



HillStudies

In-depth reads on Canadian topics

THE CANADIAN ELECTORAL SYSTEM: QUESTIONS AND ANSWERS

Publication No. 2023-02-E

7 December 2022

Laurence Brosseau

Parliamentary Information, Education and Research Services

AUTHORSHIP

7 December 2022 Laurence Brosseau

Legal and Social Affairs Division

ABOUT THIS PUBLICATION

Library of Parliament HillStudies provide in-depth studies of policy issues. They feature historical background, current information and references, and often anticipate the emergence of the issues they examine. They are prepared by Parliamentary Information, Education and Research Services, which carries out research for and provides information and analysis to parliamentarians and Senate and House of Commons committees and parliamentary associations in an objective, impartial manner.

© Library of Parliament, Ottawa, Canada, 2023

The Canadian Electoral System: Questions and Answers
(HillStudies)

Publication No. 2023-02-E

Ce document est également publié en français.

CONTENTS

EXECUTIVE SUMMARY	
1	INTRODUCTION1
2	BODY OF LEGISLATION AND ELECTORAL SYSTEM.....1
2.1	What are the laws that govern federal elections and referendums?1
2.2	Is electoral legislation consistent across Canada?1
2.3	What is the current electoral system in Canada?1
3	ADMINISTRATION OF ELECTIONS2
3.1	What is the role of the Chief Electoral Officer and how long is their term?2
3.2	What is Elections Canada’s role?.....2
3.3	What is the role of returning officers and how long is their term?2
3.4	What are the roles of other election officers and how are they appointed?3
3.5	What is the role of the Commissioner of Canada Elections and how long is their term?4
4	CALLING AN ELECTION.....5
4.1	Who has the authority to call a federal election in Canada?5
4.2	When must federal general elections be held?5
4.3	How long is an election period?5
5	THE RIGHT TO VOTE5
5.1	Who can vote in Canadian federal elections?5
5.2	To what extent can Canadian citizens abroad vote in federal elections?6
6	ELECTOR REGISTRATION AND IDENTIFICATION6
6.1	What is the National Register of Electors?6
6.2	What is the Register of Future Electors?.....6
6.3	What identification is required to register for and vote in a Canadian general election?.....7

7	POLITICAL PARTIES	7
7.1	What role do political parties play in the Canadian electoral system?	7
7.2	What does registration of a political party entail and what are the benefits?	8
8	ELECTORAL CANDIDACY	9
8.1	What are the eligibility requirements for running in a federal election?	9
8.2	What is the nomination process for candidates?	9
8.3	How do registered political parties select their candidates?	10
9	ADVANCE POLL	10
9.1	Who can vote in advance?	10
10	ELECTION DAY	10
10.1	Is election day always on a Monday?	10
11	COMPILATION AND REPORTING OF ELECTION RESULTS	10
11.1	How are votes counted?	10
11.2	What can cause a ballot to be rejected?	11
11.3	What circumstances require a judicial recount?	11
12	CONTESTED ELECTIONS	11
12.1	Who can contest an election?	11
12.2	Can an election be annulled?	11
13	SELECTED ASPECTS OF CANADIAN ELECTION CAMPAIGNS	12
13.1	What rules govern voter contact calling services?	12
13.2	What rules govern election surveys?	12
13.3	Can federal public servants participate in elections?	13
13.4	Are there rules that govern the holding of meetings and rallies during an election period?	13
13.5	What constitutes an illegal or corrupt practice under the <i>Canada Elections Act</i> ?	13

EXECUTIVE SUMMARY

Canadian electoral law has grown in complexity and it continues to evolve. The administration of elections was haphazard and highly politicized in the early years after Confederation. Since then, two fundamental changes have been made to the Canadian electoral process. First is the creation of a non-partisan electoral system governed by very specific procedures and overseen by an independent election agency. Second, and more recently, is the regulation of political party campaigning, particularly its financial aspects.

In May 2000, Parliament enacted a new *Canada Elections Act* (CEA), which represented the first comprehensive overhaul of federal electoral law in almost 30 years. This review came in response to a number of electoral matters that have been the subject of court decisions in previous years. Since then, this legislation has been amended on several occasions, most notably:

- in 2003, when new provisions on election financing were introduced;
- in 2007, when voter identification rules were enacted, further changes were made to campaign financing rules and a fixed-date process was established for federal elections;
- in 2014, when numerous amendments were made with respect to the office of the Chief Electoral Officer, the office of the Commissioner of Canada Elections, communications with the electorate, voter identification, electoral campaign financing, provisions on prohibitions and enforcement of the CEA, among others; and
- in 2018, when certain amendments adopted in 2014 were rescinded, and new amendments were made to provisions that cover third party expenses, accessibility and participation in the electoral process, the modernization of voting services, the facilitation of enforcement, improvements to various aspects of election administration, and the protection of privacy and personal information, among others.

