

Regulation of Campaign Finance and Free Advertising

Austria • Canada • Finland • Israel • Japan
New Zealand • United Kingdom

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Comparative Summary

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This report discusses the regulation of campaign financing and spending in national elections and the availability of free airtime for campaign advertising in Austria, Canada, Finland, Israel, Japan, New Zealand, and the United Kingdom. Specifically, the individual country surveys address the following issues:

- The extent to which each country applies limits on the amounts that can be contributed to political parties and candidates;
- The existence of ceilings on campaign expenditures; and
- The availability of free airtime for broadcast advertising.

Countries included in this study demonstrate different models used in regulating campaign financing. Canada, Israel, and Japan limit both campaign contributions and expenditures. The laws of Austria, New Zealand, and the United Kingdom impose spending limits on individual candidates and political parties, but few limitations on donations. Finnish legislation provides an example of a system where caps are put on contributions but not on the money spent in election campaigns. Countries that allow both unlimited donations and campaign spending were not included in this report.

While Austria, New Zealand, and the United Kingdom do not generally impose limits on campaign contributions from domestic donors, there are limits on donations from foreign sources. Such limits also exist in Israel and Finland. The donation limits in Canada, Finland, Israel, and Japan apply to different categories of donors and also vary depending on whether the recipient is a party or candidate. In Israel, different rules are applicable for primaries and national elections.

With regard to campaign expenditures, Finland appears to be the only country surveyed that does not impose restrictions. All other countries apply certain types of monetary limits on campaign-related spending. Japan applies different restrictions depending on what house of the legislature a candidate is standing for and the applicable electoral system. Japan is also the only country surveyed, apart from Finland, where there are no spending limits for political parties.

Canada, Israel, Japan, New Zealand, and the United Kingdom are identified as countries that allocate free campaign broadcasting time to both parties and candidates. The specific formulas or rules for allocation of free airtime are provided in the surveys for these countries; except for Japan, where no specific formula for such allocation is provided by law.

Although a special free allocation of airtime has not been identified for Finland, Finnish political parties may use their allocated public funding to pay for airtime on commercial media outlets. Public funding for broadcast advertising by political parties is also provided in New Zealand. No

specific provisions were identified in the Federal Act on the Austrian Broadcasting Corporation about media access or free airtime.

Additional details are provided in the chart below, which compares campaign financing regulations on donations, expenditures, and free airtime allocation in the surveyed countries.

Table: Country Comparison of Donation Limits, Spending Limits, and Broadcasting Time

Country	Donation Limits	Spending Limits	Broadcasting Time
Austria	In general no limits, but provinces may enact stricter rules.	<p><u>Federal Presidential candidates:</u></p> <p>€7 million.</p> <p><u>Political parties:</u></p> <p>€7 million (about US\$7.6 million). Individual candidate's spending counts toward party limit unless sum does not exceed €15,000 (about US\$16,300).</p>	No specific provisions in Federal Act on Austrian Broadcasting Corporation.
Canada	<p><u>Political parties & candidates:</u></p> <p>Up to \$1,525 per calendar year.</p>	<p><u>Candidates:</u></p> <p>Calculated according to formula involving number of electors in the district, geographic size of district, length of election period, and an inflation adjustment factor.</p> <p><u>Political parties:</u></p> <p>Calculated using formula that involves the number of electors in districts in which a party has candidates, length of election period, and an inflation adjustment factor.</p> <p><u>Others</u> (individuals, corporations, or groups not standing in election):</p> <p>Can\$150,000 (about US\$112,880) "base limit" on election advertising by third parties in 37-day election period, with base limit of Can\$3,000 in particular electoral district. Increased if election period exceeds 37 days.</p>	<p>Free time by certain networks at least at level provided in last election.</p> <p>Two minutes to each registered/newly eligible party that does not acquire paid broadcasting; remainder allocated in proportion to paid-time distribution (up to 6.5 hours) as determined by unanimous agreement among parties or decision of broadcasting arbitrator under statutory formula.</p>

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Country	Donation Limits	Spending Limits	Broadcasting Time
Finland	<p><u>Candidates for Finnish Parliament:</u></p> <p>Up to €6,000 (US\$6,500) per election from same donor; unlimited from party and party organization provided amount does not include contributions received from donor exceeding cap.</p> <p><u>Presidential candidates:</u></p> <p>No limit.</p> <p><u>Political parties:</u></p> <p>Up to €30,000 (US\$33,000) from same donor per calendar year.</p>	None.	Political parties may use allocated public funding to pay for airtime on commercial media outlets.
Israel	<p><u>Primaries:</u></p> <p>Limits generally based on number of eligible voters and position for which candidate competes.</p> <p><u>National Elections:</u></p> <p>Candidate list or faction that notified of its intention not to</p>	Calculated according to formula involving multiplication of set monetary amount by number of Knesset (Parliament) members a faction has on specified date.	Free broadcasting time to each participating party and candidate list during fourteen days prior to elections based on formula (fixed amount, extended by time corresponding to number of members party/ list had in outgoing Knesset).

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Country	Donation Limits	Spending Limits	Broadcasting Time
	<p>receive government funding may receive higher amounts.</p>		
<p>Japan</p>	<p>Annual limits on individuals' donations:</p> <p><u>Per candidate</u>: 1.5 million yen (about US\$13,000), up to 10 million yen (about US\$90,000).</p> <p><u>To political parties</u>: 20 million yen (about US\$180,000).</p> <p>Corporate & other nonpolitical donations permitted only for parties and political funding organizations, not to candidates, subject to annual caps depending on donor organization's size. Annual limit ranges from 7.5 million yen (about US\$66,000) to 10 million yen (about US\$90,000).</p> <p>No limit on donations by political organizations to a political party or funding organization.</p>	<p>House of Councillors candidates chosen by proportional representation: 52 million yen (about US\$458,000).</p> <p>House of Councillors candidates in plural-seat districts: limit calculated using formula involving number of voters in the district and the number of elected members, plus a base amount.</p> <p>House of Representatives candidates in single-seat districts: limit calculated using formula involving similar aspects as for the House of Councillors formula.</p> <p>No limit for House of Representatives candidates chosen by proportional representation as all campaigning is for the party rather than individual candidates.</p>	<p>Free airtime at major broadcasting stations for political parties with candidates and for candidates of small districts of House of Councillors/House of Representatives.</p>

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Country	Donation Limits	Spending Limits	Broadcasting Time
New Zealand	Generally no limits on donations to candidates or parties from NZ-based sources. An anonymous donation or overseas donation to candidate or party cannot exceed NZ\$1,500 (about US\$990).	<p>In 3 months before election:</p> <p><u>Candidates:</u> NZ\$26,100 (about US\$17,240).</p> <p><u>Parties:</u> NZ\$2,964,100 (about US\$1,959,000), if have candidates in all 71 electorates.</p> <p><u>Others</u> (individuals, corporations, or groups not standing for election): NZ\$313,000 (about US\$207,000).</p>	<p>Parties allocated public funding for radio and television advertising and free airtime for opening/closing addresses.</p> <p>Candidates may spend up to spending limit.</p>
United Kingdom	<p>No limits on donations from “permissible donors” (UK-based).</p> <p>Nonresident donors limited to £7,500 (about US\$10,000) to a party.</p>	<p><u>Candidates:</u></p> <ul style="list-style-type: none"> • <u>Long campaign</u> (starts 55 months from time Parliament first met, ends on date of dissolution of Parliament, when short campaign generally begins): £30,700 (about US\$43,700) plus 9p (about \$US0.13) per voter in rural constituencies and 6p in borough seats. • <u>Short campaign:</u> Limits reduced to £8,700 (about US\$12,380) plus 9p per voter in rural constituencies & 6p in borough seats. <p><u>Parties:</u></p> <p>Either £30,000 (about US\$43,000) per constituency/seat contested or maximum amount for each part of UK, whichever is greater.</p>	<p>Free airtime on national television and radio allocated to parties based on formula determined by independent communications regulator.</p>

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Country	Donation Limits	Spending Limits	Broadcasting Time
		<p><u>Others</u> (individuals or groups not standing in election):</p> <p>Up to £500 (about US\$700) to promote or disparage candidate. In 365 days before election, “recognised third parties” can spend up to £319,800 (about US\$456,000) in England, £55,400 (about US\$79,000) in Scotland, £44,000 (about US\$63,000) in Wales, and £30,800 (about US\$44,000) in Northern Ireland.</p>	

Source: Compiled by Ruth Levush based on information provided in this report, as reflected in individual country surveys.

Austria

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SUMMARY In Austria, political parties receive public funding to participate in the formation of a “political will.” The amount of the subsidy depends on the number of people eligible to vote in the last relevant elections and the number of votes cast for the party. The Federal Political Parties Act 2012 imposes a spending limit of €7 million for campaign expenses on political parties. Donations may generally be accepted without limitations. Four Austrian provinces have enacted stricter rules with regard to donations. There are no specific provisions dealing with media access or airtime for political parties in federal laws. In its general terms and conditions, the Austrian Broadcasting Company (ORF) commits itself to providing equal access and pricing to political parties during their campaigns on the ORF website and in the teletext.

I. General Overview

Sections 1 and 2 of Austria’s Federal Political Parties Act 2012¹ define the terms “political party,” “campaign expenses,” “donation,” “sponsorship,” and “advertisement.” These provisions were awarded constitutional status in order to ensure a uniform application across Austria and to guarantee equal opportunities for all political parties.² A “political party” is defined as “a permanently organised association which, through common activities, aims at comprehensively influencing the national decision-making process, in particular by participating in elections for general representative bodies and the European Parliament, and whose constitution has been deposited with the Federal Ministry of the Interior.”³

The Political Parties Act 2012 applies countrywide, but it only provides a general framework. The specific measures to implement the general framework are left to the nine Austrian provinces (*Länder*).⁴

¹ Bundesgesetz über die Finanzierung politischer Parteien [Parteiengesetz 2012] [PartG] [Federal Act on the Financing of Political Parties] [Political Parties Act 2012], BUNDESGESETZBLATT [BGBL.] [FEDERAL LAW GAZETTE] I No. 56/2012, <https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/20007889/PartG%2c%20Fassung%20vom%2025.02.2016.pdf>, archived at <http://perma.cc/R2XJ-FXBG>, English translation available at https://www.ris.bka.gv.at/Dokumente/Erv/ERV_2012_1_56/ERV_2012_1_56.pdf, archived at <http://perma.cc/8JH7-J2UB>.

² Bericht des Verfassungsausschusses über die Regierungsvorlage (1782 d.B.): Bundesgesetz über die Finanzierung politischer Parteien (Parteiengesetz 2012 - PartG) [Report of the Constitutional Committee on the Government Bill (1782 d.B.): Federal Act on the Financing of Political Parties (Political Parties Act 2012)], Beilagen zu den Stenographischen Protokollen des Nationalrates [BlgNR] [Supplement to the Verbatim Records of the National Council] No. 1844, Gesetzgebungsperiode [GP] [Legislative Period] 24, at 1, https://www.parlament.gv.at/PAKT/VHG/XXIV/I/I_01844/fname_257152.pdf, archived at <http://perma.cc/C2NL-Y5LV>.

³ Political Parties Act 2012, § 1, para. 2.

⁴ Burgenländisches Parteien-Förderungsgesetz 2012 [Burgenland Support of Political Parties Act 2012], LANDESGESETZBLATT [LGBL.] FÜR DAS BURGENLAND [BURGENLAND PROVINCIAL LAW GAZETTE] No. 47/2012,

II. Public Funding of Political Parties

A. Federal Level

1. *Political Parties Act 2012*

The Political Parties Act 2012 sets out the general framework for public funding of political parties in Austria. It provides in section 3, which also has constitutional status, that the federation, the provinces, and the municipalities can grant subsidies to political parties for their participation in the formation of a common “political will.” The subsidies can range from €3.10 to €11 per person eligible to vote in the last elections for the relevant general representative body.

2. *Support of Political Parties Act 2012*

The exact implementation of the funding of political parties at the federal level is codified in the Support of Political Parties Act 2012.⁵ It provides that political parties that are currently not represented in the National Council⁶ but which received more than 1% of the valid votes in the

<https://www.ris.bka.gv.at/GeltendeFassung/LrBglD/20000914/BglD.%20PaF%3%b6G%202012%2c%20Fassung%20vom%2001.03.2016.pdf>, archived at <http://perma.cc/KN4A-VC74>; Niederösterreichisches Parteienfinanzierungsgesetz [Lower Austrian Political Parties Financing Act], LGBL. Niederösterreich No. 101/2012, <https://www.ris.bka.gv.at/GeltendeFassung/LrNO/20000010/N%3%96%20Parteienfinanzierungsgesetz%202012%2c%20Fassung%20vom%2029.02.2016.pdf>, archived at <http://perma.cc/E4EA-DEJT>; Salzburger Parteienförderungsgesetz [Salzburg Support of Political Parties Act], LGBL. Salzburg No. 2/1985, <https://www.ris.bka.gv.at/GeltendeFassung/LrSbg/10000389/S.Partf%3%b6rdG%2c%20Fassung%20vom%2029.02.2016.pdf>, archived at <http://perma.cc/RP6E-S5WW>; Steiermärkisches Parteienförderungs-Verfassungsgesetz [Styrian Support of Political Parties Constitutional Act], LGBL. Steiermark No. 6/2013, <https://www.ris.bka.gv.at/GeltendeFassung/LrStmk/20000209/StPF%3%b6LVG%2c%20Fassung%20vom%2029.02.2016.pdf>, archived at <http://perma.cc/E8XX-2TK2>; Tiroler Parteienfinanzierungs- und Klubförderungsgesetz 2012 [Tyrolean Political Parties Financing and Support of Parliamentary Groups Act 2012], LGBL. Tirol No. 151/2012, <https://www.ris.bka.gv.at/GeltendeFassung/LrT/20000529/Tiroler%20Parteienfinanzierungs-%20und%20Klubf%3%b6rderungsgesetz%202012%2c%20Fassung%20vom%2029.02.2016.pdf>, archived at <http://perma.cc/BT2G-RMVC>; Oberösterreichisches Parteienfinanzierungsgesetz [Upper Austrian Political Parties Financing Act], LGBL. Oberösterreich No. 25/1992, <https://www.ris.bka.gv.at/GeltendeFassung/LrOO/10000340/O%3%b6.%20Parteienfinanzierungsgesetz%202016%2c%20Fassung%20vom%2029.02.2016.pdf>, archived at <http://perma.cc/X387-VCYK>; Wiener Parteienförderungsgesetz 2013 [Vienna Support of Political Parties Act 2013], LGBL. Wien No. 86/2012, <https://www.ris.bka.gv.at/GeltendeFassung/LrW/20000317/Wr.%20PartFG%2c%20Fassung%20vom%2029.02.2016.pdf>, archived at <http://perma.cc/6S7J-ETE6>; Vorarlberger Parteienförderungsgesetz [Vorarlberg Support of Political Parties Act], LGBL. Vorarlberg No. 52/2012, <https://www.ris.bka.gv.at/GeltendeFassung/LrVbg/20000031/PFG%2c%20Fassung%20vom%2029.02.2016.pdf>, archived at <http://perma.cc/4YZV-5KKS>; Kärntner Parteienförderungsgesetz [Carinthia Support of Political Parties Act 2013], LGBL. Kärnten No. 57/2013, <https://www.ris.bka.gv.at/GeltendeFassung/LrK/10000130/K-PFG%2c%20Fassung%20vom%2029.02.2016.pdf>, archived at <http://perma.cc/7BND-A26D>.

⁵ Bundesgesetz über Förderungen des Bundes für politische Parteien [Parteien-Förderungsgesetz 2012] [PartFörG] [Federal Act on Federal Support of Political Parties] [Support of Political Parties Act 2012], BGBl. I No. 57/2012, <https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/20007891/PartF%3%b6rG%2c%20Fassung%20vom%2025.02.2016.pdf>, archived at <http://perma.cc/T2D2-U6HQ>, English translation available at http://legislationline.org/download/action/download/id/4490/file/Austria_Political_Parties_Act_2012_en.pdf, archived at <http://perma.cc/3L46-CMZB>.

