who made an electoral donation to the candidate and the amount of each electoral donation; and
 - (c) if an electoral donation of money or of the equivalent of money is made to the candidate anonymously and the amount of that donation exceeds \$1000,-
 - (i) the amount of that donation; and
 - (ii) the fact that it has been received anonymously.
- (2) Every return under **subsection (1)** must be in the form prescribed in **Schedule 2** or to similar effect.
- (3) If the candidate is outside New Zealand on the day on which the successful candidates are declared to be elected, the return must be transmitted by the candidate to the electoral officer within 21 days after the date of the candidate's return to New Zealand.
- (4) It is the duty of every electoral officer to ensure that this section is complied with.

110 Return to be open for public inspection

The electoral officer must keep every return under **section 109** in the electoral officer's office, or at some other convenient place to be appointed by the chief executive of the local authority, for a period of 7 years after the date of the election to which it relates, and-

- (a) during that period the return must be open to inspection by any person; and
- (b) at the expiry of that period the electoral officer must ensure that the return is destroyed.

111 Maximum amount of electoral expenses (refer to page 6 in this booklet)

112 Apportionment of electoral expenses

(1) If any activity of the kind described in **paragraphs (a) to (d)** of the definition of the term **electoral activity** (as set out in **section 104**) is, in relation to a candidate at an election, carried on both before and within the applicable period before the close of polling day,-

- (a) the expenses incurred in respect of the activity (being expenses incurred by or on behalf of the candidate) must be properly apportioned so that a fair proportion of those expenses is attributed to the carrying on of the activity in the applicable period before the close of polling day; and
- (b) the fair proportion of those expenses are electoral expenses.

(2) If any election activity relates exclusively to campaigns for the election of 2 or more candidates, any electoral expenses in respect of that electoral activity must be apportioned equitably in relation to each of those candidates.

113 Advertisements for candidates

(1) No person may publish or cause to be published in any newspaper, periodical, notice, poster, pamphlet, handbill, billboard, or card, or broadcast or permit to be broadcast over any radio or television station, any advertisement that is used or appears to be used to promote or procure the election of a candidate at an election, unless **subsection (2) or subsection (4)** applies.

(2) A person may publish or cause or permit to be published an advertisement of the kind described in **subsection (1)** if-

- (a) the publication of that advertisement is authorised in writing by the candidate or the candidate's agent or, in the case of an advertisement relating to more than 1 candidate, the candidates or an agent acting for all of those candidates; and
- (b) the advertisement contains a statement setting out the true name of the person or persons for whom or at whose direction it is published and the address of his or her place of residence or business.

(3) A candidate is not responsible for an act committed by an agent without the consent or connivance of the candidate.

(4) A person may publish or cause or permit to be published an advertisement of the kind described in **subsection (1)** if-

- (a) the publication of the advertisement is endorsed by an organisation or body representing residents or ratepayers in the community or district in which the advertisement is published; and
- (b) the advertisement contains a statement setting out-
 - (i) the true name of the person or persons for whom or at whose direction it is published and the address of his or her residence or place of business; and
 - (ii) the true name of the organisation or body that has endorsed the publication of the advertisement and the address of the place of business of that organisation or body.

(5) This section does not restrict the publication of any news or comments relating to an election in a newspaper or other periodical, or on the Internet, or in any other medium of electronic communication accessible by the public, or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989.

114 Use of public money

Sections 111 and 112 do not validate any use of public money that would otherwise be unlawful.

OFFENCES

SECTIONS 121-138, AND 113 OF THE LOCAL ELECTORAL ACT, 2001

121 *Illegal nomination, etc*

Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, who-

- (a) consents to being nominated as a candidate for an elective office knowing that he or she is incapable under any Act of holding that office; or
- (b) signs a nomination paper purporting to nominate as a candidate a person who is, to the knowledge of the person signing, incapable under any Act of holding that office; or
- (c) signs a nomination paper purporting to nominate another person as a candidate knowing that he or she is not qualified to vote at the election of the person named in the nomination paper as the candidate.