This paper provides an overview of the nature and functioning of the Canadian federal electoral system in a question-and-answer format. Since Canada is a federal state, each province has its own system for elections to its legislature, and the federal and provincial electoral processes are independent of each other.

THE CANADIAN ELECTORAL SYSTEM: QUESTIONS AND ANSWERS*

1 INTRODUCTION

This paper provides an overview of the nature and functioning of the Canadian electoral system at the federal level¹ in a question-and-answer format.

2 BODY OF LEGISLATION AND ELECTORAL SYSTEM

2.1 WHAT ARE THE LAWS THAT GOVERN FEDERAL ELECTIONS AND REFERENDUMS?

The main body of Canadian federal election law is contained in the *Canada Elections Act*² (CEA), but many other statutes – including the *Constitution Act, 1867*, the *Constitution Act, 1982*, the *Electoral Boundaries Readjustment Act*, the *Broadcasting Act*, the *Parliament of Canada Act*, the *Income Tax Act* and the *Criminal Code* – also contain provisions regarding or affecting the Canadian electoral process.

As for federal referendums, the *Referendum Act*³ is the main legislative instrument in this area. Only referendums related to the Constitution of Canada are covered by this Act.

2.2 IS ELECTORAL LEGISLATION CONSISTENT ACROSS CANADA?

For federal elections, the same standards apply across the country. However, since Canada is a federal state, the provinces and territories each have their own laws and systems for elections to provincial and territorial legislatures. The federal and provincial electoral processes are, therefore, independent of each other.

2.3 WHAT IS THE CURRENT ELECTORAL SYSTEM IN CANADA?

The Canadian electoral system uses the “first-past-the-post” or “single-member plurality” model. Voters can cast their ballot for only one candidate, and the one who gets the most votes in a constituency is the winner, without needing an absolute majority of the votes that were cast or that could have been cast.

3 ADMINISTRATION OF ELECTIONS

3.1 WHAT IS THE ROLE OF THE CHIEF ELECTORAL OFFICER AND HOW LONG IS THEIR TERM?

The Chief Electoral Officer (CEO) is responsible for administering the federal electoral process and federal referendums; this person is the head of Elections Canada. The position of CEO was created in 1920 with the *Dominion Elections Act*. In 1927, the law was amended so that the CEO would be appointed by resolution of the House of Commons, rather than by the government of the day, thus recognizing that the office needed to have the confidence of all political parties represented in the House.⁴

The current CEA provides for a non-renewable term of 10 years for the CEO.⁵ Their appointment may only be revoked for cause and only by the Governor General on address of the Senate and House of Commons.⁶ The CEO's salary, which is equal to that of a Federal Court judge, can be changed only by statute.⁷

3.2 WHAT IS ELECTIONS CANADA'S ROLE?

Elections Canada is the non-partisan, independent agency responsible for conducting federal general elections, by-elections and referendums. Elections Canada, under the CEO's direction, is responsible for the general management and oversight of the preparation and administration of federal elections and related reporting, and for administering the election expenses provisions of the CEA. Elections Canada also notifies the public about voter registration, and explains how voting works and how to become a candidate in a federal election.⁸

3.3 WHAT IS THE ROLE OF RETURNING OFFICERS AND HOW LONG IS THEIR TERM?

Returning officers (ROs) are election officers who administer an election in the electoral district in which they are appointed. There are currently 338 RO positions in Canada, one for each federal electoral district. ROs must be entirely impartial in performing their duties; the CEA prohibits returning officers from engaging in any partisan political activities while in office.⁹

ROs are appointed for a term of 10 years, which ends earlier if the person dies, resigns or ceases to reside in the electoral district in which they were appointed, or if they are removed from office for any of the reasons set out in the CEA.

The CEO may renew an RO's term after consulting with the leader of every recognized political party in the House of Commons.¹⁰

3.4 WHAT ARE THE ROLES OF OTHER ELECTION OFFICERS AND HOW ARE THEY APPOINTED?

Section 22 of the CEA provides for several other election officer positions, in addition to RO positions. Individuals representing a candidate at polling stations are not election officers. Table 1 outlines the role and method of appointment for each position.

