

This is a redline draft of proposed amendments to the Election Act contained in [Bill 11 – 2023: Election Amendment Act, 2023](#). This is not the official version of the legislation; it is produced by the Ministry of Attorney General for convenience only and should not be relied on for any legal purposes.

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# Part 1 — Interpretation and Application

## Definitions

1 (1) In this Act:

"**advance voting**" means voting under section 97 at an advance voting opportunity;

"**advance voting opportunity**" means a voting opportunity under section 76;

"**alternative voting option**" means an option for voting under Division 5 of Part 6;

"**assisted telephone voting**" means voting in which an election official marks a ballot for an individual in accordance with the directions provided by the individual via telephone;

"**auditor**" means an auditor appointed under section 179;

"**authorized drop-off location**" means any of the following:

(a) the office of a district electoral officer;

(b) a voting place;

(c) a location specified by the chief electoral officer at which voters may return mail-in voting packages;

"**auxiliary compartment**" means a section of the ballot box in which ballots can be temporarily stored

(a) in the event that vote-counting equipment fails to operate, or

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(b) in any other event that requires temporary storage to facilitate voting proceedings;

**"ballot printer"** means the following:

- (a) a printer that is able to print a ballot;
- (b) any other prescribed electronic device that enables the printing of a ballot;

**"by-election"** means an election other than one conducted as part of a general election;

**"calling an election"** means calling an election within the meaning of section 26 (3);

**"campaign period"** means, in relation to an election, the period between when the election is called and the close of final voting for the election;

**"campaign period election advertising"** means the transmission to the public by any means, during the campaign period, of an advertising message that promotes or opposes, directly or indirectly, a registered political party or the election of a candidate, including an advertising message that takes a position on an issue with which a registered political party or candidate is associated, but does not include

- (a) the publication without charge of news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary in a bona fide periodical publication or a radio or television program,
- (b) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election,
- (c) the transmission of a document directly by a person or a group to their members, employees or shareholders, or
- (d) the transmission by an individual, on a non-commercial basis on the internet, or ~~by telephone or text messaging~~ [by telephone or other means of electronic communication](#), of the individual's personal political views;

**"candidate"** means an individual who is a candidate within the meaning of section 63, and for the purposes of Parts 10, 10.1 and 11 includes an individual who becomes a candidate or who was a candidate;

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**"candidate representative"** means the financial agent of a candidate, the official agent of a candidate or another candidate representative appointed under Division 3 of Part 5;

**"chief electoral officer"** means an individual appointed under section 4 as Chief Electoral Officer or under section 9 as acting chief electoral officer;

**"close of final voting"** means the end of voting hours set under this Act for a final voting opportunity;

**"constituency association"** means an organization referred to in section 157 (1);

**"contestant expense"** means a contestant expense within the meaning of section 184;

**"contributor confirmation"** means a confirmation under section 235.04 (3) (a);

**"contributor consent"** means consent under section 235.04 (3) (b);

**"district electoral officer"** means a district electoral officer appointed under section 18;

**"district registrar of voters"** means a district registrar of voters appointed under section 22;

**"election"** means an election of an individual to serve as a member of the Legislative Assembly;

**"election advertising"** means the following:

(a) campaign period election advertising;

(b) pre-campaign period election advertising;

**"election expense"** means an election expense within the meaning of Division 2 of Part 10;

**"election expenses limit"** means the applicable limit established by Division 5 of Part 10;

**"election official"** means

(a) the chief electoral officer and the deputy chief electoral officer,

(b) an individual appointed as a district electoral officer or deputy district electoral officer under section 18,

(c) an individual appointed under section 19 (1), or



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(d)an individual appointed as an election official for the purposes of section 108;

**"election official responsible"** means, in relation to election proceedings, the election official assigned responsibility for those proceedings under this Act or by the chief electoral officer or the district electoral officer;

**"election opinion survey"** means an opinion survey respecting an election or a matter of public discussion in relation to the election, including an opinion survey respecting an issue discussed publicly in the election;

