

**Version
as at 19 September 2013**

Electoral Amendment (Social Media Advertising) Act 2013

Public Act 2013 No 36
Date of assent 30 August 2013
Commencement see section 2

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This Act is administered by the Ministry of Justice

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An Act to amend the Electoral Act 1986; to regulate the publication and promotion of electoral advertising on social media platforms; to ensure transparency in online political messaging; and to provide for the proper administration, oversight, and enforcement of digital electoral advertising in Square Country.

1 Short Title

This Act is the **Electoral Amendment (Social Media Advertising) Act 2013**.

2 Commencement

- (1) This Act comes into force on 1 September 2013.
- (2) Different provisions may be brought into force on different dates by Order in Council.

3 Purpose

The purposes of this Act are—

- (a) to regulate electoral advertising published on social media platforms;
- (b) to ensure transparency in the identification of promoters of online electoral content;
- (c) to impose obligations on platform operators to maintain public records of paid electoral advertisements;
- (d) to extend existing electoral advertising rules to digital environments.

4 Act binds the Crown

This Act binds the Crown in right of Square Country.

5 Interpretation

In this Act, unless the context otherwise requires—

“digital platform” means any internet-based service, application, or website that enables users to create, share, or view content, including social media platforms, video-sharing services, and messaging applications.

“platform operator” means any person or entity that owns, controls, or administers a digital platform on which social media advertising may be published.

“social media advertising” means any form of electoral advertising published, displayed, promoted, or disseminated on a digital platform, whether paid or unpaid, and includes sponsored posts, targeted advertisements, boosted content, and algorithmically distributed material.

Part 1

Regulation of Social Media Electoral Advertising

6 Application of this Act

- (1) This Act applies to all social media advertising published during the regulated election period.
- (2) This Act applies whether the advertising originates within Square Country or is directed at persons ordinarily resident in Square Country.

7 Relationship with Electoral Act 1986

- (1) This Act applies in addition to the Electoral Act 1986.
- (2) If any provision in this Act conflicts with the Electoral Act 1986, the Electoral Act prevails unless this Act expressly states otherwise.

8 Promoter identification requirements

- (1) Every item of social media advertising must clearly and prominently state—
 - (a) the name of the promoter; and
 - (b) a contact address within Square Country.
- (2) The promoter statement must be visible without requiring user interaction, except where the platform's technical format requires a secondary action, in which case the statement must be accessible with one click or tap.

9 Obligations of platform operators

- (1) A platform operator must take reasonable steps to ensure that social media advertising published on its platform during the regulated election period—
 - (a) contains a promoter statement in accordance with section 8; and
 - (b) is not published anonymously.
- (2) A platform operator must maintain a publicly accessible archive of all paid electoral advertisements published on its platform during the regulated election period.
- (3) The archive must include—
 - (a) the content of the advertisement;
 - (b) the name of the promoter;
 - (c) the dates of publication
 - (d) the total amount paid for publication;
 - (e) any demographic or geographic targeting parameters used.
- (4) The archive must remain publicly accessible for 4 years after polling day.

10 Targeting restrictions

- (1) A promoter must not use personal data for the purpose of micro-targeting social media advertising unless—
 - (a) the individual has given explicit consent; and
 - (b) the data was collected lawfully.

- (2) A platform operator must provide a mechanism enabling users to view the reason they were targeted with any electoral advertisement.

11 Prohibited conduct

A person must not—

- (a) publish social media advertising that falsely purports to originate from another person;
- (b) use automated accounts to artificially amplify electoral messages;
- (c) engage in coordinated inauthentic behaviour for the purpose of influencing electoral outcomes.

Part 2
Offences and Enforcement

12 Offences

A person commits an offence if the person contravenes section 8, 9, 10, or 11.

13 Penalties

A person convicted of an offence under this Act is liable to—

- (a) imprisonment for up to 12 months; or
- (b) a fine not exceeding £50,000; or
- (c) Both

14 Attempted offences

A person who attempts to commit an offense under this Act is liable as if the offence had been Completed.

Part 3
Regulations and Miscellaneous

15 Regulations

The Governor-General may, by Order in Council, make regulations prescribing—

- (a) technical standards for promoter statements on digital platforms;
- (b) requirements for the form and operation of advertisement archives
- (c) auditing and verification procedures;
- (d) any other matter necessary for the administration of this Act.

16 Protection of officials

No civil or criminal proceedings may be brought against the Commission or its officials for acts Done in good faith under this act.

17 Review of social media advertising rules

- (1) The Commission must review the operation of this Act after the first general election following its commencement.
- (2) The Commission must report to Parliament on—
 - (a) compliance and enforcement
 - (b) transparency and accessibility;
 - (c) recommended improvements.

SCHEDULE 1—CONSEQUENTIAL AMENDMENTS

1 Section 134

Section 134 of the Electoral Act 1986: after “online advertising”, insert “social media posts, videos, audio recordings, and livestreams, and text messages and emails”.

2 Section 145

Section 225 of the Electoral Act 1986: after “broadcasting”, insert “or digital publication”.

Notes

1 *General*

This is a consolidation of the Electoral Amendment (Social Media Advertising) Act 1986 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal Status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. The presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.