122 *Interfering with or influencing voters*

(1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$5,000, who-

- (a) interferes in any way with any person who is about to vote with the intention of influencing or advising that person as to how he or she should vote;
 - (b) prints, publishes, distributes, or delivers to any person (using any medium or means of communication) a document, paper, notice, or message, being or purporting to be in imitation of any voting document to be used at the election or poll that,-
 - (i) in the case of an election, includes the name of a candidate or candidates, together with any direction or indication as to the candidate or candidates for whom any person should vote;
 - (ii) in the case of a poll, includes a statement or indication as to how any person should vote;
 - (iii) in any way contains or suggests any such direction or indication or other matter likely to influence how any person votes;
 - (c) prints, publishes, or distributes any instruction on the method of marking the voting document that differs in any material way from the instructions required by this Act or any regulations made under this Act to accompany the voting document.
- (2) Despite **subsection (1)(b)**, it is not an offence under that subsection to print, publish, distribute, or deliver a card or leaflet (not being an imitation voting document) on which is printed-
- (a) the names of all or any of the candidates and the elective offices for which they are candidates (with or without the name of the organisations or groups to which those candidates are affiliated, and including those who are independent); and
 - (b) nothing else.
- (3) Nothing in this section applies to-
- (a) any official statement or announcement made or exhibited under the authority of this Act or regulations made under this Act; or
 - (b) any candidate profile statement, published, displayed or distributed under the authority of this Act or regulations made under this Act.

123 *Offences in respect of official documents*

(1) Every person commits an offence who-

- (a) intentionally removes, obliterates, or alters any official mark or official writing on any voting document, or other official document used at an election or poll;
- (b) intentionally places any mark or writing that might be mistaken for an official mark or official writing on any voting document, or other official document used at an election or poll;
- (c) forges, counterfeits, fraudulently marks, defaces, or fraudulently destroys any voting document, or other official document used at an election or poll, or the official mark on that document;
- (d) supplies, without authority, a voting document to any person;
- (e) obtains or has possession of any voting document, other than one issued to that person under this Act or any regulations made under this Act for the purpose of recording his or her vote, without authority;
- (f) intentionally destroys, opens, or otherwise interferes with any ballot box or box or parcel of voting documents without authority.

- (2) Every person who commits an offence against **subsection (1)** is liable on conviction on indictment,-
- (a) in the case of an electoral officer or other electoral official, to imprisonment for a term not exceeding 2 years;
 - (b) in the case of any other person, to imprisonment for a term not exceeding 6 months.

124 **Voting offences**

Every person commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years, who-

- (a) votes or applies to vote more than once at the same election or poll; or
- (b) without authority, removes, deletes, or otherwise interferes with any voting document, or other record of a vote that has been cast.

125 **Bribery**

(1) Every person commits the offence of bribery who, directly or indirectly, on that person's own or by another person,-

- (a) gives, lends, agrees to give or lend, offers, promises, or promises to obtain any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote or refrain from voting; or
- (b) gives or obtains, agrees to give or obtain, offers, promises, or promises to obtain or to try to obtain any office or place of employment to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce the elector to vote or refrain from voting; or
- (c) corruptly does any act referred to in **paragraph (a) or paragraph (b)** on account of an elector having voted or refrained from voting; or
- (d) makes any gift, loan, offer, promise, or agreement referred to in **paragraph (a) or paragraph (b)** for, or with, any person in order to induce that person to obtain or try to obtain the election of any person or the vote of any elector; or
- (e) upon or as a consequence of any gift, loan, offer, promise, or agreement referred to in **paragraph (a) or paragraph (b)** obtains, or tries to obtain, the election of any person or the vote of any elector; or
- (f) advances or pays, or causes to be paid, any money to or for the use of any other person, intending that that money or any part of it will be used for bribery at any election or poll; or
- (g) knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or partly used for bribery at any election or poll.

(2) An elector commits the offence of bribery if,-

- (a) before or during the voting period at the election or poll, he or she, directly or indirectly, on his or her own or by another person, receives, or agrees or contracts for, any money, gift, loan, or valuable consideration, office, place, or employment for himself or herself or for any other person for voting or agreeing to refrain from voting;
- (b) after the voting period at the election or poll, he or she directly or indirectly, on his or her own or by another person, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(3) Every person who commits bribery is liable on conviction on indictment to imprisonment for a term not exceeding 2 years.