**"election period"** means, in relation to an election, the period between when the writ for the election is issued and the date set for the return of that writ;

**"Elections BC"** means the office administered by the chief electoral officer;

**"Elections BC authorized internet site"** means an internet site

(a)maintained by Elections BC, or

(b)authorized by the chief electoral officer to be used for purposes of this Act;

**"electoral district"** means an electoral district referred to in section 18 of the *Constitution Act*;

**"electronic vote-counting machine"** means a machine that scans a specified area on a ballot in order to count and tabulate votes;

**"electronic voting book"** means a voting book in electronic format;

**"eligible individual"** means an individual who is, or was immediately before the date of the individual's death,

(a)a resident of British Columbia, and

(b)a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada);

**"final count"** means the count of votes conducted under Division 2 of Part 7;

**"final voting"** means voting under section 96 at a final voting opportunity;

**"final voting day"** means the day established by section 27;

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**"final voting opportunity"** means a voting opportunity under section 75;

**"financial agent"** means a financial agent within the meaning of section 175;

**"fundraising function"** includes a social function held for the purpose of raising funds for the organization or individual by whom or on whose behalf the function is held;

**"general election"** means, collectively, elections called on the same date for all electoral districts to elect all members of the Legislative Assembly;

**"holiday"** means

(a) Sunday, Christmas Day, Good Friday and Easter Monday,

(b) Canada Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day, Family Day and New Year's Day,

(c) December 26, and

(d) a day set by the Parliament of Canada or by the Legislature, or appointed by proclamation of the Governor General or the Lieutenant Governor, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign, or as a public holiday;

**"incur"** means,

(a) in relation to an election expense or contestant expense, using property or services in such a manner that the value of the property or services is an election expense or contestant expense, and

(b) in relation to an expense referred to in section 194, using property or services in such a manner that the value of the property or services would be an election expense if the property or services had been used by or on behalf of a candidate, registered constituency association or registered political party;

**"independent"** means, in relation to an individual, an individual who is not a representative of a political party, either as a member of the Legislative Assembly or as a candidate;

**"inducement"** includes money, gift, valuable consideration, refreshment, entertainment, office, placement, employment and any other benefit of any kind and, for certainty,

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does not include merely transporting an individual to or from a voting opportunity;

**"initial count"** means the count of votes conducted under Division 1 of Part 7;

**"intimidate"** means

(a) to use or threaten to use force, violence or restraint against an individual,

(b) to inflict injury, harm, damage or loss on an individual or property or to threaten to do any of these, or

(c) to otherwise intimidate an individual or to threaten to do anything that is otherwise intimidation of an individual;

**"judicial recount"** means a judicial recount of votes conducted under Division 3 of Part 7;

**"leadership contestant"** means an individual seeking the leadership of a registered political party, whether or not any other individual seeks that leadership, and for the purposes of Parts 10 and 11 includes an individual who becomes a leadership contestant or who was a leadership contestant;

**"list of future voters"** means the list of future voters under Division 4 of Part 4;

**"list of voters"** means a list of voters prepared under Divisions 1 to 3 of Part 4 that is all or part of the Provincial List of Voters referred to in section 45;

**"mail-in voting package"** means a mail-in voting package referred to in section 104.01;

**"major political party"** means a registered political party that has a representative appointed, or is eligible to appoint a representative under section 14, to the Election Advisory Committee;

**"market value"** means, in relation to property or services, the lowest price charged for an equivalent amount of equivalent property or services in the market area at the relevant time;

**"money"** includes cash, a negotiable instrument and a payment by means of a credit card;

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**"National Register of Electors information"** means information in the Register of Electors under the *Canada Elections Act* that is provided to the chief electoral officer in accordance with an agreement under section 55 of that Act;

**"newspaper"** means a publication or local periodical that

- (a) contains items of news and advertising, and
- (b) is distributed at least weekly in the electoral district or other area that is affected by the matter for which notice is required by this Act to be published in a newspaper;