⁶ The National Council is the lower house of the Austrian Parliament.

last elections as well as political parties represented in the National Council are entitled to annual subsidies.⁷ Newly formed parties that are campaigning for the National Council are not eligible to receive subsidies.

The subsidies for political parties currently not represented are calculated by multiplying each vote cast for them in the last National Council elections by €2.50.⁸

Political parties currently represented with at least five members in the National Council receive a basic subsidy of €218,000 (about US\$237,000).⁹ The remaining public funds are distributed among the parties represented in the National Council pro rata to the votes cast for them in the last National Council elections.¹⁰ The total available federal subsidies are calculated by multiplying the number of persons eligible to vote in the last National Council elections by an amount of €4.60.¹¹

There are special provisions for political parties represented in the European Parliament. Upon request following the elections, these political parties are granted an additional one-time federal subsidy, which is calculated by multiplying the number of persons eligible to vote in the relevant election for the European Parliament by €2.¹² The subsidies are allocated pro rata to the votes cast for them in the European Parliament elections.¹³ Subsidies may not exceed campaign expenses.¹⁴

B. Provincial Laws

With regard to public funding of political parties, the Federal Political Parties Act 2012 allows the provinces to grant subsidies that are twice the lower and upper limit of section 3 in order to ensure participation in the formation of political will at the district and municipal levels.¹⁵ Most provinces chose a number around €11 with the exception of Upper Austria, which multiplies the number of persons eligible to vote by €17.48 in order to calculate the subsidy.¹⁶

⁷ Support of Political Parties Act 2012, § 1, paras. 2, 3.

⁸ *Id.* § 1, para. 3.

⁹ *Id.* § 1, para. 2, no. 2.

¹⁰ *Id.* § 1, para. 2, no. 1.

¹¹ *Id.* § 1, para. 2.

¹² *Id.* § 2, para. 2.

¹³ *Id.* § 2, para. 3.

¹⁴ *Id.* § 2, para. 4.

¹⁵ Political Parties Act 2012, § 3, sentence 3.

¹⁶ Upper Austrian Political Parties Financing Act, § 4, para. 1.

III. Spending Limits

A. Federal Level

Section 4 of the Political Parties Act 2012 deals with campaign expenses. Campaign expenses are defined as “expenses incurred by a political party or a campaigning party that is not a political party specifically for the election campaign for a general representative body or the European Parliament from the qualifying date for the election to the day of the election.” Section 4, paragraph 2 of the Political Parties Act 2012 identifies in a nonexhaustive list several expenses that can be classified as campaign expenses.

Section 4, paragraph 1 of the Political Parties Act 2012 mandates that the spending for every political party for election campaigning between the qualifying date for the election and the day of the election for a general representative body or the European Parliament may not exceed €7 million (around US\$7.6 million). The amount an individual candidate spends generally counts towards the party limit, except for if the sum does not exceed €15,000 (around US\$16,300).¹⁷ The maximum amount an individual candidate may spend is therefore also capped at €7 million.

The spending limit of €7 million also applies to candidates campaigning for the office of Federal President of Austria.¹⁸

B. Provincial Level

In general, the Austrian provinces apply the spending limit established in the Federal Political Parties Act 2012. As an exception, section 5 of the Carinthia Support of Political Parties Act 2013¹⁹ provides that each campaigning party may only spend a maximum of €500,000 on campaign advertisements for the provincial elections between the qualifying date for the election and the day of the election. The amount an individual candidate spends counts towards the party limit unless the sum does not exceed €2,500 (around US\$2,700). The lower limit of €2,500 applies to a maximum of thirty-six candidates. Furthermore, each political party must submit a detailed report on campaign expenses certified by an independent accountant to the government of Carinthia three months after the election date.²⁰

In Vienna, the law states that a political party or a campaigning party may not spend more than €6 million (around US\$6.5 million) on campaign expenses for provincial and local elections.²¹

¹⁷ *Id.* § 4, para. 1, sentence 3.

¹⁸ Bundespräsidentenwahlgesetz 1971[BPräsWG] [Federal President Elections Act 1971], BGBl. No. 57/1971, § 24a, para. 1, <https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10000494/BPr%c3%a4sWG%2c%20Fassung%20vom%2002.03.2016.pdf>, archived at <http://perma.cc/7NVQ-QKD3>.

¹⁹ Carinthia Support of Political Parties Act 2013, § 5, para. 1.

²⁰ *Id.* § 5, para. 3.

²¹ Vienna Support of Political Parties Act 2013, § 7, para. 1.

A political party from the province of Carinthia filed a lawsuit challenging the Carinthian provision, alleging that the spending limit violated section 1, paragraph 3 of the Federal Political Parties Act 2012, which states that the activities of political parties shall not be subject to any restrictions by particular legal provisions. The Constitutional Court of Austria (Verfassungsgerichtshof, VfGH) held that the provinces were allowed to enact restrictions on campaign expenses for provincial and local elections.²² According to the Court, the last sentence of section 3 of the Federal Act on Political Parties, which deals with subsidies for federal elections, implies that the provincial governments may regulate subsidies for political parties on a provincial level.²³ The Court concluded that the spending limit of €500,000 for campaign advertisements enacted by the provincial government of Carinthia was a valid requirement for receiving provincial subsidies and did not violate the constitutional guarantees of diversity of political parties,²⁴ free elections,²⁵ or freedom of expression.²⁶

IV. Donations

A. Federal Level

Section 6, paragraph 1 of the Political Parties Act 2012 provides that a political party may generally accept donations without a limit. A donation is defined as

any payment, benefit in kind or living subsidy that natural or legal persons grant to a political party, or a campaigning party that is not a political party, or a branch of a political party with its own legal personality, or an affiliated organization . . . , or members of parliament who stood for elections on a list of candidates submitted by a political party, or candidates who stood for elections on a list of candidates submitted by a political party, without corresponding consideration.

Paragraph 2 lists accounting requirements for donations. Donations must be filed in an annex to the annual general statement of accounts,²⁷ which must be submitted by the political party to the Federal Court of Audits. Furthermore, donations from one source exceeding €3,500 (around US\$3,800) in a single calendar year must be listed separately with the name and address of the donor.²⁸ Donations exceeding €50,000 (around US\$54,355) must be reported immediately to the Court of Audits, which will publish the amount as well as the name and address of the donor on its website.²⁹

²² Verfassungsgerichtshof [VfGH] [Constitutional Court of Austria], Mar. 11, 2014 Sammlung der Erkenntnisse und wichtigsten Beschlüsse des Verfassungsgerichtshofes [VfSlg] No. 19860/2014, https://www.ris.bka.gv.at/Dokumente/Vfgh/JFT_20140311_13B01302_00/JFT_20140311_13B01302_00.pdf, archived at <http://perma.cc/YB9S-Q34D>.

²³ VfGH, VfSLG No. 19860/2014, para. 2.1.4.

²⁴ *Id.* para. 4.3.1.

²⁵ *Id.*

²⁶ *Id.* para. 4.4.2.

²⁷ Political Parties Act 2012, § 5.

²⁸ *Id.* § 6, para. 4.

²⁹ *Id.* § 6, para. 5.

Paragraph 6 contains a list of sources from which a political party may not accept donations. They include, among others, parliamentary groups, undertakings and institutions in which the public sector holds a share of at least 25%, foreign natural or legal persons if the donation exceeds €2,500, natural or legal persons if the donation is in cash and exceeds €2,500, anonymous donations over €1,000, natural or legal persons who clearly want to forward a donation by an unnamed third party if the donation exceeds €1,000, and natural or legal persons who clearly donate in expectation of or in return for a certain commercial or legal advantage.

The general permission to accept donations as well as the prohibitions on donations from certain sources also apply to candidates running for the office of Federal President.³⁰

B. Provincial Level

The Political Parties Act 2012 explicitly states that the provinces may enact stricter rules on donations, sponsorships and advertisements than provided for in the Federal Act.³¹ The provinces of Salzburg, Tyrol, Vienna, and Vorarlberg have taken advantage of this option.

In Salzburg, donations of between €500 and €3,500 must be captured on a separate list with the name and address of the donor. The donor list must be submitted to the Provincial Court of Audits by September 30 of the following year.³²

In Tyrol, donations that exceed €1,000 must be listed separately in the account submitted to the Federal Court of Audits and include the name and the address of the donor. Furthermore, every donation over €15,000 must be reported to the Court of Audits immediately with the name and address of the donor. Donations from foreign natural or legal persons or cash donations from natural or legal persons may not exceed €1,000.³³

The Vienna law provides that donations that exceed €3,000 must be listed separately and include the name and address of the donor, whereas donations exceeding €30,000 must be reported to the Federal Court of Audits immediately, which will publish the information on its website.³⁴

Finally, in the province of Vorarlberg, political parties are prohibited from accepting anonymous donations and donations that are clearly forwarded for an anonymous third party no matter the amount.³⁵ Donations over €1,000 must be declared separately in the accounting report with the name and address of the donor.³⁶

³⁰ Federal President Elections Act 1971, § 24a, paras. 2–5.

³¹ Political Parties Act 2012, §§ 6, para. 10 & 7, para. 4.

³² Salzburg Support of Political Parties Act § 6.

³³ Tyrolean Political Parties Financing and Support of Parliamentary Groups Act 2012, § 4.

³⁴ Vienna Support of Political Parties Act 2013, § 8.

³⁵ Vorarlberg Support of Political Parties Act. § 10, para. 1(b).

³⁶ *Id.* § 10, para. 2(c).

V. Media Access

The most relevant federal act for access to media in Austria is the Federal Act on the Austrian Broadcasting Corporation (Österreichischer Rundfunk, ORF).³⁷ The Act does not contain specific provisions about media access or airtime for political parties for the time they are campaigning. Section 4 generally provides that the Austrian Broadcasting Corporation has to remain impartial and adhere to the principle of objectivity. There is also no explicit prohibition on political or campaign advertisements in the law. Section 13 generally states that the ORF may sell airtime for commercial advertisements.

In order to comply with its mandate to remain objective, the Austrian Broadcasting Corporation provides in its general terms and conditions that it will offer political parties and campaigning parties identical access and pricing for campaign advertisements on its website and in the teletext during the time they are campaigning.³⁸ There are no similar provisions for TV or radio advertisements.

³⁷ Bundesgesetz über den Österreichischen Rundfunk [ORF-Gesetz] [ORF-G] [Federal Act on the Austrian Broadcasting Corporation], BGBl. I No. 194/1999, <https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10000785/ORF-G%2c%20Fassung%20vom%2002.03.2016.pdf>, archived at <http://perma.cc/ND38-DLBV>.

³⁸ ORF, Allgemeine Geschäftsbedingungen ORF.at & ORF teletext – Rahmenbedingungen für politische Werbung [General Terms and Conditions ORF.at & teletext – Framework Conditions for Political Advertisements], Jan. 1, 2015, at 2, http://enterprise.orf.at/typo3conf/ext/up_downloadcluster/pi1/downloadfile.php?filename=ORF_E_AGB_ORFat_Teletext-RfpW_2015_NEU.pdf, archived at <http://perma.cc/KB2W-GVWJ>.

Canada

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SUMMARY Contribution and spending limits are regulated by the Canada Elections Act. The Law places limits on contributions to political parties and political candidates. Only individuals or natural persons (not corporations or trade unions) who are Canadian citizens or permanent residents may make contributions. Election expenses are subject to limits for candidates and registered political parties. These limits are calculated according to a formula based on the number of names on the preliminary or revised lists of electors for each electoral district, and on the length of the election period. Candidates and parties may be able to claim publicly-funded reimbursements for some of their election expenses.

Under the Canada Elections Act, only certain networks (not all broadcasters) are required to allocate free time to political parties. Two minutes are allocated to each registered and newly eligible party that did not want any paid broadcasting time, and the remainder of free time is allocated among political parties proportionally to their paid-time allocation. The minimum amount of broadcasting time that a network operator makes available cannot be less than the amount of free broadcasting time that it made available during the last general election.

I. Introduction

The Canada Elections Act¹ regulates the general elections of Members of Parliament (MPs) to the Canadian House of Commons. According to Elections Canada, an independent, nonpartisan agency that reports directly to Parliament, the Act also provides “a framework designed to make the financing of the political system transparent and fairer. This includes requirements respecting contributions to and spending by various entities involved in the federal electoral system.”²

Canada’s system of party and election finance regulation provides two forms of state funding to political parties and to candidates. First, political parties and candidates receive a reimbursement of some of their election expenses. Second, Canada provides substantial tax credits for donations to political parties and candidates.³

¹ Canada Elections Act, S.C. 2000, c. 9, <http://laws-lois.justice.gc.ca/eng/acts/e-2.01/FullText.html>, archived at <https://perma.cc/9VX5-CRDJ>. What constitutes a contribution and an election expense are set out in sections 363 and 376 of the Act.

² *The Electoral System of Canada Political Financing*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=res&dir=ces&document=part6&lang=e> (last updated Nov. 16, 2015), archived at <https://perma.cc/TDA5-HWPK>.

³ *Political Party Financing*, HISTORICA CANADA, <http://www.thecanadianencyclopedia.ca/en/article/party-financing/> (last visited Mar. 4, 2016), archived at <https://perma.cc/AB2F-BCVB>.

According to Elections Canada,

[d]isclosure requirements have existed for candidates since the beginning of the 20th century, but the current regime was essentially laid out with the introduction of political party registration and the *Election Expenses Act* in 1974. The latter introduced limits on election expenses for both candidates and political parties, as well as the first forms of public funding through partial reimbursement of expenses and tax credits for contributions. As of January 1, 2004, the scope of the legislation was extended to electoral district associations, nomination contestants and leadership contestants.⁴

II. Contribution Limits

Canada's federal election finance laws place limits on contributions to political parties and political candidates. Only individuals or natural persons (not corporations or trade unions) who are Canadian citizens or permanent residents⁵ may make contributions.⁶ Major changes were made to the political financing regime through amendments that came into effect in 2004 and 2007 that set limits on political contributions. These limits were increased in 2014 through an amendment of the Canada Elections Act made pursuant to the Fair Elections Act (FEA).⁷

Canada imposes limits on individual contributions, loans and loan guarantees. According to the *Political Financing Handbook for Candidates and Official Agents*,

[t]he contribution limits apply to: total contributions, the unpaid balance of loans made during the year and the amount of any loan guarantees made during the year that an individual is still liable for. The sum of these three amounts cannot at any time exceed the contribution limit.⁸

Contribution limits are statutorily set by section 367(1) of the Canada Elections Act.⁹ Section 367 (1.1) stipulates that the limit must increase by \$25 (about US\$19)¹⁰ on January 1 of each

⁴ *The Electoral System of Canada Political Financing*, *supra* note 2. For more information on limits on election contributions see CHARTERED PROFESSIONAL ACCOUNTANTS OF CANADA, A GUIDE FOR THE AUDITOR OF A CANDIDATE IN A FEDERAL ELECTION PURSUANT TO THE CANADA ELECTIONS ACT 6 (10th ed. 2015), <https://www.cpacanada.ca/~media/site/business-and-accounting-resources/docs/guide-for-auditors-of-candidate-federal-election-pursuant-canada-elections-act-10th-edition-october%202015.pdf>, archived at <https://perma.cc/RZ2Z-MG5W>.

⁵ Canada Elections Act § 363(1).

⁶ *Id.*

⁷ *The Electoral System of Canada Political Financing*, *supra* note 2.

⁸ ELECTIONS CANADA, POLITICAL FINANCING HANDBOOK FOR CANDIDATES AND OFFICIAL AGENTS (EC 20155), ch. 2 – Campaign Inflows (July 2015), <http://www.elections.ca/content.aspx?section=pol&dir=can/man/ec20155&document=p2&lang=e>, archived at <https://perma.cc/Z3Z3-89RH>.