126 **Treating**

(1) Every person commits the offence of treating who corruptly, before, during, or after an election or poll, and directly or indirectly, on that person's own or by another person, gives or provides, or pays wholly or in part the expense of giving or providing, any food, drink, entertainment, or provision to or for any person-

- (a) for the purpose of influencing that person or any other person to vote or refrain from voting; or
- (b) for the purpose of obtaining his or her election; or
- (c) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(2) Every holder of a licence under the Sale of Liquor Act 1989 commits the offence of treating who knowingly supplies any food, drink, entertainment, or provision-

- (a) to any person, if the supply is demanded for 1 or more of the purposes specified in **subsection (1)**; or

- (b) to any person, whether an elector or not, for the purpose of obtaining the election of a candidate or affecting the result of a poll, and without receiving payment for it at the time when it is supplied.
- (3) Every elector who corruptly accepts or takes any such food, drink, entertainment, or provision also commits the offence of treating.
- (4) Despite **subsections (1) to (3)**, the provision of light refreshments after any meeting relating to an election or poll does not constitute the offence of treating.
- (5) Every person who commits the offence of treating is liable on conviction or indictment to imprisonment for a term not exceeding 2 years.

127 Undue influence

- (1) Every person commits the offence of undue influence-
 - (a) who, directly or indirectly, on that person's own or by another person, makes use of or threatens to make use of any force, violence, or restraint against any person-
 - (i) in order to induce or compel that person to vote or refrain from voting;
 - (ii) on account of that person having voted or refrained from voting;
 - (b) who, by abduction, duress, or any fraudulent device or means,-
 - (i) impedes or prevents the free exercise of the vote of any elector;
 - (ii) compels, induces, or prevails upon any elector either to vote or to refrain from voting.
- (2) Every person who commits the offence of undue influence is liable on conviction on indictment to imprisonment for a term not exceeding 2 years.

128 Personation

- (1) Every person commits the offence of personation who, at any election or poll,-
 - (a) votes in the name of some other person (whether living or dead), or of a fictitious person;
 - (b) having voted, votes again at the same election or poll;
 - (c) having returned a voting document, applies for or returns another voting document with the intention of returning an additional valid voting document or invalidating a vote already cast at the same election or poll (whether or not any voting document he or she returns is valid).
- (2) Every person who commits the offence of personation is liable on conviction on indictment to imprisonment for a term not exceeding 2 years.

129 Infringement of secrecy

- (1) Every electoral officer, deputy electoral officer, and other electoral official-
 - (a) must maintain and assist in maintaining the secrecy of the voting; and
 - (b) must not communicate to any person, except for a purpose authorised by law, any information likely to compromise the secrecy of the voting.
- (2) No person, except as provided by this Act or regulations made under this Act, may-
 - (a) interfere with or attempt to interfere with a voter when marking or recording his or her vote; or
 - (b) attempt to obtain, in the building or other place where the voter has marked or recorded his or her vote and immediately before or after that vote has been marked or recorded, any information as to any candidate for whom, or the proposal for or against which, the voter is about to vote or has voted; or
 - (c) communicate at any time to any person any information obtained in the building or other place where the voter has marked or recorded his or her vote and immediately before or after that vote has been marked or recorded, as to-
 - (i) any candidate for whom, or the proposal for or against which, the voter is about to vote or has voted; or
 - (ii) any number on a voting document marked or transmitted by the voter.
- (3) Every person present at the counting of votes must-
 - (a) maintain and assist in maintaining the secrecy of the voting; and
 - (b) must not, except as is provided by this Act or regulations made under this Act, communicate any information obtained at that counting as to any candidate for whom, or proposal for or against which, any vote is cast by a particular voter.

- (4) No person may, directly or indirectly, induce any voter to display or provide access to his or her voting document or any copy of that document after it has been marked or transmitted, so as to make known to any person the name of any candidate for or against whom, or proposal for or against which, the voter has voted.
- (5) Every person commits an offence who contravenes or fails to comply with this section.
- (6) Every person who commits an offence against **subsection (5)** is liable on summary conviction to imprisonment for a term not exceeding 6 months.

130 Disclosing voting or state of election or poll

- (1) Every electoral officer, deputy electoral officer, other electoral official, Justice of the Peace, or scrutineer commits an offence who-
- (a) makes known for what candidate or candidates or for which proposal any particular voter has voted for or against, except as provided by this Act or regulations made under this Act; or
- (b) before the close of voting, makes known the state of the election or poll or gives or pretends to give any information by which the state of the election or poll may be known.
- (2) **Subsection (1)(b)** does not prevent an electoral officer from disclosing the total number of voting documents so far returned at an election or poll at any time during the voting period.
- (3) A person who commits an offence against **subsection (1)** is liable on summary conviction to a fine-
- (a) not exceeding \$5,000 for an electoral officer or deputy electoral officer;
- (b) not exceeding \$2,000 for any other person.