**"nomination contestant"** means an individual seeking nomination as a candidate representing a registered political party in an election, whether or not any other individual seeks that nomination, and for the purposes of Parts 10 and 11 includes an individual who becomes a nomination contestant or who was a nomination contestant;

**"nomination documents"** means the documents required by section 54 (2) and (3);

**"nomination period"** means the period during which nominations for an election are accepted under section 56;

**"official agent"** means the official agent of a candidate appointed under section 69;

**"ordinary ballot"** means a ballot referred to in section 86 (2);

**"organization"** means an incorporated or unincorporated organization;

**"permissible loan"** means a loan to

- (a) an organization or individual as referred to in section 180 (1) (a) to (e), or
- (b) a third party sponsor for the purpose of sponsoring election advertising

at a rate of interest that is not less than the prime rate of the principal banker to the government at the time the rate of interest for the loan is fixed;

**"personal contestant expenses"** means personal contestant expenses within the meaning of section 184 (4);

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**"personal election expenses"** means personal election expenses within the meaning of section 183 (4);

**"political contribution"** means a political contribution within the meaning of Division 2 of Part 10;

**"political party"** means an organization referred to in section 155 (1);

**"pre-campaign period"** means the period beginning 60 days before the first day of a campaign period for a general election conducted in accordance with section 23 (2) of the *Constitution Act* and ending on the day before the first day of the start of the campaign period;

**"pre-campaign period election advertising"** means the transmission to the public by any means, during the pre-campaign period, of an advertising message that is sponsored by a third party sponsor and directly promotes or opposes a registered political party or the election of a candidate, but does not include

(a) the publication without charge of news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary in a bona fide periodical publication or a radio or television program,

(b) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election,

(c) the transmission of a document directly by a person or a group to their members, employees or shareholders, or

(d) the transmission by an individual, on a non-commercial basis on the internet, or ~~by telephone or text messaging~~ [by telephone or other means of electronic communication](#), of the individual's personal political views;

**"Provincial list of voters"** means the list of registered voters prepared under section 45;

**"registered"** means,

(a) in relation to a voter, registered under Part 4,

(b) in relation to a political party or constituency association, registered under Part 9, and

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(c) in relation to a third party sponsor, an individual or organization registered as a third party sponsor under Division 3 of Part 11;

**"resident"** means resident within the meaning of section 32;

**"residential address"** means, in relation to voter registration and voting, an address that is sufficient within the meaning of section 35 (2);

**"return of the writ"** means the return of the writ for an election to the chief electoral officer in accordance with section 146;

**"secrecy enclosure"** means a secrecy envelope, secrecy sleeve or other means of keeping a ballot or other document secret;

**"solemn declaration"** means an oath or solemn affirmation in accordance with section 268;

**"Speaker"** means the Speaker of the Legislative Assembly and an individual lawfully acting as Speaker or, if the office is vacant, the Clerk of the Legislative Assembly or any officer lawfully performing the duties of the Clerk;

**"special voting opportunity"** means a voting opportunity under section 77;

**"specified fundraising function"** means a fundraising function that

(a) is attended by one or more of the following:

- (i) a member of the Executive Council;
- (ii) a parliamentary secretary;
- (iii) a leader of a major political party, and

(b) is held for the purpose of raising funds for one or more of the following that holds the function or on whose behalf the function is held:

- (i) a major political party;
- (ii) a candidate who is a representative of a major political party;
- (iii) a leadership contestant for a major political party;
- (iv) a constituency association that is the local organization for a major political party;
- (v) a nomination contestant for a major political party;

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**"sponsorship account"** means an account opened under section 235.071 or 235.08;

**"sponsorship contribution"** means a sponsorship contribution within the meaning of sections 235.02 to 235.031, whether provided before or after the individual or organization acts as a third party sponsor;

**"spouse"** means a person who

- (a) is married to another person, or
- (b) is living with another person in a marriage-like relationship;