⁹ Canada Elections Act § 367(1).

¹⁰ All references to dollars in this report are to the Canadian dollar unless otherwise indicated. The current exchange rate is Can\$1 = US\$0.75.

year.¹¹ Below is a table of contribution limits in 2016 for various political entities, including political parties and political candidates:

Table: 2016 Political Contribution Limits

Political Entities	2016
Political parties	A maximum of \$1,525 (about US\$1,148) per calendar year to each of the registered political parties
Registered associations	A maximum of \$1,525 per calendar year, in the aggregate, to the registered electoral district associations, nomination contestants and candidates of each of the registered political parties
Nomination contestants	A maximum of \$1,525 per calendar year, in the aggregate, to the registered electoral district associations, nomination contestants and candidates of each of the registered political parties
Party-endorsed candidates	A maximum of \$1,525 per calendar year, in the aggregate, to the registered electoral district associations, nomination contestants and candidates of each of the registered political parties
Independent candidates	A maximum of \$1,525 per election to each independent candidate
Leadership contestants	A maximum of \$1,525 per calendar year, in the aggregate, to all of the contestants in a leadership contest

Source: From Elections Canada webpages *Limits on Contributions (Notes)*, *infra* note 12, and *The Electoral System of Canada Political Financing*, *supra* note 2, as combined by author.

The Elections Canada website also states the following:

- The contribution limits apply to: total contributions, the unpaid balance of loans made during the contribution period and the amount of any loan guarantees made during the contribution period that an individual is still liable for. The sum of these three amounts cannot at any time exceed the contribution limit.
- A nomination contestant is permitted to give an additional \$1,000 [about US\$753] in total per contest in contributions, loans and loan guarantees to his or her own campaign.
- A candidate is permitted to give a total of \$5,000 [about US\$3,764] in contributions, loans and loan guarantees to his or her campaign.
- A candidate is also permitted to give an additional \$1,525 in total per year in contributions, loans and loan guarantees to other candidates, registered associations

¹¹ *Id.* § 367(1.1).

and nomination contestants of each party. (This includes contributions to the registered association in the candidate's electoral district and contributions to the candidate's own nomination campaign.)

- A leadership contestant is permitted to give a total of \$25,000 [about US\$18,818] in contributions, loans and loan guarantees to his or her campaign.
- A leadership contestant is also permitted to give an additional \$1,525 in total per year in contributions, loans and loan guarantees to other leadership contestants.¹²

The Act also stipulates a cash contribution limit of \$20 (about US\$15) for individuals.¹³

III. Spending Limits

A. Candidate Spending Limits

A candidate's election campaign will incur different types of expenses related to the election. These expenses are "collectively called electoral campaign expenses."¹⁴ They come under three categories: election expenses, the candidate's personal expenses, and other expenses not included in the first two categories.¹⁵

The Canada Elections Act defines an election expense as

any cost incurred, or non-monetary contribution received, by a registered party or a candidate, to the extent that the property or service that the cost was incurred for or that was received as a non-monetary contribution is used to directly promote or oppose a registered party, its leader or a candidate during an election period.¹⁶

According to Elections Canada,

Such expenses are subject to limits for candidates and registered political parties. These limits are calculated according to a formula based on the number of names on the preliminary or revised lists of electors for each electoral district, and on the length of the election period. (For a party, the electoral districts are those in which the party has endorsed confirmed candidates.)¹⁷

¹² *Limits on Contributions (Notes)*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=pol&document=index&dir=lim&lang=e> (last visited Jan. 4, 2016; footnotes in original omitted), archived at <https://perma.cc/8EXZ-PPAY>.

¹³ Canada Elections Act, § 371.

¹⁴ ELECTIONS CANADA, POLITICAL FINANCING HANDBOOK FOR CANDIDATES AND OFFICIAL AGENTS (EC 20155), ch. 3 – Campaign Outflows (July 2015), <http://www.elections.ca/content.aspx?section=pol&dir=can/man/ec20155&document=p3&lang=e>, archived at <https://perma.cc/YF73-XNGX>.

¹⁵ *Id.*

¹⁶ Canada Elections Act § 376(1)(a); see also §§ 376(1)(b), 376(2), 376(3).

¹⁷ *The Electoral System of Canada Political Financing*, supra note 2.

Therefore, the candidate spending limit amount varies from one electoral district to another and also depends on the length of the election period.¹⁸ Section 57 of the Canada Elections Act specifies that the election period must last a minimum of 36 days.¹⁹ Maximum election expenses for candidates are calculated in accordance with sections 477.49(1) to 477.52(1) of the Act.²⁰

Elections Canada calculates the limit for each electoral district as follows:

1. Expenses limits are based on the number of names appearing on the preliminary lists of electors or on the revised lists of electors for the electoral district, whichever is greater.
2. The *Canada Elections Act* provides for an adjustment for candidates running in electoral districts where there are fewer electors than the national average. In these districts the limit is increased.
3. The *Canada Elections Act* also provides for an adjustment for geographically large electoral districts. If the number of electors per square kilometre of the electoral district is less than 10, the candidate's expenses limit is increased.
4. The limit is then adjusted by the inflation adjustment factor in effect on the day the election is called.²¹

For example, for the 2015 general election, which had an election period of 78 days (one of the longest in the country's history),²² the limits for the 338 electoral districts²³ ranged from \$169,928.60 (about US\$127, 910) (for the Egmont district of Prince Edward Island) to \$279,227.99 (about US\$210,161) (for the Kootenay-Columbia district of British-Columbia).²⁴

Personal expenses that are reasonably incurred in relation to an election campaign outside certain categories²⁵ are subject to a limit of \$200 (about US\$151) established by Elections Canada.²⁶

¹⁸ ELECTIONS CANADA, POLITICAL FINANCING HANDBOOK FOR CANDIDATES AND OFFICIAL AGENTS, *supra* note 14.

¹⁹ Canada Elections Act, § 57.

²⁰ *Id.* §§ 477.49 (1) to 477.52.

²¹ ELECTIONS CANADA, POLITICAL FINANCING HANDBOOK FOR CANDIDATES AND OFFICIAL AGENTS, *supra* note 14.

²² *Canada Election 2015: Stephen Harper Confirms Start of 11-Week Federal Campaign*, CBC NEWS (Aug. 2, 2015), <http://www.cbc.ca/news/politics/canada-election-2015-stephen-harper-confirms-start-of-11-week-federal-campaign-1.3175136>, archived at <https://perma.cc/4SAV-NLS9>.

²³ *Canada's Federal Electoral Districts*, ELECTIONS CANADA (Mar. 2015), <http://www.elections.ca/content.aspx?section=res&dir=cir/list&document=index338&lang=e>, archived at <https://perma.cc/JUW3-YJVH>.

²⁴ *Final Candidate Election Expenses Limits, 42nd General Election, October 19, 2015*, ELECTIONS CANADA, <http://www.elections.ca/content2.aspx?section=can&dir=cand/canlim&document=index&lang=e> (last visited Mar. 7, 2016), archived at <https://perma.cc/FE5F-KUKQ>.

²⁵ ELECTIONS CANADA, POLITICAL FINANCING HANDBOOK FOR CANDIDATES AND OFFICIAL AGENTS, *supra* note 14. According to the Elections Canada's *Political Financing Handbook*, the following categories of personal expenses do not count against the election expenses limit: travel and living expenses; child care expenses; "expenses related to the provision of care for a person with a physical or mental incapacity for whom the candidate normally provides such care"; "in the case of a candidate who has a disability, additional personal expenses that are related to the

Expenses limits are also calculated for nomination campaigns. The Canada Elections Act defines “an expense reasonably incurred by or on behalf of a nomination contestant during a nomination contest as an incidence of the contest, including a personal expense.”²⁷ For a nomination campaign, a nomination contestant can spend “20 percent of the amount allowed for a candidate’s election expenses in the same riding [electoral district] during the previous general election if the boundaries of the electoral district have not changed since then. In any other case, a nomination contestant can spend the amount that the Chief Electoral Officer determines.”²⁸

According to Elections Canada, “[t]he Canada Elections Act does not set limits on the amount of leadership campaign expenses that each contestant may incur. A registered party may set its own limits by internal rules, but such limits are not enforceable through the Act.”²⁹

A candidate who is elected or receives at least ten percent of the valid votes cast in his or her electoral district and “who complies with the financial reporting provisions and submits an auditor’s report” is entitled to a publicly-funded reimbursement of election and personal expenses paid “up to a maximum of 60 percent of the election expenses limit established for the electoral district.”³⁰

B. Party Spending Limits

As noted above, the Canada Elections Act also places election expenses limits on registered political parties. These limits are also calculated according to a formula based on the number of names on the preliminary or revised lists of electors for each electoral district, and on the length of the election period. According to section 430(1) of the Canada Election Act, the maximum amount that is allowed for election expenses of a registered party for an election is the product of:

- “\$0.735 multiplied by the number of names on the preliminary lists of electors for electoral districts in which the registered party has endorsed a candidate or by the number of names on the revised lists of electors for those electoral districts, whichever is greater”;³¹ and
- the inflation adjustment factor, published by the Chief Electoral Officer, which is in effect on the day the election is called.³²

disability”; “expenses incurred to pay candidate’s representatives at a polling station or at the office of a returning officer.” *Id.*

²⁶ *Id.*

²⁷ Canada Elections Act § 2(1).

²⁸ *The Electoral System of Canada Political Financing*, *supra* note 2.

²⁹ *Id.*

³⁰ *Id.*

³¹ Canada Elections Act § 430(1)(a).

³² *Id.* § 430(1)(b).

The maximum amount is increased if the election period is longer than 37 days and is calculated through another statutory formula under section 430(2).³³

For the 78-day election period prior to the 2015 general election, the limits for registered political party ranged from \$119,542.99 (about US\$89,966) (Canada Party) to \$54,936,320.15 (about US\$41,340,656) (Liberal, Conservative, and New Democratic parties).³⁴

According to Elections Canada, registered political parties are eligible for a publicly-funded reimbursement of fifty percent of their paid election expenses for general elections “if they file the proper financial reports and receive at least 2 percent of the valid votes cast nationally or 5 percent of the valid votes cast in electoral districts where they endorsed candidates.”³⁵

C. Third Party Spending Limits

The Canada Elections Act also limits the amount that third parties (individuals, corporations, or groups not contesting an election) can spend on election advertising.³⁶ Such entities must register with Elections Canada if they incur or intend to incur election advertising expenses of more than \$500 (about US\$376).³⁷ In a 37-day election period, the base limit for a general election is \$150,000 (about US\$112,880).³⁸ According to Elections Canada, “[o]f that amount, no more than a base limit of \$3,000 can be incurred to promote or oppose the election of one or more candidates in a particular electoral district. The \$3,000 limit is also applicable to by-elections. Base limits are multiplied by the inflation adjustment factor in effect on the date the writs are issued.”³⁹ If the election period is more than 37 days, the expenses limit is increased.⁴⁰

³³ *Id.* § 430(2).

³⁴ *Final Election Expenses Limits for Registered Political Parties, 42nd General Election, October 19, 2015*, ELECTIONS CANADA, <http://www.elections.ca/content2.aspx?section=can&dir=part/pollim&document=index&lang=e> (last visited Mar. 7, 2016), archived at <https://perma.cc/YPH2-GB9N>.

³⁵ *The Electoral System of Canada Political Financing*, *supra* note 2.

³⁶ See *Third Party Election Advertising Expenses Limits*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=pol&document=index&dir=thi/limits&lang=e> (last modified Feb. 25, 2016), archived at <https://perma.cc/ALT6-XCNJ>. See also ELECTIONS CANADA, ELECTION ADVERTISING HANDBOOK FOR THIRD PARTIES, FINANCIAL AGENTS AND AUDITORS (EC 20227), ch. 3 (July 2015), <http://www.elections.ca/content.aspx?section=pol&document=index&dir=thi/ec20227&lang=e>, archived at <https://perma.cc/9ZQE-ZH2G>.

³⁷ See ELECTIONS CANADA, ELECTION ADVERTISING HANDBOOK FOR THIRD PARTIES, FINANCIAL AGENTS AND AUDITORS (EC 20227), ch. 1 (July 2015) <http://www.elections.ca/content.aspx?section=pol&dir=thi/ec20227&document=p1&lang=e#b>, archived at <https://perma.cc/9D9F-Z7M6>.

³⁸ Canada Elections Act § 350(1).

³⁹ *Third Party Election Advertising Expenses Limit*, *supra* note 36.

⁴⁰ Canada Elections Act § 350(6).

In the most recent general election, third parties could spend up to \$8,788.22 (about US\$6,614) in a given electoral district, and up to a maximum of \$439,410.81 (about US\$330,699.46) nationally during the 78 day election period.⁴¹

IV. Media Air Time

A. Allocation of Broadcasting Time Available for Purchase

Pursuant to section 335 of the Canada Elections Act,⁴² every broadcaster in Canada must make a total of six and one-half hours (390 minutes) of airtime available for purchase by registered political parties during a federal general election.⁴³ The Act provides that the allocation of this time among the parties is determined through a unanimous agreement among them.⁴⁴ If the parties fail to agree then the Broadcasting Arbitrator sets the allocation based on a statutory formula stipulated in section 338 of the Canada Elections Act.⁴⁵

The statutory formula used by the Broadcasting Arbitrator in allocating broadcasting time is as follows:

- The Broadcasting Arbitrator must consider certain factors in allocation, which consist of giving equal weight to the percentage of seats in the House of Commons held by each of the registered parties at the previous general election; and the percentage of the popular vote at the previous general election of each registered party.⁴⁶ Specific rules also exist for allocating broadcasting time in the case when two or more registered parties merge.⁴⁷
- The Broadcasting Arbitrator must in addition give half the weight given to each of the factors referred to above to the number of candidates endorsed by each of the registered parties at the previous general election, expressed as a percentage of all candidates endorsed by all registered parties at that election.⁴⁸
- The Broadcasting Arbitrator cannot allocate more than 50% of the total of the broadcasting time to a registered party.⁴⁹

⁴¹ *Limits on Election Advertising Expenses Incurred by Third Parties – 42nd General Election*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=ele&document=index&dir=pas/42ge/thilim&lang=e> (last updated Feb. 22, 2016), archived at <https://perma.cc/FMG7-PS2K>.

⁴² Canada Elections Act § 335(1).

⁴³ *Allocation of Paid Broadcasting Time*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=abo&dir=bra/all&document=index&lang=e> (last updated June 29, 2015), archived at <https://perma.cc/23KA-995A>.

⁴⁴ Canada Elections Act § 337(2).

⁴⁵ *Id.* § 338.

⁴⁶ *Id.* § 338(1).

⁴⁷ *Id.* § 338(2).

⁴⁸ *Id.* § 338(1).

⁴⁹ *Id.* § 338(3).

- If the calculation would give more than 50% of the total of the broadcasting time to a registered party, the Broadcasting Arbitrator must allocate the excess amount to the other registered parties entitled to broadcasting time on a proportionate basis.⁵⁰

The Act “also gives the Broadcasting Arbitrator the discretion to modify an allocation based on the statutory formula,” subject to the last two bullet points above, “if he believes that such an allocation would be unfair to a registered party or contrary to the public interest.”⁵¹ Besides allocating both paid air time (provided by broadcasters) and free air time (provided by network operators) to political parties during a general election, the “Broadcasting Arbitrator also arbitrates time-allocation disputes between political parties and broadcasters or network operators.”⁵²

Under section 339 of the Act, each new eligible party receives broadcasting time “in an amount equal to the lesser of the smallest portion of broadcasting time to be made available under section 335 allocated” and six minutes.⁵³ However, pursuant to section 343(2) of the Act, the total allocated must be rolled back to 390 minutes on a proportionate basis.⁵⁴

B. Allocation of Free Broadcasting Time

Under section 345(1) of the Canada Elections Act, only certain networks (not all broadcasters) are required to allocate free airtime for political parties.⁵⁵ The legislation requires that “all network operators that provided free broadcasting time in the previous general election must provide as much free broadcasting time to registered and eligible parties as they did during the previous election.”⁵⁶ The networks are required to make available two minutes to each registered and newly eligible party⁵⁷ that did not want any paid broadcasting time, and the remainder of free time is allocated among political parties proportionally to their paid time allocation.⁵⁸

⁵⁰ *Id.* § 338(4).