Table 1 – Role of and Appointment Process for Election Officers (Excluding Returning Officers)

Position	Role	Appointment Process
Field liaison officer	<ul style="list-style-type: none"> ▪ Supports the returning officer (RO) in their duties. ▪ Acts as an intermediary between the RO and the office of the Chief Electoral Officer (CEO). ▪ Is in charge of a region composed of 10 to 14 electoral districts. ▪ Assists the CEO with the RO appointment process, as required. 	Appointment by the CEO.
Assistant returning officer (ARO)	<ul style="list-style-type: none"> ▪ Assists the RO in their duties. ▪ Replaces the RO in the RO's absence. 	Appointment by the RO for their electoral district.
Additional ARO	<ul style="list-style-type: none"> ▪ Performs the same duties as the ARO in the area of their appointment. 	Appointment by the RO for an area in their electoral district, with the approval of the CEO.
Person designated under the <i>Canada Elections Act</i> (CEA), section 28(3.1)	<ul style="list-style-type: none"> ▪ Acts in place of the RO if both the RO and ARO are absent during an election period or in the six months prior to an election. 	Appointment by the CEO.
Poll worker (person to whom the RO delegates powers under section 27 of the CEA)	<ul style="list-style-type: none"> ▪ Performs duties delegated by the RO. ▪ Several positions are covered under this designation, including: <ul style="list-style-type: none"> – deputy returning officers; – information officers; – registration officers; and – central poll supervisors. 	Recruitment by the RO of a given electoral district.

Position	Role	Appointment Process
Special voting rules administrator (SVRA)	<ul style="list-style-type: none"> ▪ Counts special votes. ▪ Supervises the counting of special ballots. 	Appointment by the CEO.
Special ballot officer (SBO)	<ul style="list-style-type: none"> ▪ Counts special ballots under the supervision of the SVRA. 	Appointment of six SBOs by the CEO on the recommendation of the Prime Minister (three SBOs), the Leader of the Opposition (two SBOs) and the leader of the registered party that had the third largest number of members in the last general election (one SBO). The CEO may appoint additional SBOs.
Liaison officer for correctional institution	<ul style="list-style-type: none"> ▪ Facilitates the registration and voting process in a Canadian correctional institution. ▪ Answers questions from electors about these processes. 	Appointment by the CEO, as designated by federal and provincial ministers responsible for correctional institutions.

Sources: Table prepared by the Library of Parliament using information obtained from [Canada Elections Act](#), S.C. 2000, c. 9; Elections Canada, [Employment](#); Elections Canada, [Field Liaison Officers](#); Elections Canada, [Assistant returning officer](#); and Elections Canada, [Poll Workers](#).

3.5 WHAT IS THE ROLE OF THE COMMISSIONER OF CANADA ELECTIONS AND HOW LONG IS THEIR TERM?

The Commissioner of Canada Elections is responsible for ensuring compliance with and enforcement of the CEA and the *Referendum Act*, which includes investigating and prosecuting violations of these two Acts. The Commissioner’s position comes under the responsibility of the office of the CEO.¹¹

The Commissioner is appointed by the CEO, after consultation with the Director of Public Prosecutions, to hold office during good behaviour for a non-renewable term of 10 years (but may be removed for cause).

A person is not eligible to be appointed as Commissioner if they are or have been:

- a candidate;
- an employee of a registered party or a person whose services have been engaged by the registered party to support its electoral or political financing activities; or
- a member of the staff referred to in any of sections 4(2)(a) to 4(2)(f) of the *Parliamentary Employment and Staff Relations Act* or a person referred to in section 4(2)(g) of that Act.¹²

4 CALLING AN ELECTION

4.1 WHO HAS THE AUTHORITY TO CALL A FEDERAL ELECTION IN CANADA?

Only the Governor General, who represents the King as head of state, has the power under the Constitution to dissolve Parliament. This is a prerogative of the Crown. The process is set in motion when the Prime Minister recommends that the Governor General dissolve Parliament and request that the CEO issue the writ of election.¹³

4.2 WHEN MUST FEDERAL GENERAL ELECTIONS BE HELD?

Under the *Constitution Act, 1867* and the *Constitution Act, 1982*, elections to the House of Commons must be held at most every five years,¹⁴ although they are traditionally held approximately every four years.