**"tax receipt"** means a receipt issued under section 4.722 of the *Income Tax Act*;

**"third party sponsor"** means an individual or organization, other than a candidate, registered political party or registered constituency association, that sponsors election advertising;

**"volunteer"** means, in relation to services, an individual providing the services as described in section 180 (5) (a);

**"vote-counting equipment"** means the following:

- (a) an electronic vote-counting machine;
- (b) any other prescribed equipment to count or tabulate votes;

**"voter"** means an individual who meets the qualifications referred to in section 31 to be registered as a voter under this Act;

**"voter for a voting area"** means a voter who is a voter for the electoral district for which the voting area is established and who is resident in that voting area;

**"voter for an electoral district"** means a voter who is qualified to be registered as a voter and to vote in an election for the electoral district;

**"voter number"** means the number assigned to a voter in a list of voters;

**"voter registration official"** means

- (a) the chief electoral officer and the deputy chief electoral officer,
- (b) a district registrar of voters or a deputy district registrar of voters appointed under section 22, and

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(c)an individual appointed as a temporary voter registration official under section 23;

**"voting area"** means an area of an electoral district established as a voting area under section 80;

**"voting book"** means a book, in paper or electronic format, that includes the following information about voters:

- (a)the name of a voter;
- (b)the residential address of a voter;
- (c)any other information about a voter specified by the chief electoral officer;

**"voting hours"** means the hours established under this Act for voting at a voting opportunity;

**"voting opportunity"** means a voting opportunity referred to in section 73 (a) to (c);

**"voting place"** means a voting place under section 75 for a final voting opportunity or under section 76 for an advance voting opportunity;

**"voting station"** means a location referred to in section 82 (1);

**"writ"** means, in relation to an election, an order of the chief electoral officer in the form of a writ under section 26 directing a district electoral officer to conduct an election for the electoral district;

**"write-in ballot"** means a ballot referred to in section 86 (5);

**"youth"** means a person who is 16 or 17 years of age.

(2)For the purposes of the definition of "pre-campaign period election advertising",

- (a)an advertising message that directly promotes or opposes a registered political party is a message that
  - (i)names the political party or includes a logo or likeness of a logo used by the political party, or
  - (ii)includes anything else prescribed by regulation, or
- (b)an advertising message that directly promotes or opposes the election of a candidate is a message that



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(i) names the candidate, includes an image or likeness of the candidate or identifies the candidate by voice or physical description, or

(ii) includes anything else prescribed by regulation.

(3) Except in relation to sections 228.1, 231, 232, 264 (1) (b) and (c) and ~~283 (m.1)~~ [283 \(1\) \(m.1\)](#), the transmission of an advertising message, for the purposes of the definitions of "campaign period election advertising" and "pre-campaign period election advertising", includes the following activities, if the activities are conducted on a commercial basis:

~~(a) canvassing voters, in person or by telephone, to attempt to influence how voters vote;~~

~~(b) mailing material that contains advertising messages~~

[\(a\) canvassing voters, in person or by telephone or other means of electronic communication, to attempt to influence how voters vote;](#)

[\(b\) mailing, or transmitting on the internet, material that contains advertising messages.](#)

## **Time**

2 (1) Times set under this Act are to be local times for the place at which the applicable proceedings under this Act are being conducted, unless otherwise expressly provided by this Act.

(2) Subject to section 27 (4), if the time set under this Act for doing anything falls or ends on a holiday, the time is extended to the next day that is not a holiday.

## **Amendments do not apply for 6 months unless notice given**

3 (1) Unless notice is given under subsection (2), an amendment to this Act does not apply to an election that is called within 6 months after the amendment comes into force.

(2) After consulting with the Election Advisory Committee, the chief electoral officer may have published in the Gazette a notice that the necessary preparations for the application of an amendment to this Act have been made and that the amendment applies to any election that is called after the publication.