⁵¹ *Allocation of Paid Broadcasting Time*, *supra* note 43. For the 2015 allocation of paid time and the reasons for the decision see *2015 Allocation of Paid Time*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=abo&dir=bra/all/2015&document=index&lang=e> (last updated June 29, 2015), archived at <https://perma.cc/KW2C-BGU9>.

⁵² *The Electoral System of Canada*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=res&dir=ces&document=part3&lang=e> (last updated Nov. 16, 2015), archived at <https://perma.cc/L9ZB-UZT6>.

⁵³ Canada Elections Act § 339.

⁵⁴ *Id.* § 343(2).

⁵⁵ *Broadcasting Guidelines*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=abo&dir=bra/bro/2015&document=index&lang=e> (last updated Aug. 4, 2015), archived at <https://perma.cc/V5BN-JVWS>.

⁵⁶ *Allocation of Free Broadcasting Time*, ELECTIONS CANADA, <http://www.elections.ca/content.aspx?section=abo&dir=bra/fre&document=index&lang=e> (last updated Jan. 4, 2016), archived at <https://perma.cc/JGZ8-65PJ>.

⁵⁷ Canada Elections Act § 345(2)(a).

⁵⁸ *Id.* § 345(2)(b).

Finland

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SUMMARY Finland caps donations received but not money spent in election campaigns. Parties receive government aid, provided they are represented in the Parliament or received 2% of the national vote in the most recent election. All successful candidates for local, parliamentary, and EU Parliament elections, as well as all presidential candidates and political parties, must report their campaign funding. Ethical guidelines control media coverage of elections and legislative mandates ensure the impartiality of public service broadcasters.

I. Background

A. Finnish Parliamentary System

Finland is a parliamentary republic.¹ It has a President, a one-chamber Parliament, and a Prime Minister. The President and Prime Minister share power, although the President has mostly representative duties and foreign affairs responsibilities whereas the Prime Minister appoints his own cabinet and is responsible for the executive branch of government.²

Finland is made up of regions (municipalities) and also includes an autonomous island, Åland.³ Åland has its separate election law, which in principle looks the same as the national law.⁴

Leadership positions are tightly associated with the political parties. Political parties are responsible for their own election ballots, which may contain a list of no more than fourteen candidates for parliamentary elections.⁵ Nominations for this list are handled within the political

¹ 1 ch. 1–2 §§ FINLANDS GRUNDLAG [FINNISH CONSTITUTION] (Finlands Författningssamling [FFS] 11.6.1999/731), <http://www.finlex.fi/sv/laki/ajantasa/1999/19990731>, archived at <https://perma.cc/6KHT-J42B>.

² *Id.* 1 ch. 3 § and 5 ch. 57, 66 §§. For general information see *Position and Duties*, THE PRESIDENT OF THE REPUBLIC OF FINLAND, <http://www.tpk.fi/public/default.aspx?nodeid=44818&contentlan=2&culture=en-US> (last visited Mar. 2, 2016), archived at <https://perma.cc/R6YJ-22CR>; *Role of the Prime Minister*, FINNISH GOVERNMENT, <http://valtioneuvosto.fi/en/government/role-of-the-prime-minister> (last visited Mar. 2, 2016), archived at <https://perma.cc/3RXL-765W>.

³ CIA WORLD FACTBOOK: FINLAND (Feb. 25, 2016), <https://www.cia.gov/library/publications/the-world-factbook/geos/fin.html>, archived at <https://perma.cc/D39R-UY4L>; *Kommuner och landskap*, SUMOIFI (Jan. 4, 2016), https://www.suomi.fi/suomifi/svenska/staten_och_kommunerna/kommunerna_och_kommunalforvaltning/kommuner_och_landskap/index.html, archived at <https://perma.cc/JD4X-ZFRY>.

⁴ See LANDSKAPSLAG OM VALFINANSIERING [REGIONAL ACT ON ELECTION FINANCING] (Ålands Författningssamling [ÅFS] 2011:17), at 74, http://www.regeringen.ax/sites/www.regeringen.ax/files/attachments/page/lagsamling_2012_hela.pdf, archived at <https://perma.cc/3VE2-EEB5>.

⁵ 109 § VALLAG [ELECTION ACT] (FFS 2.10.1998/714), <http://www.finlex.fi/sv/laki/ajantasa/1998/19980714?search%5Btype%5D=pika&search%5Bpika%5D=vallag#L9P108>, archived at <https://perma.cc/J8MT-US3L>.

party and need not include a vote by its members if only fourteen persons have been nominated for the list.⁶ Candidates for parliamentary and presidential elections must be nominated for candidacy by a political party or a constituency association.⁷ Thus, independent candidacy is not permitted. Moreover, a candidate may only serve as a candidate representative for one party or constituency association.⁸ If only one presidential candidate is nominated during the nomination period, he or she may become the president without an election.⁹

B. Public Funding of Political Parties

All parties who are represented in Parliament receive “party support” from the national government.¹⁰ This public funding is calculated based on the number of parliamentary seats held by the party.¹¹ In 2015 around €160,000 (approximately US\$174,000) per parliamentary mandate was provided in party support.¹² Of this amount, €85,000 (approximately US\$92,000) was used for political activities and €75,000 (approximately US\$82,000) for informational materials and communications.¹³ In total, €32,000,000 (approximately US\$35,000,000) was paid out in party support in 2015.¹⁴

Starting January 1, 2016, parties who are not represented in the Parliament also receive party support, provided they received 2% of the national vote.¹⁵ The amount received for such parties is one-third of the amount received for one mandate in Parliament.¹⁶ The purpose of allowing smaller, nonparliamentary parties to receive party support is to increase the diversity of the political discourse.¹⁷ In the 2015 parliamentary election, no political party met the 2% threshold.

Finland has revised its campaign financing laws several times over the last decades as a result of having previously been criticized by the Group of States Against Corruption (GRECO)¹⁸ for a

⁶ *Id.* 112 §.

⁷ *Id.* 108 § (Parliament), 128 § (President).

⁸ *Id.* 111 §.

⁹ *Id.* 136 §.

¹⁰ 9 § 1 para. PARTILAG [POLITICAL PARTY ACT] (FFS 10.1.1969/10), <http://www.finlex.fi/sv/laki/ajantasa/1969/19690010?search%5Btype%5D=pika&search%5Bpika%5D=partilag>, archived at <https://perma.cc/9PZ6-8EJJ>.

¹¹ *Id.*

¹² Proposition [Government Bill] No. RP 73/2015 rd, at 7, <http://www.finlex.fi/sv/esitykset/he/2015/20150073.pdf>, archived at <https://perma.cc/FT5B-7C4J>.

¹³ *Id.*

¹⁴ *Partifinansieringen*, VAALIT.FI (Feb. 5, 2016), <http://www.vaalit.fi/sv/index/partier/partifinansiering.html>, archived at <https://perma.cc/VJT8-XKCO>.

¹⁵ *Id.*; 9 § 3 para POLITICAL PARTY ACT.

¹⁶ *Id.*

¹⁷ See Proposition [Government Bill] No. RP 73/2015 rd, *supra* note 12, at 5.

¹⁸ *What is Greco?*, COUNCIL OF EUROPE, https://www.coe.int/t/dghl/monitoring/greco/general/3.%20What%20is%20GRECO_en.asp (last visited Mar. 4, 2016), archived at <https://perma.cc/A7TM-4DBE>.

lack of transparency in its campaign financing laws, and its amended rules have now been approved by the EU Parliament.¹⁹

Observations by the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) during the election in 2011 were mostly positive.²⁰

II. Campaign Financing Generally

Campaign financing is regulated in the Campaign Financing Act.²¹ Campaign financing is defined as “financing of costs for a candidate’s election campaign that arise six months prior or at the latest two weeks following an election.”²² This includes the “candidate’s own funds (and loans); contributions to a candidate, his or her support group, or any other group that works solely with getting the candidate elected; and other contributions.”²³

Contributions include nonmonetary contributions such as goods and services.²⁴ Nonmonetary contributions should be recorded in monetary terms.²⁵ Volunteer work and products that are customarily free are not considered campaign contributions.²⁶

Contributions, both to political parties and individuals, must be traceable to the giver.²⁷ Small, customary cash contributions through informal settings, such as party requests for donations on public streets, are exempt.²⁸

Candidates may only accept foreign contributions from “individuals and such international organizations and foundations that represent the candidate’s political ideology.”²⁹ Similarly,

¹⁹ Stina Sirén, *Europarådet nöjt med Finlands valfinansieringslag*, SVENSKA YLE (Dec. 3, 2009), <http://svenska.yle.fi/artikel/2009/12/03/europaradet-nojt-med-finlands-valfinansieringslag>, archived at <https://perma.cc/SEY9-9RCR>.

²⁰ FINLAND RIKSDAGSVAL, 17 APRIL 2011: RAPPORT FRÅN OSSE/ODIHR:S VALMISSION [OSSE ELECTION REVIEW REPORT], <http://www.vaalit.fi/uploads/dpiy0ay2w7ll8i5.pdf> (unofficial Swedish translation), archived at <https://perma.cc/V5LU-PPMH>.

²¹ LAG OM KANDIDATERS VALFINANSIERING [ACT ON CANDIDATES’ CAMPAIGN FINANCING] (FFS 24.4.2009/273), <http://www.finlex.fi/sv/laki/ajantasa/2009/20090273>, archived at <https://perma.cc/7DYP-FBQV>.

²² *Id.* 2 § (translation by author).

²³ *Id.* (translation by author).

²⁴ *Id.* 3 §.

²⁵ *Id.*

²⁶ *Id.*

²⁷ 4 § 1 para. LAG OM KANDIDATERS VALFINANSIERING (Candidates); 8b § 1 para. POLITICAL PARTY ACT (Parties).

²⁸ *Id.*; see also Statsrådets förordning om penninginsamlingar [Government Regulation on Cash Contributions] (FFS 21.6.2006/503), <http://www.finlex.fi/sv/laki/ajantasa/2006/20060503?search%5Btype%5D=pika&search%5Bpika%5D=255%2F2006>, archived at <https://perma.cc/PLF8-GQLX>.

²⁹ 4 § 3 para. LAG OM KANDIDATERS VALFINANSIERING.

political parties may also only accept contributions from “individuals and such international organizations and foundations that represent the party’s political ideology.”³⁰

III. Monetary Caps on Donations

Finnish Law stipulates limits on donations to “candidates, candidates’ support groups, and other groups working solely to get the candidate elected.”³¹ Such caps do not apply to contributions received from their political party or party-affiliated organizations, provided it does not include contributions from a donor in excess of the pertinent cap.³²

A. Parties

Political parties may not receive contributions from the same contributor—whether in goods, services, or money—that exceed €30,000 (about US\$33,000) per calendar year.³³

B. Candidates for President

Candidates for President must be able to account for the source of all contributions received; however, there is no monetary cap on contributions.³⁴

C. Candidates for Parliament

Candidates for the Finnish Parliament may not receive contributions from the same contributor—whether in goods, services or money—that exceed €6,000 (approximately US\$6,500) per election.³⁵ Candidates may, however, still receive funds from their party and party organization that exceed the €6,000 cap, provided it does not include contributions received from an individual donor that exceeds the cap.³⁶ This has been the typical way of financing a campaign in Finland, i.e., the party pays. For instance, during the 2015 election one member of Parliament got his entire campaign financed, at €60,000, by his party.³⁷

³⁰ 8b § 3 para. POLITICAL PARTY ACT (translation by author).

³¹ 4 § LAG OM KANDIDATERS VALFINANSIERING (translation by author).

³² *Id.*

³³ 8b § 2 para. POLITICAL PARTY ACT.

³⁴ 4 § LAG OM KANDIDATERS VALFINANSIERING.

³⁵ *Id.* 4 § 2 para.

³⁶ *Id.*

³⁷ Peter Sjöholm, *Riksdagsledamöternas kampanjer kostade 7,5 miljoner*, SVENSKA YLE (June 23, 2015), <http://svenska.yle.fi/artikel/2015/06/23/riksdagsledamoternas-kampanjer-kostade-75-miljoner>, archived at <https://perma.cc/PNN5-G2VR>.

In the 2015 Parliamentary elections the largest donors were as follows:

Stiftelsen för det tvåspråkiga Finland [Foundation for Bilingual Finland] €69,500 [approximately US\$75,500]
Finlands Socialdemokratiska Parti €67,100 [approximately US\$73,000]
Svenska Folkpartiet i Finland €64,303 [approximately US\$70,000]
Samlingspartiet €60,344 [approximately US\$65,500]
Spårproffsen JHL [Union Organization] €49,034 [approximately US\$53,000]
Arkadian talouspoliittinen seura €44,991 [approximately US\$49,000]
Samingspartiets Ungdomsförbund €40,259 [approximately US\$43,500].³⁸

Private individuals also made large campaign contributions. The largest donor donated €15,000 (approximately US\$16,300) to four different candidates.³⁹

D. Candidates for the European Parliament

Candidates for the European Parliament may not receive contributions from the same contributor—whether in goods, services or money—that exceed €10,000 (approximately US\$10,900).⁴⁰

E. Candidates for Local Leadership

Candidates for local leadership positions (municipal elections) may not receive contributions from the same contributor—whether in goods, services or money—that exceed €3,000 (approximately US\$3,300).⁴¹

IV. Caps on Spending

There are no monetary upper limits on spending for Finnish candidates.⁴² However, it is illegal to buy votes.⁴³

In the 2015 parliamentary election, candidates on average spent €38,000 (approximately US\$41,300), while a few spent more than €100,000 (approximately US\$109,000).⁴⁴ Only one Member of Parliament (MP) got his entire campaign financed, at €60,000 (approximately US\$65,000), by his party.⁴⁵ MP Carl Haglund spent the most, €130,000 (approximately

³⁸ *Id.* (translation by author).

³⁹ *Id.*

⁴⁰ 4 § 2 para. LAG OM KANDIDATERS VALFINANSIERING.

⁴¹ *Id.*

⁴² *See id.*

⁴³ 14 ch. 2 § STRAFFLAG [CRIMINAL ACT] (FFS 19.12.1889/39), <http://www.finlex.fi/sv/laki/ajantasa/1889/18890039001?search%5Btype%5D=pika&search%5Bpika%5D=strafflag> archived at <https://perma.cc/CGY9-GQ6K>.

⁴⁴ Sjöholm, *supra* note 37.

⁴⁵ *Id.*

US\$141,000), on his campaign.⁴⁶ The contributions Haglund received came from his party, organizations, and individuals, as well as €1,000 (approximately US\$1,090) of his own money.⁴⁷

EU Parliamentarian Sirpa Pietikäinen holds the record for the most expensive campaign, for spending a total of €184,000 (approximately US\$200,000) during her European Parliament campaign in 2014.⁴⁸ She reported that the largest contributions came from her own funds and from loans.⁴⁹

V. Reporting Requirements

The reporting requirements for candidates increased on January 1, 2016.⁵⁰ Within two months of an election, successful candidates should report their campaign financing to the National Audit Office of Finland.⁵¹ Such reports are made on a special form.⁵²

Not all candidates are required to report contributions received. Rather, only candidates who win need to report contributions.⁵³ This includes elected members and deputies for the Finnish Parliament, European Parliament, and local leadership.⁵⁴ All presidential candidates and their support groups, and any group working solely to elect a president, must also report their campaign finances.⁵⁵ The person who completes the report is responsible for its content.⁵⁶

Candidates in local elections who have received less than €800 (approximately US\$870) in campaign contributions have reduced reporting requirements. They must only report their name, title, occupation, party membership, and pertinent election information, and sign a statement to the effect that they have not received donations exceeding the threshold.⁵⁷

⁴⁶ Eva Brunell, *Haglund fick ovanligt stort kampanjstöd*, SVENSKA YLE (June 18, 2015), <http://svenska.yle.fi/artikel/2015/06/18/haglund-fick-ovanligt-stort-kampanjstod>, archived at <https://perma.cc/UZ6V-USYR>.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ See Amendment No. 1689 of Dec. 30, 2015 (FFS 30.12.2015/1689).

