

# RETURN OF ELECTORAL DONATIONS AND EXPENSES



I

was a candidate for the following election(s) held on 12 October 2019 (*Election/Ward/Issue name*):

and make the following return of all electoral expenses incurred by me or on my behalf at the election and of all electoral donations made to me or to any person on my behalf.

**Notes and Definitions of Donations and Expenses:**

1. All candidates in elections held under the provisions of the Local Electoral Act 2001 must file a return of electoral donations and expenses. If no donations were received or expenses incurred, a Nil return must be made.
2. All candidates are required to keep proper records of donations received and expenses paid for election work. These do not have to be filed with this return but must be available to support enquiries about the return if required.
3. Donations can be monetary or physical goods or services supplied or a combination thereof.
4. Donations to a candidate of labour only or donations of goods and services that have a fair market value of \$300 or less do not have to be declared – see S103A of the LEA 2001.
5. Candidates must declare donations from each contributor that exceed \$1500 in value. Where a contributor has made donations in instalments that sum to more than \$1500 in value, each contributing donation needs to be listed in Section A2 and the aggregated sum shown.
6. If there is insufficient space provided in any section, attach a separate sheet with the additional detail.

**Section A1: Candidate Donations (Anonymous)**

List here details of any **anonymous** (*identity of donor is unknown to yourself or any officials engaged on your behalf*) donations that **exceed** \$1500:

Date Received	Amount	Description of Contribution	Date Paid to Electoral Officer	Amount Paid to Electoral Officer

**Section A2: Candidate Donations (Other)**

List here details of any other donations received that **exceed** \$1500:

Date Received	Name of Contributor	Address of Contributor	Description of Contribution	Amount

**Section B: Candidate Expenses**

List here details of any election expenses paid for (*inclusive of GST*):

Date Paid	Name of Party Paid	Description of Payment Made	Amount

Dated at  (place) this  day of  20

Candidate's Signature

# Electoral Expenses & Donations

The following sections of the Local Electoral Act 2001 cover requirement provisions for electoral donations, expenses and returns which all candidates should be aware of.

## 111 Maximum amount of electoral expenses

- 1) The total electoral expenses (inclusive of goods and services tax) of a candidate must not—
  - (a) exceed \$3,500 if any local government area over which the election is held has a population smaller than 5 000:
  - (b) exceed \$7,000 if any local government area over which the election is held has a population smaller than 10 000 and larger than 4 999:
  - (c) exceed \$14,000 if any local government area over which the election is held has a population smaller than 20 000 and larger than 9 999:
  - (d) exceed \$20,000 if any local government area over which the election is held has a population smaller than 40 000 and larger than 19 999:
  - (e) exceed \$30,000 if any local government area over which the election is held has a population smaller than 60 000 and larger than 39 999:
  - (f) exceed \$40,000 if any local government area over which the election is held has a population smaller than 80 000 and larger than 59 999:
  - (g) exceed \$50,000 if any local government area over which the election is held has a population smaller than 100 000 and larger than 79 999:
  - (h) exceed \$55,000 if any local government area over which the election is held has a population smaller than 150 000 and larger than 99 999:
  - (i) exceed \$60,000 if any local government area over which the election is held has a population smaller than 250 000 and larger than 149 999:
  - (j) exceed \$70,000 if any local government area over which the election is held has a population smaller than 1 000 000 and larger than 249 999:
  - (k) exceed the sum referred to in subsection (1A) if any local government area over which the election is held has a population of 1 000 000 or more.
- 1A) The sum is—
  - (a) \$100,000 plus the amount prescribed under section 139(1)(ha) for each elector; or
  - (b) \$100,000 plus 50 cents for each elector, if no amount is prescribed under section 139(1)(ha).
- 2) Despite subsection (1), if a candidate is a candidate for more than 1 election held at the same time, the total electoral expenses (inclusive of goods and services tax) of that candidate must not exceed the highest amount permitted under subsection (1) in respect of any one of the elections for which the person is a candidate.

## 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.

## 112AA Offence to pay electoral expenses in excess of relevant prescribed maximum

- 1) This section applies to any candidate or other person 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 relevant maximum amount prescribed by section 111.
- 2) The candidate or person commits an offence and is liable on conviction—
  - (a) to a term of imprisonment not exceeding 2 years, or a fine not exceeding \$10,000, if he or she knew the payment was in excess of the relevant prescribed maximum amount; or
  - (b) to a fine not exceeding \$5,000 in any other case, unless he or she proves that he or she took all reasonable steps to ensure that the electoral expenses did not exceed the relevant prescribed maximum amount.

## 112A Return of electoral donations and 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 file a return of electoral donations and expenses.