## **Act does not inhibit government or members**

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**3.1** (1) For greater certainty, nothing in this Act affects an officer, director, employee or agent of one of the following bodies in the doing of an act necessary for carrying out the proper function of the body:

(a) the government as reported through the consolidated revenue fund;

(b) a government corporation within the meaning of the *Financial Administration Act* other than one that is a government corporation solely by reason of being, under an Act, an agent of the government;

(c) a corporation or organization that, under generally accepted accounting principles, is considered to be controlled by

(i) the government as reported through the consolidated revenue fund, or

(ii) a government corporation within the meaning of the *Financial Administration Act* other than one that is a government corporation solely by reason of being, under an Act, an agent of the government.

(2) For greater certainty, nothing in this Act affects a member of the Legislative Assembly in the doing of an act necessary for the performance of the member's duties.

## **Part 2 — Election and Other Officials**

### **Division 1 — Chief Electoral Officer**

#### **Appointment of chief electoral officer**

**4** (1) On the recommendation of the Legislative Assembly, the Lieutenant Governor must appoint as Chief Electoral Officer an individual who has been unanimously recommended for the appointment by a special Committee of the Legislative Assembly.

(2) The chief electoral officer is an officer of the Legislature.

#### **Impartiality**

**5** (1) Before beginning to perform the duties of office, the chief electoral officer must make a solemn declaration before the Clerk of the Legislative Assembly to faithfully and impartially exercise the powers and perform the duties of office.

(2) The chief electoral officer is not entitled to vote in an election.

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(3)The chief electoral officer must not

- (a)hold another office or engage in other employment,
- (b)be a member of, hold a position with or make a contribution to a registered political party, a registered constituency association or a political party or constituency association seeking registration, or
- (c)in relation to the individual's candidacy, hold a position with or make a contribution to an individual who is, intends to be or was a candidate in an election.

### **Term of office**

6 (1)The term of office for the chief electoral officer is from the date of appointment until 12 months after the date set for the return of the last writ for the second general election for which the chief electoral officer is responsible.

(2)The chief electoral officer may be reappointed to further terms of office.

### **Remuneration and pension**

7 (1)The chief electoral officer

(a)must be paid out of the consolidated revenue fund a salary equal to the salary paid to the chief judge of the Provincial Court of British Columbia, and

(b)must be reimbursed for reasonable travelling and out of pocket expenses personally incurred in performing the duties of the office.

(2)Subject to subsection (3), the Public Service Pension Plan, continued under the *Public Sector Pension Plans Act*, applies to the chief electoral officer.

(3)When calculating the amount of a pension under the Public Service Pension Plan, each year of service as chief electoral officer must be counted as 1 1/2 years of pensionable service.

(4)[Repealed 2003-62-1.]

### **Resignation, removal or suspension**

8 (1)The chief electoral officer may resign at any time by notifying the Speaker.

(2)On the recommendation of the Legislative Assembly based on cause or incapacity, the Lieutenant Governor must, in accordance with the recommendation,

- (a)suspend the chief electoral officer, with or without salary, or
- (b)remove the chief electoral officer from office.

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(3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the chief electoral officer, with or without salary, for cause or incapacity.

(4) A suspension under subsection (3) ends not later than 30 sitting days of the Legislative Assembly after the suspension came into effect.

### **Acting chief electoral officer**

9 (1) On the recommendation of the Legislative Assembly in any of the following circumstances, the Lieutenant Governor must appoint an acting chief electoral officer:

- (a) the office of chief electoral officer is vacant;
- (b) the chief electoral officer appointed under section 4 is suspended;
- (c) the chief electoral officer appointed under section 4 is temporarily absent because of illness or another reason.

(2) The Lieutenant Governor in Council may appoint an acting chief electoral officer in any of the following circumstances:

- (a) the office of chief electoral officer is or becomes vacant when the Legislative Assembly is not sitting;
- (b) the chief electoral officer appointed under section 4 is suspended when the Legislative Assembly is not sitting;
- (c) the chief electoral officer is removed or suspended or the office of the chief electoral officer becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly under subsection (1) or section 4 before the end of the session;
- (d) the chief electoral officer appointed under section 4 is temporarily absent because of illness or another reason.