131 Penalty for electoral officer, deputy electoral officer, and other electoral officials

Every electoral officer, deputy electoral officer, or other electoral official commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, who is guilty of any intentional or reckless act of commission or omission contrary to the provisions of this Act or regulations made under this Act in respect of any election or poll, and for which no other penalty is imposed by this Act or regulations made under this Act.

Electoral expenses

132 Payments in breach of section 105

- (1) Every person commits an offence who makes a payment in contravention of **section 105**.
- (2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$5,000.

133 Failure to transmit return

- (1) Every candidate commits an offence who fails to transmit a return of electoral expenses in the prescribed form to the electoral officer within the prescribed period.
- (2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$1,000 and, if he or she has been elected, to a further fine not exceeding \$400 for every day on which he or she continues to act until the return is transmitted.

134 False return

- (1) Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000.
- (2) Every candidate commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who transmits a return of electoral expenses that is false in any material particular unless the candidate proves –
- (a) that he or she had no intention to mis-state or conceal the facts; and
- (b) that he or she took all reasonable steps to ensure that the information was accurate.

135 Unauthorised expenditure

- (1) Every person commits an offence who willfully contravenes **section 113(1)**.
- (2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$1,000.

136 Excessive expenditure

- (1) Every candidate or other person who commits an offence who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any electoral expenses any sum in excess of the prescribed maximum amount, knowing that the payment is in excess of the prescribed maximum amount, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000.
- (2) Every candidate or other person commits an offence who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any electoral expenses any sum in excess of the prescribed maximum amount and is liable on summary conviction to a fine not exceeding \$5,000, unless the candidate or other person proves that he or she took all reasonable steps to ensure that the electoral expenses did not exceed the prescribed maximum amount.

General provisions

137 Property may be stated as being in electoral officer

In any proceedings for an offence in relation to any voting documents or other official documents, files, records, instruments, or devices used officially for an election or poll, the property in those documents, files, records, and instruments is to be treated as that of the electoral officer at that election or poll.

138 Duty to take action in respect of offences

- (1) If the electoral officer at any election or poll-
 - (a) receives a written complaint that an offence under this Part has been committed; or
 - (b) believes for any other reason that an offence under this Part may have been committed,-
 the electoral officer must report that matter to the police together with the results of any enquiries made by the electoral officer that he or she considers appropriate.
- (2) **Subsection (1)** does not prevent any person from reporting an alleged offence to the police.
- (3) Despite **subsection (1)**, an electoral officer is not required to report the failure by a candidate at an election to file the return required by **section 109(1)** within the period prescribed in **section 109**, if the candidate files that return promptly after being required by the electoral officer to file the return.

113 Advertisements for candidates

- (1) No person may publish or cause to be published in any newspaper, periodical, notice, poster, pamphlet, handbill, billboard, or card, or broadcast or permit to be broadcast over any radio or television station, any advertisement that is used or appears to be used to promote or procure the election of a candidate at an election, unless **subsection (2)** or **subsection (4)** applies.
- (2) A person may publish or cause or permit to be published an advertisement of the kind described in **subsection (1)** if-
 - (a) the publication of that advertisement is authorised in writing by the candidate or the candidate's agent or, in the case of an advertisement relating to more than 1 candidate, the candidates or an agent acting for all of those candidates; and
 - (b) the advertisement contains a statement setting out the true name of the person or persons for whom or at whose direction it is published and the address of his or her place of residence or business.
- (3) A candidate is not responsible for an act committed by an agent without the consent or connivance of the candidate.
- (4) A person may publish or cause or permit to be published an advertisement of the kind described in **subsection (1)** if-

- (a) *the publication of the advertisement is endorsed by an organisation or body representing residents or ratepayers in the community or district in which the advertisement is published; and*
 - (b) *the advertisement contains a statement setting out-*
 - (i) *the true name of the person or persons for whom or at whose direction it is published and the address of his or her residence or place of business; and*
 - (ii) *the true name of the organisation or body that has endorsed the publication of the advertisement and the address of the place of business of that organisation or body.*
- (5) *This section does not restrict the publication of any news or comments relating to an election in a newspaper or other periodical, or on the Internet, or in any other medium of electronic communication accessible by the public, or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989.*