⁵¹ 8 § LAG OM KANDIDATERS VALFINANSIERING.

⁵² *Id.*

⁵³ *Id.* 5 §.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.* 7 §.

⁵⁷ *Id.* 6 § 6 para.

All others must provide the following information:

- 1) relevant election;
- 2) candidate's name, title, occupation, the party or constituency association nominating him or her, and – during Parliamentary elections – the electoral district, and during municipal elections the municipality;
- 3) the total costs for the campaign including specifications for costs of advertisements in newspapers, election magazines, free magazines, and periodicals, radio, television, Internet, and other media as well as outdoor media, brochures, and other printed products, advertisement planning and election meetings as well as other costs;
- 4) the total election finance specified according to the candidates own funds, including loans taken and outstanding invoices at the time of reporting, and all contributions to the candidate, the candidate support group or any other group that has worked solely to support the candidate, grouped as contributions from individuals, corporations, party, party affiliations, and other donors; [and]
- 5) other information on election finance and costs for the election campaign that the reporter deems necessary.⁵⁸

In addition, contributions in the amount of €800 in municipal elections and €1500 (approximately US\$1,600) in all other elections must be reported separately.⁵⁹ For contributions that are below these limits, express consent from the donors is required before listing them separately by name.⁶⁰

Candidates who have taken loans to finance their elections should also include a plan for repayment of that loan.⁶¹ If a candidate receives more than €1,500 in contributions to repay a loan, he or she should report this in a post-election report.⁶² Candidates are also allowed to submit pre-election reports detailing their campaign finances.⁶³

All political parties must also report their election financing.⁶⁴ Such reporting includes the cost of hiring staff and renting facilities, contributions received, etc.⁶⁵

The National Audit Office of Finland audits candidates' and political parties' financial reports⁶⁶ and issues audit reports.⁶⁷

⁵⁸ *Id.* 6 § (translation by author).

⁵⁹ *Id.* 6 § 3 para.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* 11 a §.

⁶³ *Id.* 11 §.

⁶⁴ 9b § POLITICAL PARTY ACT.

⁶⁵ *Id.*

⁶⁶ *Id.* 10 §.

⁶⁷ For report on the 2015 election, see STATENS REVISIONSVERKS BERÄTTELSE TILL RIKSDAGEN OM TILLSYNEN ÖVER PARTIFINANSIERINGEN 2015 (STATENS REVISIONSVERKS BERÄTTELSE TILL RIKSDAGEN B 1/2016 RD) (Feb. 12,

Municipal elections may have special requirements for reporting on campaign finances prior to the start of the election campaign.⁶⁸

VI. Media Rules

All media, including those that cover presidential, parliamentary, and local elections, are bound by ethical standards.⁶⁹

By law, state-run media (the public service company Yleisradio, YLE⁷⁰) must adhere to a principle of impartiality.⁷¹ However, YLE may also consider program-related issues.⁷² YLE has interpreted this to include public interest in a certain party, the size of the party, and whether or not the party is already represented in Parliament.⁷³ The purpose of state-financed YLE media (television and radio) is to “provide a diverse and comprehensive range of television and radio programs as a public service, with accompanying specials and add-on services for everyone on the same conditions.”⁷⁴ Specifically it must “serve democracy and individuals’ opportunities to exert their influence, by offering a diverse range of facts, opinions, and discussions, as well as the possibility for interactive discussions.”⁷⁵ It may not broadcast sponsored programs.⁷⁶

Although the law does not prescribe a quota system for media coverage, an OSCE report found that during the 2011 election YLE offered each political party that was already represented in Parliament the same amount of airtime on Finnish-speaking radio and television outside of the debates.⁷⁷ All political parties already represented in Parliament were also represented at two debates, while the four largest parties squared off in one extra debate.⁷⁸ YLE also held a separate debate for the nine largest political parties who were not represented in Parliament.⁷⁹

2016), http://www.vtv.fi/files/5027/B1_2016_rd_partifinansieringen_2015.pdf, archived at <https://perma.cc/E7FV-3T7B>.

⁶⁸ *Anmälan om valfinansiering bör göras innan årsskiftet*, KOMMUNERNA (Nov. 16, 2011), <http://www.kunnat.net/sv/databanker/nyheter/2012/Sidor/anmalan-om-valfinansiering.aspx>, archived at <https://perma.cc/ML5P-7VAZ>.

⁶⁹ *Etiska regler för press, TV och radio* [Ethical Rules for Press, TV and Radio], PO <http://www.po.se/regler/presstetiska-regler> (last visited Feb. 29, 2016), archived at <https://perma.cc/255C-ZEES>.

⁷⁰ YLE, <http://svenska.yle.fi/bolaget> (last visited Mar. 2, 2016), archived at <https://perma.cc/5KM9-DBDV>.

⁷¹ 10 § POLITICAL PARTY ACT.

⁷² *Id.* 10 § 2 para.

⁷³ FINLAND RIKSDAGSVAL, 17 APRIL 2011: RAPPORT FRÅN OSSE/ODIHR:S VALMISSION, *supra* note 20, at 17.

⁷⁴ 3 ch. 7 § 1 para. LAG OM RUNDRADION AB [ACT ON YLE] (FFS 22.12.1993/1380) <http://www.finlex.fi/sv/laki/ajantasa/1993/19931380> (translation by author), archived at <https://perma.cc/UN97-6FD8>.

⁷⁵ *Id.* 3 ch. 7 § 3 para. 1 item.

⁷⁶ *Id.* 5 ch. 12 § 2 para.

⁷⁷ FINLAND RIKSDAGSVAL, 17 APRIL 2011: RAPPORT FRÅN OSSE/ODIHR:S VALMISSION, *supra* note 20, at 17.

⁷⁸ *Id.* at 17–18.

⁷⁹ *Id.* at 19.

During the 2011 parliamentary election the Finnish Communications Regulatory Authority only received one complaint alleging media bias against a political candidate, which was found groundless.⁸⁰ Nevertheless, the OSCE/ODIHR recommended that YLE should provide political parties who are not already represented in Parliament more attention so as to guarantee their opportunity to present their political message.⁸¹

Media are also subject to specific internal ethical rules for their programs.⁸² These rules include specific provisions on election coverage.⁸³ According to these rules, media's efforts should be undertaken and coordinated so that candidates are treated equally.⁸⁴ Under YLE ethical guidelines, persons who work as editors or hold similar positions who decide to run for office or publicly support certain candidates must be reassigned during their campaigns so as to not jeopardize the reputation of the YLE.⁸⁵

⁸⁰ *Id.* at 17.

⁸¹ *Id.* at 18.

⁸² *Yles etiska regler för program- och innehållsproduktion (EPI)*, YLE, <http://svenska.yle.fi/sida/yles-etiska-regler-program-och-innehallsproduktion-epi> (last visited Mar. 2, 2016), archived at <https://perma.cc/D64J-AP4N>.

⁸³ *Id.* ¶¶ 34–35.

⁸⁴ *Id.* ¶ 35.

⁸⁵ *Id.*

Israel

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SUMMARY Israeli law applies limits on campaign contributions and expenditures in both primaries and general elections. An increased ceiling on contributions is provided to candidates who provide a timely notice of intent not to receive direct governmental funding.

Each participating party and candidate list is given free campaign broadcasts during a fourteen-day period before the elections. The length of the broadcasts is determined in accordance with a formula that is composed of a fixed amount, extended by additional time calculated in correlation to the number of members the party or list had in the outgoing Knesset.

I. Introduction

Israel maintains a parliamentary system of government, with the Prime Minister serving as the executive authority of the state and the head of the government,¹ and the President serving as the Head of State.² Knesset (Parliament) members are chosen from candidates' lists selected by the parties, following their own primaries. The Prime Minister is selected by the President and is usually the head of the largest party, or the party capable of forming a coalition government.³

Most major parties elect their candidates in primaries. The financing of the primary elections held by the political parties is regulated by the Parties Law, 5752-1992, as amended.⁴ The financing of the general elections for the Knesset is regulated primarily by the Political Parties (Financing) Law, 5733-1973, as amended (PP(F)L).⁵ As a general rule, the financing of political campaigns in Israel is derived from both private and government funding. Parties obtain government funding for the duration of the campaign and for ongoing expenses. They also

¹ Basic Law: The Government, *as amended*, §§ 1 & 4–5, <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?t=lawlaws&st=lawlaws&lawitemid=2000040> (original law and amendments, in Hebrew), *unofficial translation at* <http://knesset.gov.il/laws/special/eng/BasicLawTheGovernment.pdf> (last visited Feb. 29, 2016), *archived at* <https://perma.cc/5EH7-CXV7>. Please note that the Knesset website provides translations of a limited number of laws. Links to translations of this and other legislation, when available, are provided in this report. Up-to-date text of all cited legislation is available at Nevo legal database, <http://www.nevo.co.il> (in Hebrew, by subscription).

² Basic Law: The President of the State, <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?t=lawlaws&st=lawlawsbasic&lawitemid=2000050> (original law and amendments, in Hebrew), *unofficial translation at* <http://knesset.gov.il/laws/special/eng/BasicLawThePresident.pdf> (last visited Feb. 29, 2016), *archived at* <https://perma.cc/Z2UY-9B8F>.

³ For rules regarding the appointment of the Prime Minister, see Basic Law: The Government §§ 7–10.

⁴ Parties Law, 5752-1992, § 17, as amended, *available at* Nevo, *archived at* <https://perma.cc/24WF-ZDH9>.

⁵ Political Parties (Financing) Law 5733-1973, as amended, *available at* Nevo, *archived at* <https://perma.cc/VW99-SFAA>.

receive an allocation of free broadcasting time during the election period. The funding and expenditures, as well as the allocation and use of free media airtime, are subject to extensive rules regarding limits, financial disclosure, and enforcement.

This report discusses the limits on contributions and on expenditures, as well as the allocation of free broadcasting time under Israeli law.

II. Limits on Contributions and Expenditures

Candidates do not have the right to an independent campaign for election to the Knesset. They do run in primaries conducted by their relative parties. According to the Knesset website,

[t]he contest in the elections is among lists of candidates. Since the Parties Law was passed in 1992, only a party, which has been legally registered with the Party Registrar, or an alignment of two or more registered parties, which have decided to run in the elections together, can present a list of candidates and participate in the elections.⁶

Parties (or other groupings of parties or candidates) with members elected from their lists may become “factions” or “parliamentary groups” when the Knesset is formed.⁷

The law imposes caps on the contributions and expenditures of candidates in primaries, and on parties, candidate lists, factions, and new factions competing in a general election.

A. Primaries

1. Caps on Individuals' Contributions in Primaries

An individual donor may provide donations to different candidates during primaries, the aggregate total of which may not exceed NIS (New Israeli Shekel) 11,377 (about US\$2,958).⁸ In primaries for candidacy for Party Chairman and Prime Minister, however, where only one candidate may be elected, an individual donor may donate only to one candidate. Additionally, in primaries where the number of qualified voters exceeds 50,000, an individual donation may amount to NIS45,468 (about US\$11,822). The law clarifies that the donations of a person and his family members and dependents are considered one donation.⁹

⁶ *Who Can Participate in Elections?*, THE ELECTORAL SYSTEM IN ISRAEL, http://knesset.gov.il/description/eng/eng_mimshal_beh.htm (last visited Mar. 3, 2016), archived at <https://perma.cc/2ZKQ-5SZF>.

⁷ *Parties, Lists, Parliamentary Groups, Etc.*, THE KNESSET, http://knesset.gov.il/faction/eng/FactionEtc_eng.asp (last visited Mar. 3, 2016), archived at http://knesset.gov.il/faction/eng/FactionEtc_eng.asp.

⁸ The conversion rate of all referenced NIS amounts in the report was approximately US\$0.26 for every NIS1.00 on March 1, 2016. See XE CURRENCY CONVERTER, <http://www.xe.com/currencyconverter/convert/?Amount=1&From=ILS&To=USD> (last visited Mar. 1, 2016), archived at <https://perma.cc/6XZP-2JTI>.

⁹ Parties Law § 28F.

2. *Total Caps on Candidates' Contributions and Expenditures in Primaries*

The Law limits the total amount that may be contributed to and spent by a candidate in the primaries based on the number of eligible voters. The ceilings that apply are as follows:¹⁰

Table: Caps on Candidates' Contributions and Expenditures in Primaries

Number of Eligible Voters (EVs)	Caps on Regular Candidates (CRC)	Caps on Candidates for Party Chairperson or Prime Minister
Up to 50	Donations – 0 Expenditures – NIS5,689	Double
51–999	NIS5,689 + NIS15 for each EV over first fifty EVs	Four times
10,000–99,999	NIS176,215 + NIS2.75 for each EV over first 10,000 EVs	Four times
100,000 or more	NIS 460,432 + NIS 2 for each EV over first 100,000 EVs	Four times

Source & Notes: Created by the author based on the Parties Law, 5752-1992, <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?t=lawlaws&st=lawlawsall&lawitemid=2000399>. The third column was calculated based on multiplication of CRCs.

Additional amounts are provided for candidates who competed for the positions of party chairperson or Prime Minister, as well as for membership in the Knesset in the same party within 120 days.¹¹

B. General Elections

1. *Caps on Contributions*

The rules regarding contributions and expenses apply equally to parties, candidate lists, and factions.¹²

According to the PP(F)L, parties, candidate lists, and factions are prohibited from receiving corporate contributions.¹³ The PP(F)L further provides that a faction may not receive from a household any donation that exceeds NIS2,300 (about US\$598) in an election year and NIS1,000

¹⁰ *Id.* § 28H(a)–(b).

¹¹ *Id.* § 28H(c).

¹² Political Parties (Financing) Law 5733-1973, § 8E.

¹³ *Id.* § 8A.

(about US\$260) in any other year.¹⁴ A party not represented in the Knesset may receive a donation in an amount not exceeding five times the NIS2,300 and 1,000 amounts cited for candidates' lists. A party or a candidate list that did not get enough votes to enter the Knesset may, nevertheless, receive donations within twelve months following the election to cover its election debts.¹⁵

2. *Increased Caps on Contributions for Voluntarily Opting Out of Government Funding*

A candidate list or a faction that delivers a timely notice that it does not wish to receive the governmental funding to which it is entitled by law may receive donations in an amount up to NIS125,500 instead of the NIS1,000 or 2,300 caps otherwise applicable.¹⁶

3. *Ceilings on Expenditures*

The ceiling on election expenses by a faction, including a new faction,¹⁷ is seventy “financing units.” Each “financing unit” equaled NIS1,368,100 (about US\$355,706) as of March 2015.¹⁸ This ceiling applies subject to the following conditions:

1. A faction that on the “determining day “was composed of up to five Knesset members may not spend more than ten financial units;
2. A faction that on the “determining day “was composed of six to ten Knesset members may not spend more than two financing units per each Knesset member;
3. A faction that on the “determining day “ was composed of eleven or more Knesset members may not spend more than two financing units for each of the first ten members, and one and half times of one financing unit for every remaining member;
4. A candidate list may not spend more than the equivalent of ten financing units or the amounts listed under 2 or 3, in correlation to the number of seats in gained in the Knesset, whichever amount is higher.¹⁹

4. *Allocation of Free Broadcasting Time*

Israeli law provides for direct and indirect governmental funding of election campaigns. The most substantial form of indirect public financing provided seems to be the allocation of free campaign broadcasts to all participating parties and candidate lists during a fourteen-day period before the elections.²⁰

¹⁴ *Id.* § 8(b) & (c).