(3) An acting chief electoral officer holds office until the earliest of the following:

- (a) a new chief electoral officer is appointed under section 4;
- (b) the suspension of the chief electoral officer ends;
- (c) the chief electoral officer returns to office after the temporary absence;
- (d) in the case of an acting chief electoral officer appointed under subsection (2), when an acting chief electoral officer is appointed under subsection (1);

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(e) at the end of 30 sitting days after the start of the next session of the Legislative Assembly.

(4) An individual may be reappointed as acting chief electoral officer in accordance with this section.

### **General staff of the chief electoral officer**

**10** (1) The chief electoral officer may appoint a deputy chief electoral officer and other employees necessary to enable the chief electoral officer to perform the duties of the office.

(2) The *Public Service Act* applies to appointments under subsection (1) and, for the purposes of that Act, the chief electoral officer is deemed to be a deputy minister.

(3) The chief electoral officer may also retain, on a temporary basis, other persons necessary to enable the chief electoral officer to perform the duties of the office in relation to short term administrative matters, including the preparation for and conduct of an election, enumeration or plebiscite.

(4) The *Public Service Act* does not apply to persons retained under subsection (3) and the chief electoral officer may establish their remuneration and the other terms and conditions of their retainers.

### **Expenses of administering Act**

**11** (1) All necessary expenses required for the administration of this Act or required to be paid by the chief electoral officer under this Act must be paid out of the consolidated revenue fund.

(2) The chief electoral officer must approve all amounts to be paid under the authority of this section, with this approval authority subject to any regulations of the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may make regulations for the purpose of subsection (2).

### **Duties and powers of the chief electoral officer**

**12** (1) The chief electoral officer has the following duties in addition to all others established by this Act:

(a) to provide guidance and supervision respecting the voter registration procedures and the conduct of elections and plebiscites;

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(b) to ensure that all other officials appointed under this Act carry out their duties with fairness and impartiality;

(c) to provide information to the public regarding the voter registration procedures and election proceedings under this Act;

(d) to ensure that this Act is enforced.

(2) The chief electoral officer has the following powers in addition to all others given by this Act:

(a) to make recommendations to the Legislative Assembly respecting amendments to this Act or other enactments affecting election matters;

(b) to issue to persons appointed or retained under this Act any information and guidelines the chief electoral officer considers necessary to ensure effective implementation of this Act;

(c) to require election officials and voter registration officials to follow the directions of the chief electoral officer regarding the performance of their duties and the exercise of their powers;

(d) to assign duties and related powers under this Act to election officials and voter registration officials;

(d.1) to specify the directions that election officials are to give, under this Act, to voters in voting proceedings;

(e) to delegate in writing to an individual appointed under section 10 (1), 18 (1) or (1.1) or 22 (1) the authority to exercise any power and perform any duty assigned to the chief electoral officer by this Act, other than the power to make regulations, subject to any limits or conditions imposed by the chief electoral officer;

(f) to prepare directives and guidelines for registered political parties, registered constituency associations, candidates, financial agents and auditors respecting this Act.

(3) The deputy chief electoral officer may perform the duties and exercise the powers of the chief electoral officer, other than the power to make regulations.

## **Reports to the Legislative Assembly**

**13** (1) The chief electoral officer must present the following reports to the Speaker:

(a) an annual report on the work done under the direction of the chief electoral officer;

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(b) after each election or plebiscite, a report respecting the proceedings, the results and the costs;

(c) [Repealed 2003-96-14.]

(d) any recommendation under section 12 (2) (a) respecting amendments to this Act or another enactment affecting election matters;

(e) any report required under section 217, 221, 222 or 226 respecting a member of the Legislative Assembly who has failed to comply with Part 10.

(2) The chief electoral officer may present a special report to the Speaker if, in the chief electoral officer's opinion, the amounts and establishment for the office of the chief electoral officer permitted under section 11 (2), or the services provided by the BC Public Service Agency, are inadequate for fulfilling the duties of the office.