- 2) However, in any case where a candidate is outside New Zealand on the day on which the successful candidates are declared to be elected (election result day), the return must be filed within 76 days after election result day.
- 3) The return of electoral donations and expenses must set out—
  - (a) the details specified in subsection (4) in respect of every electoral donation (other than a donation of the kind referred to in paragraph (c)) received by the candidate 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 \$1,500 in sum or value; and
  - (b) whether any donation is funded from contributions, and if so, and to the extent known or ascertainable from the information supplied under section 103D, the details specified in subsection (5) in respect of every contribution that, either on its own or when aggregated with other contributions by the same contributor to the donation, exceeds \$1,500 in sum or value; and
  - (c) the details specified in subsection (6) in respect of every anonymous electoral donation received by the candidate that exceeds \$1,500; and
  - (d) details of the candidate's electoral expenses.
- 4) The details referred to in subsection (3)(a) are—
  - (a) the name of the donor; and
  - (b) the address of the donor; and
  - (c) the amount of the donation or, in the case of aggregated donations, the total amount of the donations; and
  - (d) the date the donation was received or, in the case of aggregated donations, the date that each donation was received.
- 5) The details referred to in subsection (3)(b) are—
  - (a) the name of the contributor; and
  - (b) the address of the contributor; and
  - (c) the amount of the contribution or, in the case of aggregated contributions, the total amount of the aggregated contributions.
- 6) The details referred to in subsection (3)(c) are—
  - (a) the date the donation was received; and
  - (b) the amount of the donation; and
  - (c) the amount paid to the Electoral Officer under section 103J(1) or (2) and the date that payment was made.
- 7) Every return filed under this section must be in the form prescribed in Schedule 2.
- 8) It is the duty of every Electoral Officer to ensure that this section is complied with.
- 9) In this section, file in relation to a return, means to send the return to the Electoral Officer responsible for the conduct of the election.

#### **112B Nil return**

If a candidate considers that there is no relevant information to disclose under section 112A, the candidate must file a nil return under that section.

#### **112C Failure to file return of electoral donations and expenses**

- 1) A candidate who fails, without reasonable excuse, to comply with section 112A commits an offence and is liable on conviction to—
  - (a) a fine not exceeding \$1,000; and
  - (b) if he or she has been elected to office, a further fine not exceeding \$400 for every day that he or she continues to hold office until the return is filed.

#### **112D Filing a false return of electoral donations and expenses**

- 1) A candidate who files a return under section 112A that is false in any material particular commits an offence and is liable on conviction—
  - (a) to a term of imprisonment not exceeding 2 years, or a fine not exceeding \$10,000, if he or she filed the return knowing it to be false in any material particular; or
  - (b) to a fine not exceeding \$5,000 in any other case, unless the candidate 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 the information in the return was accurate.

#### **112E Obligation to retain records necessary to verify return**

- 1) A candidate must take all reasonable steps to retain all records, documents, and accounts that are necessary to enable a return under section 112A to be verified.
- 2) The records, documents, and accounts must be retained until the expiry of the period within which a prosecution may be commenced under this Act in relation to the return or to any matter to which the return relates.

- 3) A candidate who fails, without reasonable excuse, to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$5,000.

#### **112F Return to be open for public inspection**

- 1) The Electoral Officer must keep every return filed under section 112A 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 (the public inspection period).
- 2) During the public inspection period the Electoral Officer must—
  - (a) publish, electronically or in any other manner the Electoral Officer considers appropriate, every return filed under section 112A; and
  - (b) make available for public inspection a copy of every return filed under section 112A; and
  - (c) provide to any person upon request a copy of 1 or more returns filed under section 112A, subject to the payment of any charges that may be made under the Local Government Official Information and Meetings Act 1987.

#### **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.
- 6) A person who wilfully contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$1,000.

#### **138 Duty to take action in respect of offences**

- 1) Subsection (2) applies if an Electoral Officer—
  - (a) receives a written complaint that an offence has been committed under—
    - (i) Part 5; or
    - (ii) Part 5A; or
    - (iii) this Part; or
  - (b) believes for any other reason that an offence has been committed under either of the Parts specified in paragraph (a).
- 2) If this subsection applies, the Electoral Officer must—
  - (a) report the complaint or belief to the Police; and
  - (b) provide the Police with the details of any inquiries that he or she considers may be relevant.
- 3) Subsection (2) does not prevent any person from reporting an alleged offence to the Police.
- 4) Despite subsection (2), an Electoral Officer is not required to report the failure by a candidate to file a return under section 112A if the candidate files the return promptly after being required to do so by the Electoral Officer.