Since 2007, the CEA stipulates that a general election must be held on the third Monday of October in the fourth calendar year following polling day for the last general election, unless Parliament is dissolved earlier. However, this does not affect the powers of the Governor General, including the discretionary power to dissolve Parliament.¹⁵

4.3 HOW LONG IS AN ELECTION PERIOD?

The CEA specifies that polling day must be no earlier than the 36th day and no later than the 50th day after the day on which the writs were issued. In a federal election, the election period (or campaign period) can therefore last between 37 and 51 days.¹⁶

5 THE RIGHT TO VOTE

5.1 WHO CAN VOTE IN CANADIAN FEDERAL ELECTIONS?

The right to vote is set out in section 3 of the *Canadian Charter of Rights and Freedoms* (the Charter), which states: “Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.”¹⁷ This right has been interpreted in very broad terms by the Supreme Court of Canada, because it involves the right to effective representation and the right to play a meaningful role in the electoral process.¹⁸

The CEA specifies that an elector is any Canadian citizen who, on polling day, is 18 years of age or older. This ensures Canadian adults have a quasi-universal right to vote; the CEO is the only adult Canadian citizen who cannot vote in a federal election.¹⁹

5.2 TO WHAT EXTENT CAN CANADIAN CITIZENS ABROAD VOTE IN FEDERAL ELECTIONS?

From 1993 to 2019, Canadian citizens residing abroad were permitted to vote in federal elections if they had been absent from Canada for less than five years and planned to return to Canada.²⁰ These limitations were removed when the *Elections Modernization Act*²¹ came into force.

Shortly after this legislation was passed, but before it came into force, the Supreme Court found that the provisions of the CEA that prevented Canadian citizens from voting if they had been absent from Canada for more than five years infringed on their democratic right to vote, as guaranteed by section 3 of the Charter, and that this violation was not justified by section 1 of the Charter.²²

6 ELECTOR REGISTRATION AND IDENTIFICATION

6.1 WHAT IS THE NATIONAL REGISTER OF ELECTORS?

Until 1997, a door-to-door enumeration of voters was conducted within the first days after an election was called. That year, a permanent voters' list, called the National Register of Electors,²³ was established. The register is a database that contains the names of qualified voters, their mailing address, electoral district, gender and date of birth, and it is continually updated.

The National Register of Electors is used to produce the preliminary list of voters for federal elections, by-elections and referendums. This system also allows electoral lists to be shared among federal, provincial, territorial, municipal and school board jurisdictions, thereby reducing both duplication and costs.

A person is not required to be on the Register to exercise their right to vote, as long as they complete their registration on the list of electors before voting.

6.2 WHAT IS THE REGISTER OF FUTURE ELECTORS?

The Register of Future Electors²⁴ was created on 1 April 2019. Canadian citizens aged 14 to 17 can ask to be added to the Register of Future Electors; this makes it easier to add them to the National Register of Electors when they turn 18. Permission from a parent or guardian is not required in order to be added to the Register of Future Electors.

6.3 WHAT IDENTIFICATION IS REQUIRED TO REGISTER FOR AND VOTE IN A CANADIAN GENERAL ELECTION?

To ensure the proper rollout of the electoral process and to prevent electoral fraud, the CEA sets out identification requirements for confirming the identity of voters and their place of residence. These rules apply to both registration and voting. Under the CEA, electors have three options to prove their identity and address:

1. Provide one piece of photo identification issued by a Canadian government (federal, provincial, territorial or local) that contains their name and address;
2. Provide two pieces of identification with their name; at least one of these must include their address. The CEA authorizes the CEO to determine what types of identification are accepted. The Elections Canada website provides a list of pieces of identification accepted by the CEO, including the voter information card;²⁵ or
3. Establish their identity and address by means of a solemn declaration in writing. They must also be accompanied by someone who will vouch for them and who is on the list of electors for the same polling station. The person vouching, who can only do so for one person (with some exceptions), must establish their own identity according to one of the first two options, know the elector personally and confirm the elector's residence in a written solemn declaration.

Alternatively, a person may be eligible to vote or register to vote if the address shown on the pieces of identification provided does not establish the elector's residence (for example, the address is a post office box) but these pieces of identification are consistent with the person's elector information on the list of electors. The residence of the voter is deemed to have been proven by this means.²⁶

The adoption of the *Elections Modernization Act*²⁷ in 2018 amended the CEA to allow anyone working in a long-term care institution to vouch for someone residing there, even if their residence is in another polling division or an adjacent electoral district. The number of people living in a long-term care institution for whom this person can vouch is unlimited.²⁸

7 POLITICAL PARTIES

7.1 WHAT ROLE DO POLITICAL PARTIES PLAY IN THE CANADIAN ELECTORAL SYSTEM?

Political parties are an integral part of the Canadian political process. In a parliamentary system, the electorate votes for candidates – the population is not electing a particular government, party or leader. However, the majority of those elected are members of a political party.