¹⁵ *Id.* § 8(c1)–(c2).

¹⁶ *Id.* § 8C.

¹⁷ Represented in the incoming Knesset by at least one member. *Id.* § 1.

¹⁸ *Id.* §§ 1 & 7B.

¹⁹ *Id.* § 7(c) (translated by author, R.L.).

²⁰ Elections (Modes of Propaganda) Law, 5719-1959, §§ 15(a1) & 15A(a), available at Nevo, archived at <https://perma.cc/MV84-XAW9>.

In accordance with the Elections (Modes of Propaganda) Law, 5719-1959, each party and candidate list will be given seven minutes of airtime, and each party already represented in the outgoing Knesset will receive two additional minutes of airtime for each Member. The broadcasting time must be provided free of charge by the two public broadcasters. Although the television broadcasting time is free, the program itself must be produced and financed by the parties, and approved by the Chairman of the Central Election Committee.²¹ Additionally, the grant of free broadcasting time does not exclude acquiring additional broadcasting time by the candidates for a fee.²²

Similarly, every party or candidate list is allocated fifteen minutes of free radio airtime for campaign broadcasts; every party represented in the outgoing Parliament is given an additional four minutes for each Member.²³

²¹*Id.* §§ 15A(b) & 16C.

²²*Id.* § 16D.

²³*Id.* § 15(a).

Japan

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SUMMARY Japanese law sets annual donation limits for political campaigns. Such limits depend on who is making the donation and who is receiving it. The law also provides for spending limits, but these limits do not apply to all political activities. When a broadcasting station provides air time to candidates or parties, it must also provide the same opportunity to other candidates or parties upon request.

I. Classification of Political Organizations

Japan's Political Funds Control Act designates organizations with political purposes as political parties, political fund organizations, and "other political organizations."¹

Japan's National Parliament (Diet) is a bicameral legislature consisting of the House of Representatives and the House of Councillors. A political party is defined as an organization that has five or more members in the Diet, or has gained 2% or more of the valid votes in the most recent House of Representatives election or in one of the two most recent House of Councillors elections.²

A political fund organization is one that was established for the purpose of funding a political party.³

II. Donation Limits

Annual limits on donations by individuals are as follows:

- 1.5 million yen (about US\$13,000) per candidate per year⁴
- 10 million yen (about US\$90,000) to "other political organizations" and candidates per year⁵
- 20 million yen (about US\$180,000) to political parties per year.⁶

¹ 政治団体とは [Regarding Political Organizations], MINISTRY OF INTERNAL AFFAIRS AND COMMUNICATIONS (MIC), http://www.soumu.go.jp/senkyo/seiji_s/naruhodo04_2.html (last visited Mar. 7, 2016), archived at <https://perma.cc/T48D-4PAG>.

² Political Funds Control Act, Act No. 194 of 1948, amended by Act No. 69 of 2014, art. 3, para. 2.

³ *Id.* art. 5, para. 1, item 2.

⁴ *Id.* art. 22, para 2.

⁵ *Id.* art. 21-3, para. 3.

⁶ *Id.* art. 21-3, para. 1, item 1.

Corporations and other organizations, except for those classified as “other political organizations,” can donate only to political parties and political fund organizations and cannot donate to particular candidates or politicians, or to organizations classified as “other political organizations.”⁷ Politicians or candidates can receive corporate donations through political parties.⁸ The annual limit on donations by corporations and other organizations (except for those classified as “other political organizations”) is 7.5 million yen (about US\$66,000) to 10 million yen (about US\$90,000), depending on the size of the organization.⁹

Regarding organizations designated as “other political organizations,” the annual limit on donations from one such organization to another such organization is 50,000,000 yen (about US\$440,000).¹⁰ There is no limit on donations from such organizations to a political party or political fund organization.¹¹

III. Spending Limits

The Public Office Election Act regulates election campaign spending limits, depending on the types of elections.¹²

The spending limit for those House of Councillors candidates chosen by proportional representation is 52 million yen (about US\$458,000).¹³ There is no spending limit for those House of Representatives candidates chosen by proportional representation because the campaigning is done by political parties, not by individual candidates.¹⁴ House of Councillors proportional representation candidates are chosen nationwide, while House of Representatives proportional representation candidates are chosen in regional districts.¹⁵ Voters can record a candidate’s name or a party’s name on the ballot for House of Councillors proportional

⁷ *Id.* art. 21, paras. 1 & 2.

⁸ MIC, 政治資金規正法のあらまし [SUMMARY OF POLITICAL FUND CONTROL ACT] 13 (2009), http://www.soumu.go.jp/main_content/000174716.pdf, archived at <https://perma.cc/8UHN-ZWZG>.

⁹ Political Funds Control Act art. 21-3, para. 1, items 2–4.

¹⁰ *Id.* art. 22, para. 1.

¹¹ MIC, *supra* note 8, at 14.

¹² Public Office Election Act, Act No. 100 of 1950, amended by Act No. 60 of 2015, art. 194.

¹³ Public Office Election Act Enforcement Order, Order No. 89 of 1950, amended by Order No. 427 of 2015, art. 127.

¹⁴ *Minutes of the Special Committee on the Establishment of Political Ethics and Public Office Election Act Reform*, House of Representatives, No. 8 (Apr. 11, 2013) (statement of Shigeru Sato, member of House of Representatives), http://www.shugiin.go.jp/internet/itdb_kaigiroku.nsf/html/kaigiroku/007118320130411008.htm (in Japanese), archived at <https://perma.cc/833G-U6TT>.

¹⁵ Public Office Election Act arts. 12 & 13.

representation elections.¹⁶ In contrast, voters can record only a party's name on the ballot for a House of Representatives proportional representation election.¹⁷

The spending limits for those House of Councillors candidates chosen in plural-seat districts is calculated as follows:

$$\begin{array}{rcl}
 13 \text{ yen* (districts with two} & & \text{numbers of voters in} \\
 \text{elected members) or} & \times & \text{the district} \\
 20 \text{ yen** (districts with} & & \text{number of elected} \\
 \text{four or more elected} & & \text{members} \\
 \text{members)} & & + 23,700,000 \text{ yen} \\
 & & \text{(about} \\
 & & \text{US\$209,000)}
 \end{array}$$

* (about US\$.11)

** (about US\$.18)

The spending limit for those House of Representatives candidates chosen in single-seat districts is calculated as follows:

$$\begin{array}{rcl}
 15 \text{ yen} & & \text{numbers of voters in} \\
 \text{(about US$.13)} & \times & \text{the district} \\
 & & \text{number of elected} \\
 & & \text{members} \\
 & & + 19,100,000 \text{ yen} \\
 & & \text{(about} \\
 & & \text{US\$168,000)}
 \end{array}$$

For example, in two districts in Saga prefecture, the spending limits were 24,017,300 yen (about US\$210,000) and 24,415,900 yen (about US\$215,000) for the 2014 House of Representatives election.¹⁸ In twenty-five districts in Tokyo Metropolis, the spending limits were between 23,894,100 yen (about US\$210,000) and 26,498,700 yen (about US\$233,000) for the same election.¹⁹

However, these spending limits do not reflect the total amount of money that is actually and legally spent on a candidate. Though there are many regulations on election activities, many

¹⁶ 参議院選挙のしくみと投票方法 [Structure of House of Councillors Election and Methods of Balloting], LIBERAL DEMOCRATIC PARTY, https://www.jimin.jp/election/results/sen_san22/sansen_shikumi (last visited Mar. 7, 2016), archived at <https://perma.cc/RAY2-KUUH>.

¹⁷ 衆議院選挙のしくみと投票方法 [Structure of House of Councillors Election and Methods of Balloting], LIBERAL DEMOCRATIC PARTY, https://www.jimin.jp/election/results/sen_syu45/shikumi (last visited Mar. 7, 2016), archived at <https://perma.cc/3GC6-VJ6Q>.

¹⁸ 衆議院小選挙区選出議員選挙における選挙運動に関する支出金額の制限額をお知らせします [Notice of Maximum Spending Amount for Campaigning in House of Representatives Single-Seat Districts], SAGA PREFECTURE, https://www.pref.saga.lg.jp/web/kensei/sen-senkyo/_85013/_85345.html (last visited Mar. 7, 2016), archived at <https://perma.cc/6DVV-CRMP>.

¹⁹ Tokyo Metropolitan Government Election Committee Notification No. 157, Dec. 2, 2014, http://www.tokyoto-koho.metro.tokyo.jp/file/koho/id/3257/f/13023/2014_63.pdf (in Japanese), archived at <https://perma.cc/HEW5-6ERB>.

general political activities conducted by parties or supporting organizations are not technically counted as campaign spending.²⁰

IV. Media Air Time

Political parties fielding election candidates are allowed free campaign broadcasting on major broadcasting stations, including Nihon Hoso Kyokai (NHK, the Japan Broadcasting Cooperation), during the campaign period.²¹ Candidates for the House of Councillors and House of Representatives from small districts are allowed free air time during the campaign period on NHK to explain their backgrounds and views.²²

The campaign period begins the day the candidate reports his/her candidacy or the party reports its lists of candidates to the appropriate election committee and lasts until the day before the election.²³ Candidacy can be reported after the election is officially announced.²⁴ Election announcements must be made at least twelve days before House of Representatives elections²⁵ and at least seventeen days before House of Councillors elections.²⁶

When a broadcasting station provides free or paid campaign broadcasting for one candidate, it must offer the same opportunity to rival candidates upon request.²⁷

²⁰ SATSUKI EDA, わかる政治への提言 [PROPOSALS TO MAKE POLITICS UNDERSTANDABLE] ch. 1, <https://www.eda-jp.com/books/giin/14.html> (last visited Mar. 7, 2016), archived at <https://perma.cc/BT9Y-SLMQ>.

²¹ Public Office Election Act art. 150.

²² *Id.* art. 151.

²³ *Id.* art. 129.

²⁴ *Id.* art. 86.

²⁵ *Id.* art. 31, para. 4.

²⁶ *Id.* art. 32, para. 3.

²⁷ Broadcast Act, Act No. 132 of 1950, amended by Act No. 26 of 2015, art 13.

New Zealand

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SUMMARY A mixed member proportional electoral system is in place in New Zealand, with voters having both a candidate vote and a party vote. The Electoral Act 1993 contains limits on how much candidates and parties can spend on election advertising in the three months before an election, being NZ\$26,100 for a candidate and up to a maximum of NZ\$2,964,100 for parties, if they have candidates standing in each of the seventy-one electorates. Persons, groups, and companies not contesting the election who publish election advertisements can spend up to a maximum of NZ\$313,000. These figures are adjusted each year based on inflation.

There is no limit on the amount that a New Zealand-based person or company can donate to a candidate or party, provided that they disclose their identity to the recipient. An anonymous donation or an overseas donation cannot exceed NZ\$1,500.

The Broadcasting Act 1989 allows candidates to spend money on radio and television advertising that promotes a vote for themselves, but only up to their spending limit and only during a set election period. They cannot broadcast negative advertising. Eligible political parties are allocated an amount of public funding to pay for radio and television advertising based on certain criteria, and are also allocated free broadcasting time for opening and closing addresses. They cannot use their own funds to purchase additional broadcasting time.

I. Introduction

New Zealand has a mixed-member proportional voting system in which candidates from different parties stand for single-member electorates (i.e., electoral districts) and parties receive a total number of seats in Parliament based on their overall share of the nationwide party vote.¹ Therefore, voters have two votes in the general election: a candidate vote and a party vote. A party will be represented in Parliament if it either wins at least one electorate seat or receives more than 5% of the party votes. Members are taken from a party list to make up the party's share of the seats in Parliament.²

There are seventy-one electorates in the country, including seven electorates specifically for Māori candidates (the indigenous people of New Zealand).³ Currently, there are a total of 121

¹ See generally, KELLY BUCHANAN, LAW LIBRARY OF CONGRESS, NEW ZEALAND: GENERAL ELECTIONS (Nov. 2011), http://www.loc.gov/law/help/new_zealand_elections.php, archived at <https://perma.cc/MD4R-B2ZX>.

² *MMP Voting System*, ELECTORAL COMMISSION, <http://www.elections.org.nz/voting-system/mmp-voting-system> (last updated Oct. 20, 2014), archived at <https://perma.cc/3ZG8-U8QH>.

³ *MPs, Parties and Electorates*, NEW ZEALAND PARLIAMENT, <http://www.parliament.nz/en-nz/MPP> (last visited Feb. 29, 2016), archived at <https://perma.cc/7S6G-K674>.

seats in Parliament and seven parties are represented.⁴ The term of each Parliament is three years, although it may be dissolved at any time, resulting in an earlier election.⁵ Elections are not held on a date set by legislation; rather, the date is set by a “writ” issued by the Governor-General, acting on the advice of the Prime Minister.⁶ The writ is the formal direction to the Electoral Commission, which is responsible for the administration of elections, to hold an election.⁷

There are two major statutes containing rules related to campaign financing, spending on election advertising, and the allocation of time and money for campaign advertising on radio and television: the Electoral Act 1993⁸ and the Broadcasting Act 1989.⁹ The relevant provisions in the Electoral Act 1993 were most recently amended in 2010.¹⁰ This followed considerable controversy and debate relating to campaign finance rules and their application in the preceding years, with the previous government enacting major reforms through legislation passed in 2008.¹¹ Those reforms were subsequently repealed and replaced by the current government.¹²

II. Limits on Spending and Donations

A. Spending Limits

Campaign spending related to election advertising¹³ is subject to restrictions and reporting requirements during a “regulated period,” which is defined in the Electoral Act 1993 as starting

⁴ *Parliamentary Parties*, NEW ZEALAND PARLIAMENT, <http://www.parliament.nz/en-nz/mpp/parties> (last visited Feb. 29, 2016), archived at <https://perma.cc/9WED-3LVJ>.

⁵ Constitution Act 1986, s 17, <http://www.legislation.govt.nz/act/public/1986/0114/latest/whole.html>, archived at <https://perma.cc/6939-GKV6>.

⁶ See OFFICE OF THE CLERK OF THE HOUSE OF REPRESENTATIVES, PARLIAMENT AND THE GENERAL ELECTION (Aug. 2014), <http://www.clerk.parliament.govt.nz/resource/en-nz/00HOOCPubResAboutFactSheetsElection1/0be87c971ca77c1583565ac08fd0eb20742f7fc0>, archived at <https://perma.cc/H9XK-YY53>.

⁷ *Writ Day*, NEW ZEALAND PARLIAMENT (Aug. 20, 2014), <http://www.clerk.parliament.govt.nz/en-nz/features/00NZPHomeNews201408201/writ-day>, archived at <https://perma.cc/2SE3-8ETP>.

⁸ Electoral Act 1993, <http://www.legislation.govt.nz/act/public/1993/0087/latest/whole.html>, archived at <https://perma.cc/6Q4H-HAP4>.

⁹ Broadcasting Act 1989, <http://www.legislation.govt.nz/act/public/1989/0025/latest/whole.html>, archived at <https://perma.cc/73C4-93WJ>.

¹⁰ Electoral (Finance Reform and Advance Voting) Amendment Act 2010, <http://www.legislation.govt.nz/act/public/2010/0137/latest/whole.html>, archived at <https://perma.cc/4NQ6-H9V4>.

¹¹ Electoral Finance Act 2007, <http://www.legislation.govt.nz/act/public/2007/0111/latest/whole.html>, archived at <https://perma.cc/33RP-URW2>, repealed by Electoral Amendment Act 2009, § 15, <http://www.legislation.govt.nz/act/public/2009/0001/latest/whole.html>, archived at <https://perma.cc/ZA98-NQH9>.

¹² See Press Release, Simon Power, Parliament Passes New Electoral Finance Laws (Dec. 15, 2010), <https://www.beehive.govt.nz/release/parliament-passes-new-electoral-finance-laws>, archived at <https://perma.cc/X9LU-8TWG>.