Under the CEA, a political party, whether registered or not, is defined as “an organization one of whose fundamental purposes is to participate in public affairs by endorsing one or more of its members as candidates and supporting their election.”²⁹

Until 1970, election ballots listed the names of candidates, but not their membership in a political party. This contributed to confusion among voters, as each person had to know who represented which party before entering the voting booth. The law was changed in 1970 so that a candidate’s political affiliation would appear on the ballot. This change coincided with the enactment of legislation that, for the first time, formally recognized political parties and made them subject to regulation by Elections Canada.³⁰

7.2 WHAT DOES REGISTRATION OF A POLITICAL PARTY ENTAIL AND WHAT ARE THE BENEFITS?

The CEA provides that a party is eligible for registration if its leader has duly applied for registration and if:

- the party’s name or logo is not likely to be confused with that of another registered or eligible party and does not include the word “independent” or a related word;
- the party has at least three officers in addition to its leader and has appointed a chief agent and an auditor; and
- the CEO is satisfied that the information required in the application for registration has been provided and is accurate.³¹

The application for registration must include the names and addresses of 250 voters who have officially declared themselves to be party members. An eligible party becomes a registered party when at least one of its candidates has been confirmed and the party has filed the application for registration at least 60 days before the writs of election are issued. The party is then listed in the Registry of Political Parties.³²

Registering a political party under the CEA is not mandatory, but it does bring significant benefits and opportunities, such as:

- the ability to issue receipts to contributors for tax purposes;
- having the party name appear on the ballot under the candidate’s name;
- reimbursement of election expenses;
- annual access to the list of electors; and
- access to air time.³³

With these rights come corresponding duties and obligations, including the requirement to provide certain reports and declarations.

8 ELECTORAL CANDIDACY

8.1 WHAT ARE THE ELIGIBILITY REQUIREMENTS FOR RUNNING IN A FEDERAL ELECTION?

The qualifications and disqualifications for candidacy in a federal election are set out in several statutes, most notably in the CEA.³⁴ These conditions are closely related to the provisions that govern the right to vote. With some exceptions, any person who is entitled to vote may also become a candidate for election. They must be at least 18 years old and be a Canadian citizen. They do not need to reside in the electoral district in which they are seeking election.³⁵

The CEA also sets out a series of disqualifications that apply exclusively to electoral candidacy. For example, a person cannot be a candidate if they have been found guilty of an illegal or corrupt practice as defined in section 502 of the CEA, if they are a member of a provincial legislature or if they failed to meet financial reporting obligations in a previous election.³⁶

8.2 WHAT IS THE NOMINATION PROCESS FOR CANDIDATES?

The formal nomination process requires the preparation of a nomination paper that contains the name and address of the candidate, their official agent (who is legally responsible for the receipt, disbursement and accounting of expenses) and their auditor (in some cases). The nomination paper must also include a declaration signed by the candidate consenting to the nomination and the witnessed signatures of at least 100 electors in the electoral district (50 for more remote electoral districts). The nomination paper must be submitted to the RO no later than the 21st day before polling day.³⁷

No later than 24 hours before the close of nominations, the chief agent of a registered political party must provide to the CEO the names of the candidates they are endorsing for each electoral district and other related information. As part of the candidate verification process, the RO checks that the information about the party identified in the nomination paper matches the information provided by the party's chief agent. This procedure seeks to ensure that only officially endorsed candidates run under a party's name.³⁸

8.3 HOW DO REGISTERED POLITICAL PARTIES
SELECT THEIR CANDIDATES?

The selection of candidates by registered parties is governed by the nomination procedures established by each party. However, the CEA imposes various rules, in particular, it requires the party or financial officers to submit certain reports or statements to Elections Canada.³⁹ Limits on spending for those seeking nomination is normally set at 20% of the limit established for candidates in the election.⁴⁰

9 **ADVANCE POLL**

9.1 WHO CAN VOTE IN ADVANCE?

Since 1993, all electors can vote at an advance poll.

10 **ELECTION DAY**

10.1 IS ELECTION DAY ALWAYS ON A MONDAY?

In Canada, federal elections are held on a Monday. If in the week the election is to be held, the Monday is a holiday, the election is held the next day, on the Tuesday.⁴¹ The CEO may also recommend to the Governor in Council that the election be held on another day (the next day, Tuesday, or the following Monday) if the Monday in question coincides with a date of particular cultural or religious significance, or if a provincial or municipal election is scheduled at the same time.⁴²

11 **COMPILATION AND REPORTING OF ELECTION RESULTS**

11.1 HOW ARE VOTES COUNTED?

Immediately after the close of a polling station, an election officer from each polling division counts the ballots in the presence of another election officer and persons designated to represent the parties or candidates, ensuring that all ballots are accounted for, whether used, rejected or unused. In the absence of party or candidate representatives, two electors assist with the ballot count. The number of votes cast for each candidate is then recorded by the other electoral officer on a tally sheet; the attending party representatives have the opportunity to examine each ballot and keep their own score on supplied tally sheets.⁴³

The CEA provides several criteria for rejecting ballots. If candidates or their representatives object to the rejection of a ballot, one of the election officers is required to record the objection(s). The officer conducting the count makes decisions about these objections so that counting can proceed.⁴⁴

Once the count is complete, a statement of the vote containing the results is prepared. The original and a copy of this statement are placed in the ballot box for the RO's use and copies of it are given to each of the candidates' representatives present at the count.⁴⁵ Ballot boxes containing ballots and other prescribed documents are then sealed and sent to the RO.⁴⁶

Special ballots are subject to a similar but separate counting procedure overseen by the special voting rules administrator.⁴⁷

11.2 WHAT CAN CAUSE A BALLOT TO BE REJECTED?

The CEA provides specific instructions for the rejection of ballots. Ballots that are unmarked, double-marked or improperly marked and ballots that identify the elector must be rejected, as must any ballot not supplied by the electoral official conducting the count. The CEA also provides instructions for handling problematic cases, such as ballots accidentally left unsigned by the electoral officer prior to the vote.⁴⁸

11.3 WHAT CIRCUMSTANCES REQUIRE A JUDICIAL RECOUNT?

The official count is carried out by the RO, who then validates the results. If the official count indicates that two candidates have received an equal number of votes or that the number of votes separating the candidates is less than 1/1,000th of the total votes cast, the RO must apply to a district court judge for a judicial recount.⁴⁹ Other persons can also apply for a judicial recount within four days after the official results are announced. All candidates can seek reimbursement of the costs associated with a judicial recount.⁵⁰

12 CONTESTED ELECTIONS

12.1 WHO CAN CONTEST AN ELECTION?

The CEA allows elections to be contested in certain circumstances. Any person who was entitled to vote or was a candidate in an electoral district may, by application to the proper court, contest an election held in that electoral district if any irregularities, fraud, or corrupt or illegal practices affected the election's result.⁵¹

12.2 CAN AN ELECTION BE ANNULLED?

In extreme cases, the results of an election can be annulled, but this is quite rare, as confirmed by the Supreme Court of Canada in an application contesting an election in the federal riding of Etobicoke Centre.⁵²

13 **SELECTED ASPECTS OF CANADIAN ELECTION CAMPAIGNS**

13.1 WHAT RULES GOVERN VOTER CONTACT CALLING SERVICES?

Part 16.1 of the CEA was added in 2014, and some sections were amended slightly in 2018.⁵³ It addresses voter contact calling services, which are calls made through calling services during an election period for any purpose related to an election, including:

- promoting or opposing a party, party leader or candidate;
- encouraging electors to vote or to refrain from voting;
- providing information about the election, in particular voting hours and the location of polling stations;
- gathering information about voters' past voting practices or their opinion; and
- raising funds for a party or candidate.⁵⁴

Political entities and other persons or groups that use voter calling service providers to make live or automated calls to voters, must register with the Canadian Radio-television and Telecommunications Commission (CRTC) within 48 hours of making the first call during an election or by-election. Further, any entity that uses its own internal services to make automated calls must also register within 48 hours after the first call is made.

Lastly, the CRTC is responsible for establishing and keeping the Voter Contact Registry to ensure transparent communications with voters during an election.⁵⁵

13.2 WHAT RULES GOVERN ELECTION SURVEYS?

Under the CEA, an election survey is defined as a survey conducted to determine whether individuals intend to vote, and for whom they will vote or have voted in an election. Opinion polls on an issue with which a registered party or candidate is associated are also considered election surveys.

The publication of election survey results is prohibited on election day. However, there are generally no restrictions or prohibitions on the conduct of surveys during an election campaign or on the publication of their results. The CEA requires the disclosure of some information about these surveys, such as the funding source and the questions asked.⁵⁶

13.3 CAN FEDERAL PUBLIC SERVANTS PARTICIPATE IN ELECTIONS?

The rights of public sector employees to run and otherwise participate generally in elections have been the subject of much discussion and several court cases.⁵⁷ Federal public servants (except deputy heads) are permitted to engage in various political activities,⁵⁸ and in some cases, with the permission of the Public Service Commission of Canada, they may run for elected office. The Commission makes its decision based on factors such as the nature of the election, the employee's duties, and the level and visibility of their position.⁵⁹