¹³ “Election advertisement” is defined in section 3A(1)(a) of the Electoral Act 1993, and candidate and party advertisements are defined in section 3(1). Electoral Commission guidance states that

on the later of the following days and ending on the day before the election is held: (i) the day after the date on which the Prime Minister gives public notice of the date of an election, or (ii) the day that is three months before the date of the election.¹⁴ Therefore, the maximum length of the regulated period is three months.

Part 6A of the Electoral Act 1993 sets out limits on spending on election advertising for both candidates and parties. These limits are adjusted each year based on inflation.¹⁵ The figures set out in this report are inclusive of goods and services tax, a 15% tax added to the price of most goods and services in New Zealand.¹⁶

Apportionment rules apply to expenses where election advertising comprises both a candidate advertisement and a party advertisement,¹⁷ is an advertisement for two or more parties¹⁸ or candidates,¹⁹ or was published both before and after the commencement of the regulated period.²⁰

It is an offense for a candidate or party to pay election expenses in excess of the prescribed maximum amounts set out in the legislation.²¹

1. Candidate Spending Limit

Under the Electoral Act 1993, the “total election expenses of a candidate in respect of any regulated period” must not currently exceed NZ\$26,100 (about US\$17,240) where he or she is a

[e]lection advertisement is defined as an advertisement in **any medium** that may reasonably be regarded as encouraging or persuading voters to vote or not vote:

- for a candidate or party, or
- a type of party or candidate described or indicated by reference to views or positions that are, or are not, held or taken (for example, vote for parties that support lowering the drinking age).

Guidance for MPs – Election Advertising Rules: Definition of ‘Election Advertisement’, ELECTORAL COMMISSION, <http://www.elections.org.nz/guidance-mps-election-advertising-rules/definition-election-advertisement> (emphasis in original) (last updated May 9, 2014), archived at <https://perma.cc/S2QE-YHR7>.

¹⁴ Electoral Act 1993, s 3B(2).

¹⁵ *Id.* s 266A. See Electoral (Expenditure Limit) Order (No 2) 2015, <http://www.legislation.govt.nz/regulation/public/2015/0266/latest/DLM6638801.html>, archived at <https://perma.cc/K885-9BL5>.

¹⁶ *About GST*, INLAND REVENUE, <http://www.ird.govt.nz/gst/gst-registering/gst-about/> (last updated Feb. 16, 2016), archived at <https://perma.cc/Q6Z2-6LPT>.

¹⁷ Electoral Act 1993, ss 205EA & 206CC.

¹⁸ *Id.* s 206CB.

¹⁹ *Id.* s 205E.

²⁰ *Id.* ss 205D & 206CA. See *Guidance for MPs – Election Advertising Rules: Apportionment of Election Expenses*, ELECTORAL COMMISSION, <http://www.elections.org.nz/guidance-mps-election-advertising-rules/apportionment-election-expenses> (last updated May 9, 2014), archived at <https://perma.cc/J69V-Y4JT>.

²¹ Electoral Act 1993, ss 205F & 206D.

candidate in a general election.²² A limit of NZ\$52,200 applies where a candidate stands in a by election.²³

2. Party Spending Limit

Where a party is listed on the ballot paper that relates to the party vote, its total election expenses during the regulated period must not currently exceed NZ\$1,111,000 (about US\$734,300). An additional NZ\$26,100 can be spent for each electorate contested by a candidate for the party.²⁴ Therefore, the maximum that a party can spend (if it has candidates in all electorates) is NZ\$2,964,100 (about US\$1,959,000).

3. Spending Limit for “Registered Promoters”

Separate from parties and candidates, a New Zealand-based person, group, or company²⁵ that incurs expenses with respect to election advertisements above a threshold of NZ\$12,600²⁶ must register with the Electoral Commission as a “registered promoter.”²⁷ The total election expenses of a registered promoter during a regulated period currently must not exceed NZ\$313,000 (about US\$207,000).²⁸ It is an offense to spend more than this amount.²⁹

B. Limits on Donations

There is no maximum limit on the amount of donations or value of contributions that an identified New Zealand-based person or company can make to a candidate or party.³⁰ Instead,

²² *Id.* s 205C(1)(a). According to section 205 of the Act, the “election expenses” of candidates refers to “the advertising expenses incurred in relation to a candidate advertisement” that

- (i) is published, or continues to be published, during the regulated period; and
- (ii) is promoted by—
 - (A) the candidate; or
 - (B) any person (including a registered promoter) authorised by the candidate;

“Advertising expenses” are further defined in section 3E of the Electoral Act 1993. “Candidate advertisement” is defined in section 3(1).

²³ *Id.* s 205C(1)(b).

²⁴ *Id.* s 206C. The definition of “election expenses” in relation to a party is similar to that for a candidate, set out in note 22, *supra*. *Id.* s 206.

²⁵ *See id.* s 204K (stating who is eligible to register as a registered promoter). An overseas entity can be an “unregistered promoter” and spend up to the threshold amount.

²⁶ *Id.* s 204B.

²⁷ *Id.* s 204K.

²⁸ *Id.* s 206V.

²⁹ *Id.* s 206X.

³⁰ *See id.* s 207K(1), which defines an “overseas person” as

- (a) an individual who—
 - (i) resides outside New Zealand; and

there is a threshold above which a donation from such a person (either on its own or in aggregate) must be reported by a candidate or party in the annual returns that they submit to the Electoral Commission, being NZ\$1,500 (about US\$990) for donations to candidates³¹ and NZ\$15,000 for donations to parties.³²

However, an anonymous donation or an overseas donation or contribution to either a candidate or party cannot exceed NZ\$1,500. A candidate or party that receives an anonymous donation above this amount must pay the excess amount to the Electoral Commission, which deposits it into the government account.³³ The excess amount of an overseas donation must be returned to the donor, if possible, or paid to the Electoral Commission.³⁴

The legislation does provide a mechanism for essentially anonymous donations to be made to a candidate or party in excess of the \$1,500 limit. Such donations are paid directly to the Electoral Commission, with the identity of the donor disclosed, which then transmits them to the relevant candidate or party without disclosing the identity of the donor.³⁵ Limits apply to the total amount of donations that a party can receive in this way and to the amount of donations from a single donor during the three years between elections.³⁶

III. Broadcasting Restrictions and Allocations

Part 6 of the Broadcasting Act 1989 relates to the broadcasting, over television or radio, of “parliamentary election programmes.”³⁷ A different “election period,” as opposed to the regulated period referred to above, applies with respect to the relevant provisions in this Act,

-
- (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.

³¹ *Id.* s 209(1)(a).

³² *Id.* s 210(1)(a).

³³ *Id.* s 207I.

³⁴ *Id.* s 207K.

³⁵ *Id.* s 208A.

³⁶ *Id.* s 208B.

³⁷ An “election programme” is defined by section 69(1) of the Broadcasting Act 1989 as a program that

- (a) encourages or persuades or appears to encourage or persuade voters to vote for a political party or the election of any person at an election; or
- (b) encourages or persuades or appears to encourage or persuade voters not to vote for a political party or the election of any person at an election; or
- (c) advocates support for a candidate or for a political party; or
- (d) opposes a candidate or a political party; or
- (e) notifies meetings held or to be held in connection with an election.

“Programme” is further defined in section 2(1) of the Act.

being the period beginning with the day that the election writ is issued by the Governor-General and ending the day before the election.³⁸

A. Restrictions on Broadcasting Election Programs

The Act specifies that “no broadcaster shall permit the broadcasting, within or outside an election period, of an election programme,” except as provided for in the Act.³⁹ The Act explicitly allows broadcasting of the following:

- (a) an opening address or closing address that is broadcast—
 - (i) for a political party or group of related political parties; and
 - (ii) by TVNZ [Television New Zealand] or RNZ [Radio New Zealand] during time allocated to that political party or group of related political parties under section 73(1); or
- (b) an election programme broadcast for a political party or group of related political parties and paid for with money allocated to that political party or group of related political parties under section 74A; or
- (c) an election programme—
 - (i) broadcast for a fee or other consideration; and
 - (ii) relating solely to 1 named constituency candidate at an election; and
 - (iii) used or appearing to be used to promote or procure the election of the candidate; and
 - (iv) broadcast by the candidate or with the candidate’s authority within the election period; or
- (d) any advertisement placed by the Electoral Commission, a Registrar of Electors, a Returning Officer, or other official for the purposes of the Electoral Act 1993; or
- (e) any non-partisan advertisement broadcast, as a community service, by the broadcaster.⁴⁰

Therefore, individual candidates are able to pay for their own election advertising on radio and television during the election period, although the spending limits referred to in Part II, above, apply. They cannot broadcast negative advertising or advertising that advocates for the party vote.⁴¹ Their party may fund the advertising from any broadcasting funding allocation that it receives, as discussed below.⁴²

³⁸ Broadcasting Act 1989, s 69(1).

³⁹ *Id.* s 70(1).

⁴⁰ *Id.* s 70(2).

⁴¹ *Broadcasting*, ELECTORAL COMMISSION, <http://www.elections.org.nz/parties-candidates/broadcasting> (last updated Oct. 16, 2014), archived at <https://perma.cc/3USQ-NV4E>; *Guidance for MPs – Election Advertising Rules: Broadcasting*, ELECTORAL COMMISSION, <http://www.elections.org.nz/guidance-mps-election-advertising-rules/broadcasting> (last updated May 9, 2014), archived at <https://perma.cc/Z9BB-8THW>.

⁴² *Broadcasting*, *supra* note 41.

Groups or individuals that are not political parties or candidates cannot run broadcast advertising related to an election unless the advertising “does not advocate for or against identifiable parties or candidates.”⁴³

B. Free Broadcasting Time for Opening and Closing Addresses

The broadcasting of opening and closing addresses of parties, referred to in the above provision, is subject to various provisions in the Act.⁴⁴ The broadcasting time must be provided free of charge by the two public broadcasters,⁴⁵ and the relevant production costs are funded by the Electoral Commission using public money.⁴⁶ The Electoral Commission is responsible for determining how much of the available broadcasting time is allocated to each political party for such addresses, based on the same criteria used for allocating broadcasting funding, set out below.⁴⁷

C. Broadcasting Funding Allocation

For each election period, the Electoral Commission allocates an amount of public funding to eligible parties “for the purpose of enabling [them] to meet all or part of the costs of broadcasting election programmes during that election period.”⁴⁸ The money allocated to a party can only be used for the purpose of meeting the production costs of any election program broadcast during the election period, or the cost of broadcasting time for such programs.⁴⁹ Parties “cannot use their own funds to purchase additional broadcasting time. They can use their own funds for production costs within their election expenditure limits.”⁵⁰

The following criteria must be considered by the Electoral Commission in determining the allocation of money to a party, and of the time available for opening and closing addresses:

- (a) the number of persons who voted at the immediately preceding general election for that party and for candidates belonging to that political party; and
- (b) the number of persons who voted at any by-election held since the immediately preceding general election for any candidate belonging to that political party; and

⁴³ *Id.* See also *Third Party Handbook: Part 3 – Election Campaigning by Third Parties*, ELECTORAL COMMISSION, <http://www.elections.org.nz/third-party-handbook/part-3-election-campaigning-third-parties> (last updated Apr. 29, 2014), archived at <https://perma.cc/B4JS-M8VP>.

⁴⁴ Broadcasting Act 1989, ss 71–73, 77 & 77A.

⁴⁵ *Id.* s 71.

⁴⁶ *Id.* s 77A(5) & (6).

⁴⁷ *Id.* ss 73 & 75.

⁴⁸ *Id.* s 74A(1). See also *Broadcasting Allocations*, ELECTORAL COMMISSION, <http://www.elections.org.nz/parties-candidates/broadcasting/broadcasting-allocations> (last updated June 19, 2014), archived at <https://perma.cc/HYR4-JUDZ>.

⁴⁹ Broadcasting Act 1989, s 74B(1).

⁵⁰ *Party Secretary Handbook: Part 1 – Broadcasting Allocation*, ELECTORAL COMMISSION, <http://www.elections.org.nz/party-secretary-handbook/part-1-broadcasting-allocation> (last updated May 14, 2014), archived at <https://perma.cc/9X5L-YGUD>.

- (c) the number of members of Parliament who were members of that political party immediately before the dissolution or expiration of Parliament; and
- (d) any relationships that exist between a political party and any other political party; and
- (e) any other indications of public support for that political party such as the results of public opinion polls and the number of persons who are members of that political party; and
- (f) the need to provide a fair opportunity for each political party to which subsection (1) applies to convey its policies to the public by the broadcasting of election programmes on television.⁵¹

D. 2014 Allocation of Broadcasting Time and Money

For the most recent election, held in September 2014, a total of sixty broadcasting minutes was made available for opening addresses and the same amount of time for closing addresses. Of this time, the National Party (which had gained the most votes in the previous election) received fifteen minutes and thirty seconds for its opening address and sixteen minutes fifteen seconds for its closing address. The other major party, the Labour Party, received thirteen minutes and thirty seconds and fourteen minutes ten seconds, respectively.⁵²

The total amount of broadcasting allocation money appropriated by Parliament in 2014 was NZ\$3,283,250 (about US\$2,171,000). This was the same amount as was allocated in the previous three elections. Of this amount, the National Party received NZ\$1,076,229 (about US\$711,800) and the Labour Party received NZ\$939,565 (about US\$621,400). Fifteen other parties were also allocated funding, only three of which received more than NZ\$100,000.⁵³

⁵¹ Broadcasting Act 1989, s 75(2).

⁵² *Broadcasting Allocation 2014 General Election*, ELECTORAL COMMISSION, <http://www.elections.org.nz/events/2014-general-election/2014-parties-candidates-and-third-parties/broadcasting-allocation-2014> (last updated Aug. 29, 2014), archived at <https://perma.cc/9PNC-AF7A>.

⁵³ *Id.*

United Kingdom

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SUMMARY Legislation to prevent excessive spending by electoral candidates in the United Kingdom has been in place since 1883. The UK's system of regulating campaign financing focuses on limiting the expenditure of political parties and individual candidates, rather than limits on donations that can be received by these parties and individuals, combined with a transparent reporting system of donations received and election expenditure incurred. Spending limits are imposed on parties, individual candidates, and third parties. Donations above a certain amount must be reported. Political parties receive a certain amount of broadcasting time on national television and radio free of charge.

I. Introduction

Legislation to prevent excessive spending by electoral candidates in the UK has been in place since the Corrupt and Illegal Practices Prevention Act 1883.¹ The current law regarding campaign financing in the UK is contained in the Representation of the People Act 1983;² the Political Parties, Elections and Referendums Act 2000;³ and the Political Parties and Elections Act 2009.⁴ The UK's system of regulating campaign financing focuses on limiting the expenditure of political parties and individual candidates, rather than limiting the donations that can be received by these parties and individuals.

II. Limits on Spending and Donations

A. Spending Limits

There are three types of distinguishable regulated expenditures during a general election:

- “Campaign expenditure” incurred to promote a party or its policies in general (see Part II(A)(1))
- “Election expenditure” incurred on promoting a specific candidate (see Part II(A)(2))
- “Controlled expenditure” incurred by registered third parties to promote parties or candidates (see Part II(A)(3))

¹ Corrupt and Illegal Practices Prevention Act 1883, 46 & 47 Vict. c. 51.

² Representation of the People Act 1983, c. 2, <http://www.legislation.gov.uk/ukpga/1983/2>, archived at <https://perma.cc/PZW4-R7WT>.

³ Political Parties, Elections and Referendums Act 2000, c. 41, <http://www.legislation.gov.uk/ukpga/2000/41>, archived at <https://perma.cc/CL4C-FEY8>.

⁴ Political Parties and Elections Act 2009, c. 12, <http://www.legislation.gov.uk/ukpga/2009/12>, archived at <https://perma.cc/E4HK-BRP8>.