13.4 ARE THERE RULES THAT GOVERN THE HOLDING OF MEETINGS AND RALLIES DURING AN ELECTION PERIOD?

The holding of meetings and rallies as expressions of freedom of association and assembly is not subject to general restrictions, other than those intended to protect public order, such as the prohibitions in Canada's *Criminal Code* against unlawful assembly or riot. The *Criminal Code* also contains general safeguards, like prohibiting weapons at a public meeting. It is an offence under the CEA to act or conspire to act in a disorderly manner intended to interfere with an election meeting during the period beginning the moment the writ is issued and ending the day after polling day.⁶⁰

13.5 WHAT CONSTITUTES AN ILLEGAL OR CORRUPT PRACTICE UNDER THE *CANADA ELECTIONS ACT*?

The CEA contains a series of provisions that apply to candidates and their official agents (and, in some cases, any other person) regarding corrupt and illegal practices. Corrupt practice includes:

- obstructing an election officer;
- voting more than once;
- requesting a ballot under a false name;
- accepting a prohibited gift or other advantage; and
- offering a bribe.

Similarly, illegal practice includes:

- exceeding the CEA election expenses limit for an electoral district;
- inciting or conspiring to act in disorderly manner;
- obstructing the electoral process; and
- signing a document that limits freedom of action in Parliament.⁶¹

In addition to specific penalties, the CEA provides that any person found guilty of a corrupt or illegal practice is barred from being elected to or sitting in the House of Commons for five or seven years, depending on the nature and severity of the violation. The person is also not entitled to hold any office in the nomination of the Crown or the Governor in Council during the same period.

The CEA authorizes the Commissioner of Canada Elections to investigate and prosecute persons who contravene the CEA. Such investigations may be initiated as a result of a complaint or of the Commissioner's own initiative. The power to lay charges was withdrawn from the Commissioner in a 2006 legislative amendment, and it was restored in 2018 with the adoption of the *Elections Modernization Act*.⁶² After charges are laid, the Director of Public Prosecutions is responsible for conducting prosecutions on behalf of the Crown for violations under the CEA.

As an alternative to laying charges, the Commissioner may choose to take corrective measures in response to the offences, as appropriate in the circumstances. If there are reasonable grounds to believe that a person has committed or will commit an offence, the Commissioner may enter into a compliance agreement with that person. Such agreements are based on the offender's voluntary commitment to comply with the requirements of the CEA and to publish the agreement. The Commissioner may also issue notices of violation that require the payment of an administrative monetary penalty or seek a court injunction to immediately terminate an activity or situation that they believe could jeopardize the integrity of the election campaign or undermine the public interest.⁶³

NOTES

- * This publication is based on two previous Library of Parliament publications. The following people contributed to their drafting: Andre Barnes, Michel Bédard, Sebastian Spano, Emma Butt, Michael Dewing, Dara Lithwick, Catherine McGovern, Brian O'Neal, Erin Prisner, James Robertson, Michael Rowland and Tim Schobert.
1. For more detailed information about the Canadian electoral system, see Elections Canada, [The Electoral System of Canada – 4th Edition](#); Paul Howe, Richard Johnston and André Blais, eds., *Strengthening Canadian Democracy*, Institute for Research on Public Policy, 2005; Louis Massicotte, André Blais and Antoine Yoshinaka, *Establishing the Rules of the Game: Election Laws in Democracies*, 2004; J. Patrick Boyer, *Election Law in Canada: The Law and Procedure of Federal, Provincial and Territorial Elections*, 1987; and J. Patrick Boyer, *Money and Message: The Law Governing Election Financing, Advertising, Broadcasting and Campaigning in Canada*, 1983.
 2. [Canada Elections Act](#), S.C. 2000, c. 9.
 3. [Referendum Act](#), S.C. 1992, c. 30.
 4. Elections Canada, [A History of the Vote in Canada](#), 3rd ed., 2021, p. 95.
 5. Prior to the adoption of the *Fair Elections Act* in 2014, the Chief Electoral Officer remained in office until age 65.
 6. [Canada Elections Act](#), S.C. 2000, c. 9, s. 13.
 7. *Ibid.*, s. 15(2).