1. Party Spending Limits

The Political Parties, Elections and Referendums Act 2000 subjects political parties to campaign spending limits (known as “campaign expenditure”) one year prior to a general election.⁵ The definition of campaign expenditure for political parties extends to “party political broadcasts, advertising, unsolicited material to electors, manifesto or other policy documents, market research and canvassing, media/publicity, transport, rallies or other events.”⁶ The law requires that any notional expenditure (incurred when another person pays the cost that the political party would have otherwise had to pay) be counted as a campaign expenditure incurred by the party.⁷

The limit on campaign expenditures by a party in a parliamentary general election is either a set amount in each part of the UK (£810,000 (about US\$1.16 million) in England, £120,000 (about US\$172,000) in Scotland, £60,000 (about US\$86,000) in Wales), or £30,000 (about US\$43,000) multiplied by the number of constituencies (seats) contested by the party in that part of the UK, whichever is greater.⁸ In Northern Ireland the limit is simply £30,000 multiplied by the number of constituencies contested by the party.⁹ Different limits apply to elections for the European Parliament, the Scottish Parliament, the National Assembly for Wales, and the Northern Ireland Assembly, and when elections overlap.¹⁰

In the 2015 general election the campaign expenditures were £15.58 million (approximately US\$22 million) for the Conservative Party, £12 million (about US\$17 million) for the Labour Party, and £3.5 million (about US\$5 million) for the Liberal Democrats.¹¹

2. Candidate Spending Limits

Spending by individual candidates on their election expenses is generally excluded from the definition of campaign expenditure in the Political Parties, Elections and Referendums Act 2000¹² and is regulated instead through the Representation of People Act 1983, as amended by

⁵ ELECTORAL COMMISSION, UK PARLIAMENTARY GENERAL ELECTION 2015, GUIDANCE FOR CANDIDATES AND AGENTS, PART 3 OF 6 – SPENDING AND DONATIONS 14, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0004/173074/UKPGE-Part-3-Spending-and-donations.pdf (last visited Mar. 4, 2016), archived at <https://perma.cc/4287-NULU>; Political Parties, Elections and Referendums Act 2000, c. 41, § 72 & sched. 9.

⁶ Political Parties, Elections and Referendums Act 2000, c. 41, sched. 8.

⁷ *Id.* § 73.

⁸ *Id.* sched. 9, § 3(2) & (3). For example, if the party in question contested only one constituency in Wales, its limit would be £60,000, while if the party contested three constituencies in Wales, its limit would be £30,000 multiplied by three, or £90,000.

⁹ *Id.* sched. 9, § 3(4).

¹⁰ *Id.*, sched. 9, §§ 4–11.

¹¹ Matt Cardy, *General Election 2015 Explained: Who Finances The Parties, Who Gets The Most – And How Much Does The Campaign Cost?*, INDEPENDENT (London) (Apr. 17, 2015), <http://www.independent.co.uk/news/uk/politics/generalelection/general-election-2015-explained-who-finances-the-parties-who-gets-the-most-and-how-much-does-the-10186008.html>, archived at <https://perma.cc/8J9Z-KU6Y>.

¹² Political Parties, Elections and Referendums Act 2000, c. 41, § 72(7).

the Political Parties, Elections and Referendums Act 2000 and the Political Parties and Elections Act 2009.

Under those statutes, candidates for elections have spending limits that they cannot exceed (known as “election expenditure”), and they may not incur personal election expenses of more than £600 (about US\$850).¹³ These limits are set through secondary legislation by the Secretary of State and may be changed only when the Secretary of State “considers that the variation is expedient in consequence of changes in the value of money” or upon the recommendation of the Electoral Commission.¹⁴

Prior to 2009, the law allowed electoral candidates to spend large amounts in the period prior to becoming a candidate. The Political Parties and Elections Act 2009 amended the law to provide for a “pre-candidacy” period and short campaign period during which spending would be controlled. Under the provisions of this Act the pre-candidacy period, also known as the “long campaign” period, begins fifty-five months from the day Parliament first met.¹⁵ The “short campaign” period begins when an individual officially becomes a candidate. The earliest date that a person can officially become a candidate is the day that Parliament is dissolved, which generally occurs twenty-five working days before polling day.¹⁶ In 2015, for example, Parliament was dissolved on March 30, 2015, and polling day was May 7, 2015.¹⁷

The spending limits vary for the “long campaign” and “short campaign.” In the 2015 election, the long campaign began on December 19, 2014, and ran until March 30, 2015, when the short campaign commenced and more stringent spending restrictions came into force.¹⁸ For the long campaign period of the 2015 general election, the limits on candidate spending were £30,700 (approximately US\$43,700) plus 9 pence (p) per voter in rural constituencies and 6p per voter in borough seats.¹⁹ During the short campaign period, these limits were drastically reduced to £8,700 (approximately US\$12,380) plus 9p per voter in the rural constituencies and 6p per voter in borough seats.²⁰

¹³ The limits are currently set by Order under the Representation of the People Act 1983, c. 2, §§ 76–76A.

¹⁴ Representation of the People Act 1983, c. 2, § 76A. *See, e.g.*, Representation of the People (Variation of Limits of Candidates’ Election Expenses) Order 2005, S.I. 2005/269, <http://www.legislation.gov.uk/ukSI/2005/269/made>, archived at <https://perma.cc/7J33-PBXS>.

¹⁵ Representation of the People Act 1983, c. 2, § 76ZA.

¹⁶ ELECTORAL COMMISSION, *supra* note 5, at 6.

¹⁷ THE ELECTORAL COMMISSION, RETURN OF CANDIDATE SPENDING: UK PARLIAMENTARY GENERAL ELECTION (SHORT CAMPAIGN) GB, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/181896/Explanatory-notes-return-candidate-spending-donations-Short-UKPGE-GB.pdf (last visited Mar. 2, 2016), archived at <https://perma.cc/XHT5-4ZX5>.

¹⁸ *2015 Election Campaign Officially Begins on Friday*, BBC NEWS (Dec. 18, 2014), <http://www.bbc.com/news/uk-politics-30477250>, archived at <https://perma.cc/JR96-2RYC>.

¹⁹ Representation of the People Act 1983, c. 2, § 76ZA (*amended by* Representation of the People (Variation of Limits of Candidates’ Election Expenses) Order 2014, SI 2014/1870, <http://www.legislation.gov.uk/ukSI/2014/1870/introduction/made>, archived at <https://perma.cc/5EGM-UWNW>).

²⁰ *Id.*

For the 2015 general election, candidates collectively spent approximately £14 million (approximately US\$19.9 million).²¹

3. *Third-Party Spending Limits*

Individuals or groups that do not stand in an election but aim to promote or disparage electoral candidates are also subject to controls and restrictions on the campaigning that they can do. They may incur expenditure (referred to as “controlled expenditure”²²) by holding public meetings or organizing public displays, or by issuing advertisements, circulars, or publications. They can spend up to £500 (approximately US\$700) in a general election to promote or disparage a particular candidate’s electoral prospects if they do so independently and without the candidate’s prior knowledge.²³

Third parties (also referred to as “non-party campaigners”²⁴) may register with the Electoral Commission to be “recognised third parties.” Recognized third parties may make controlled expenditures promoting one party or opposing another in general parliamentary elections totaling £319,800 (about US\$456,000) in England, £55,400 (about US\$79,000) in Scotland, £44,000 (about US\$63,000) in Wales, and £30,800 (about US\$44,000) in Northern Ireland in the 365 days before the election.²⁵ For third parties who have not registered, the limit of expenditure permitted is £20,000 (about US\$28,000) in England and £10,000 (about US\$14,000) in Scotland, Wales, and Northern Ireland.²⁶ There is also a maximum campaign limit of £9,750 (about US\$14,000) per constituency, and any third party that incurs expenditure greater than that amount commits an offense.²⁷ Recognized third parties must complete a return that specifies all controlled expenditure that was incurred during the relevant period.²⁸

For the 2015 general election, around £3 million (approximately US\$4.27) was spent by registered third parties.²⁹

²¹ Cardy, *supra* note 11.

²² “Controlled expenditure” is defined in section 85 of the Political Parties Elections and Referendums Act 2000 as “expenses incurred by or on behalf of the third party in connection with the production or publication of election material which is made available to the public at large or any section of the public (in whatever form and by whatever means).”

²³ Political Parties, Elections and Referendums Act 2000, c. 41, pt. VI.

²⁴ *Non-Party Campaigners*, ELECTORAL COMMISSION, <http://www.electoralcommission.org.uk/i-am-a/party-or-campaigner/non-party-campaigners> (last visited Mar. 8, 2016), archived at <https://perma.cc/Z7V6-2PBY>.

²⁵ ELECTORAL COMMISSION, UK PARLIAMENTARY GENERAL ELECTION 2015: CAMPAIGN SPENDING REPORT ¶¶ 2.18, 2.19 (Feb. 2016), http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/197907/UKPGE-Spending-Report-2015.pdf, archived at <https://perma.cc/83VH-6YXV>. Only individual residents in the UK, registered UK overseas electors, a registered party, or a permissible donor within the Political Parties Elections and Referendums Act 2000 may give notification to the Electoral Committee and become a recognized third party. Political Parties, Elections and Referendums Act 2000, c. 41, §§ 88–95.

²⁶ Political Parties, Elections and Referendums Act 2000, c. 41, § 94.

²⁷ *Id.*

²⁸ *Id.* §§ 96–100.

²⁹ Cardy, *supra* note 11.

B. Limits on Donations

1. Limits on Donations to Parties

There are no limits on the amount of donations that political parties may receive; however, there are laws that govern who may be a donor, as well as limits, noted above, on spending by political parties on campaign expenditure. The aim of the law is to regulate donations to political parties through transparency, as political parties must make their finances public.³⁰

Political parties may accept donations above £200 (about US\$280) only from “permissible donors.”³¹ Donations are defined in the Political Parties, Elections and Referendums Act 2000 to include “gifts of money and property; subscriptions and affiliation fees; sponsorship; money spent on behalf of a party; the provision of property, services, or facilities; or the lending of money other than at commercial rates.”³² A “permissible donor” is defined to include an individual registered on a UK electoral register, a UK-registered political party, a UK-registered company, a UK-registered trade union, a UK-registered building society, a UK-registered limited liability partnership, or a UK-based unincorporated association.³³ Additionally, only individuals who are resident, ordinarily resident, and domiciled in the UK for the purposes of income tax may make donations of over £7,500 (about US\$10,700).³⁴

Until the Electoral Administration Act 2006,³⁵ donors to political parties were legally obliged to report their donations to the Electoral Commission by January 31 of the year after the donation was made if they donated more than £7,500.³⁶ The Electoral Administration Act 2006 repealed the applicable section of the Political Parties, Elections and Referendums Act 2000 because “in practice this provision has been of little use.”³⁷ In addition, under the Political Parties and Elections Act 2009, donors that provide over £7,500 to a political party must make a written declaration to the Party, including their full name and address, and an acknowledgement that they are resident, ordinarily resident, and domiciled in the UK for income tax purposes; that they are the person providing the donation; and that they have not received a benefit from anyone in return for making the donation.³⁸ This requirement is aimed at ensuring that the person donating the money is the true donor, and not acting on anyone’s behalf.³⁹ It is an offense for the person

³⁰ Political Parties, Elections and Referendums Act 2000, c. 41, §§ 80–84.

³¹ *Id.* § 54.

³² *Id.* § 50.

³³ *Id.* § 54.

³⁴ *Id.* § 52(2ZA).

³⁵ Electoral Administration Act 2006, c. 22, <http://www.legislation.gov.uk/ukpga/2006/22/contents>, archived at <https://perma.cc/D6L2-QUZD>.

³⁶ Political Parties, Elections and Referendums Act 2000, c. 41, § 68.

³⁷ Electoral Administration Act 2006, c. 22, Explanatory Notes, § 57, ¶ 303.

³⁸ Political Parties, Elections and Referendums Act 2000, c. 41, § 54A, as amended by the Political Parties and Elections Act 2009, c. 12.

³⁹ Political Parties and Elections Act 2009, c. 12, Explanatory Notes, § 9, ¶ 34.

to knowingly provide false information on the declaration, as well as for the party to receive such a donation without a declaration.⁴⁰

Foreign donors, other than registered British electors living abroad, are not considered to be permissible donors. If a donation is received from a donor that does not fall into these categories, the political party must return the donation or, if the donor cannot be identified, return the money to the Electoral Commission.⁴¹ If the Electoral Commission believes that a political party has received a donation from a nonpermissible source, they may seek a forfeiture order in court for the value of the donation.⁴²

Donations over £7,500 to the main political party offices, or over £1,500 (about US\$2,100) to constituency or local party offices, must be reported to the Electoral Commission. These reports must be made on a quarterly basis, and every week during a general election campaign.⁴³ Loans must be reported in the same way as donations.⁴⁴

2. *Limits on Donations to Candidates*

There are no limits on the donations that electoral candidates may receive during the regulated period before an election, other than that, similar to political parties, donations over £50 (about US\$70) must come from permissible donors, who are UK-based sources.⁴⁵ Members of registered political parties or holders of elected offices are known as “regulated donees,” and donations that they may accept outside the regulated period are also regulated. These individuals may accept donations or loans over the amount of £500 (about US\$700) only from permissible donors.⁴⁶ Donations or loans larger than £1500 from one source must be reported to the Electoral Commission.⁴⁷

⁴⁰ Political Parties, Elections and Referendums Act 2000, c. 41, § 54A, *as amended by* the Political Parties and Elections Act 2009, c. 12.

⁴¹ *Id.* §§ 56–57.

⁴² *Id.* § 58.

⁴³ *Id.* §§ 62–63. The form for reporting donations is available on the Electoral Commission’s website, *at* http://www.electoralcommission.org.uk/data/assets/electoral_commission_pdf_file/0016/13507/form-rd1a-rd.pdf, *archived at* <https://perma.cc/8Q2Y-VHCO>.

⁴⁴ Political Parties, Elections and Referendums Act 2000, c. 41, pt. 4A, *as amended by* the Electoral Administration Act 2006, c. 22.

⁴⁵ Representation of the People Act 1983, c. 2, sched. 2A.

⁴⁶ Political Parties, Elections and Referendums Act 2000, c. 41, sched. 7.

⁴⁷ *Id.*

III. Allocation of Free Broadcasting Time

Political parties receive a certain amount of broadcasting time on national television and radio free of charge.⁴⁸ The formula for the allocation, length, and frequency of party political broadcasts is determined by the independent communications regulator Ofcom (Office of Communications) for commercial broadcasters with public service obligations.⁴⁹ Ofcom's rules provide that major parties can receive at least two free broadcasts, the length of which are determined by Ofcom, taking into account "the circumstances of a particular election, the nation in which it is held, and the individual party's past electoral support and/or current support in that nation."⁵⁰ The British Broadcasting Corporation is not regulated in this respect by Ofcom, but its charter agreement contains a provision that it will carry party political broadcasts.⁵¹

⁴⁸ Communications Act 2003, c. 21, § 333, <http://www.legislation.gov.uk/ukpga/2003/21>, archived at <https://perma.cc/4HGY-TGU7>.

⁴⁹ *Id.* The current rules are available at *Ofcom Rules on Party Political and Referendum Broadcasts*, OFCOM (Mar. 21, 2013), <http://stakeholders.ofcom.org.uk/broadcasting/guidance/programme-guidance/ppbrules>, archived at <https://perma.cc/9NP4-VKSJ>. Guidance to assist broadcasters on how Ofcom usually interprets and applies the Broadcasting Code and its rules is found in *Ofcom Guidance Notes, Section 6: Elections and Referendums*, OFCOM (Mar. 21, 2013), <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section6.pdf>, archived at <https://perma.cc/893R-22KD>.

⁵⁰ *Ofcom Rules on Party Political and Referendum Broadcasts*, *supra* note 49, ¶ 13.

⁵¹ DEPARTMENT FOR CULTURE, MEDIA AND SPORT, BROADCASTING: AN AGREEMENT BETWEEN HER MAJESTY'S SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT AND THE BRITISH BROADCASTING CORPORATION, 2005–6, Cm. 6872, at 23, http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/agreement.pdf, archived at <https://perma.cc/EX7W-QXBR>.