8. Elections Canada, [Our mission, mandate, values](#).
9. [Canada Elections Act](#), S.C. 2000, c. 9, s. 24(6).
10. *Ibid.*, s. 24(1.4).
11. *Ibid.*, s. 509.1(1).
12. *Ibid.*, s. 509(3).
13. Governor General of Canada, [Procedures for the Dissolution of Parliament and the Calling of an Election](#); and Elections Canada, [The writ of election](#).
14. [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3 (U.K.), s. 50; and [Constitution Act, 1982](#), being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.), ss. 4(1) and 5.
15. [Canada Elections Act](#), S.C. 2000, c. 9, s. 56.1.
16. *Ibid.*, s. 57(1.2); and Elections Canada, [FAQs on Elections](#).
17. [Canadian Charter of Rights and Freedoms](#), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.), s. 3.
18. See [Figueroa v. Canada \(Attorney General\)](#), 2003 SCC 37.
19. Elections Canada, “[Chapter 6 – Electors \(08/2021\)](#),” *Returning Officer’s Manual*; and [Canada Elections Act](#), S.C. 2000, c. 9, s. 281.1.
20. Andre Barnes et al., [Legislative Summary of Bill C-76: An Act to amend the Canada Elections Act and other Acts and to make certain consequential amendments](#), Publication no. 42-1-C76-E, Library of Parliament, 19 January 2019.
21. [Elections Modernization Act](#), S.C. 2018, c. 31.
22. [Frank v. Canada \(Attorney General\)](#), 2019 SCC 1.
23. Elections Canada, [Description of the National Register of Electors](#).
24. Elections Canada, [FAQs about the Register of Future Electors](#).
25. Elections Canada, [ID to Vote](#).
26. [Canada Elections Act](#), S.C. 2000, c. 9, s. 143(3.1).
27. [Elections Modernization Act](#), S.C. 2018, c. 31.
28. [Canada Elections Act](#), S.C. 2000, c. 9, s. 143(3.01); and Elections Canada, [Policy on Voter Identification when Registering and Voting in Person in Federal Electoral Events](#).
29. [Canada Elections Act](#), S.C. 2000, c. 9, s. 2(1).
30. Elections Canada, “[Chapter 3: Modernization, 1920–1981](#),” *A History of the Vote in Canada*, 3rd ed., 2021; and Elections Canada, [Registration of Federal Political Parties](#).
31. [Canada Elections Act](#), S.C. 2000, c. 9, ss. 387 and 385(1).
32. *Ibid.*, ss. 390(1) and 391.
33. Elections Canada, [Registration of Federal Political Parties](#).
34. However, public office holders convicted of fraud against the Crown lose their office. See [Criminal Code](#), R.S.C. 1985, c. C-46, s. 750.
35. [Canada Elections Act](#), S.C. 2000, c. 9, s. 65.
36. *Ibid.*
37. *Ibid.*, ss. 66–69.
38. Elections Canada, [How to Become a Candidate](#); and [Canada Elections Act](#), S.C. 2000, c. 9, s. 71(2)(c).
39. Elections Canada, “[Limits on contributions, loans and loan guarantees](#),” *Political Financing Handbook for Nomination Contestants and Financial Agents (EC 20182) – October 2021*.
40. [Canada Elections Act](#), S.C. 2000, c. 9, s. 476.67.

41. Ibid., s. 57(4).
42. Ibid., s. 56.2.
43. Ibid., s. 283.
44. Ibid., s. 286.
45. Ibid., s. 287.
46. Ibid., s. 290.
47. Ibid., Part 11.
48. Ibid., s. 284.
49. Ibid., s. 300.
50. Ibid., s. 310.
51. Ibid., s. 524.
52. [Opitz v. Wrzesnewskyj](#), 2012 SCC 55.
53. For a detailed analysis of the provisions on voter contact calling services contracts, see section 2.4.3 of [Legislative Summary of Bill C-23: An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts](#), Publication no. 41-2-C23-E, Library of Parliament, 11 September 2014.
54. [Canada Elections Act](#), S.C. 2000, c. 9, s. 348.01.
55. Canadian Radio-television and Telecommunications Commission, [Voter Contact Registry](#).
56. [Canada Elections Act](#), S.C. 2000, c. 9, ss. 326–328.
57. The Supreme Court of Canada struck down legislation that had the effect of unduly restricting the political activities in which public servants could engage. See [Osborne v. Canada \(Treasury Board\)](#), [1991] 2 S.C.R. 69.
58. See [Public Service Employment Act](#), S.C. 2003, c. 22, ss. 12, 13, Part 7, ss. 111–122.
59. Ibid., s. 115(3); and [Political Activities Regulations](#), SOR/2005-373, s. 2(1).
60. [Canada Elections Act](#), S.C. 2000, c. 9, s. 480(2).
61. Ibid., s. 502.
62. [Elections Modernization Act](#), S.C. 2018, c. 31.
63. Commissioner of Canada Elections, [Compliance and Enforcement Policy of the Commissioner of Canada Elections](#).