(3) The Speaker must lay a report of the chief electoral officer before the Legislative Assembly as soon as possible.

## **Division 2 — Election Advisory Committee**

### **Establishment of Election Advisory Committee**

**14** (1) The Election Advisory Committee is established, consisting of the following:

(a) the chief electoral officer, as chair of the committee;

(b) 2 representatives appointed for each registered political party that is represented in the Legislative Assembly;

(c) one representative appointed for each registered political party that had candidates in at least 1/2 of all electoral districts at the immediately preceding general election and is not represented under paragraph (b).

(2) A member of the Legislative Assembly is not eligible to be a member of the committee.

(3) The appointment of a representative of a registered political party to the committee must be made in writing, signed by 2 principal officers of the political party and delivered to the chief electoral officer.

(4) An appointment under subsection (3) may be rescinded in the same manner.

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(5) Unless earlier rescinded, an appointment under subsection (3) ends 30 days after the date set under section 26 (2) (c) for the return of the writs for the next general election.

(6) Representatives appointed under subsection (3) must be reimbursed by the chief electoral officer for their reasonable travelling and out of pocket expenses necessarily incurred while discharging their duties.

(7) An individual may be reappointed to the election advisory committee.

### **Meetings of committee**

**15** (1) Meetings of the committee may be called at any time by the chief electoral officer.

(2) If requested in writing by at least 1/3 of the members of the committee, the chief electoral officer must call a meeting of the committee as soon as reasonably possible.

(3) The proceedings of the committee must be conducted in accordance with any applicable regulations.

(4) The chief electoral officer must

(a) ensure that the minutes of the committee are made public after each meeting of the committee, and

(b) include in the annual report under section 13 (1) (a) the minutes of the committee for meetings during the applicable year.

### **Role of committee**

**16** (1) The role of the committee is to advise the chief electoral officer on the functioning of this Act, particularly regarding the provisions of this Act that relate to the financing of the political process.

(2) The chief electoral officer must consult with the committee as follows:

(a) periodically regarding the application of this Act;

(b) before publishing a notice under section 3 respecting the application of an amendment to this Act;

(c) before making a recommendation under section 12 (2) (a) respecting an amendment to this Act or another enactment;

(d) [Repealed 2003-96-15.]

(e) before making a regulation at any time other than during the election period for a general election.



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(3) No recommendation or other decision of the committee is binding on the chief electoral officer.

### **Division 3 — Election Officials**

#### **Individuals prohibited from being appointed as election officials**

**17** The following individuals must not be appointed, accept appointment or act as an election official:

- (a) a member of the Legislative Assembly or of the Executive Council;
- (b) an individual who has served as a member of the Legislative Assembly in the session immediately before the election, or in the session then being held, if the election takes place during a session of the Legislature;
- (c) a member of the House of Commons of Canada, of the Senate of Canada or of ~~Her Majesty's Privy Council of Canada~~ [the King's Privy Council for Canada](#);
- (d) a judge of the Court of Appeal, the Supreme Court or the Provincial Court;
- (e) a master, registrar, district registrar or deputy district registrar of the Supreme Court;
- (f) an individual who has been convicted of an offence under this Act or the [Recall and Initiative Act](#) within the period of 7 years immediately before the appointment;
- (g) an individual who is a candidate or a candidate representative.

#### **District electoral officers**

**18** (1) For each electoral district, the chief electoral officer must appoint

- (a) a district electoral officer, who is to be responsible for the conduct of any election for the electoral district, and
- (b) one or more deputy district electoral officers, who are to assist the district electoral officer.

(1.1) If an enactment establishes a new electoral district but the enactment does not come into force until a future time, the chief electoral officer may appoint a district electoral officer and one or more deputy district electoral officers for the future electoral district.

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(2) If a district electoral officer is absent or unable to act, or if the office is vacant, the deputy district electoral officer must perform the duties and has the powers of the district electoral officer and, for these purposes, may appoint an individual to act as deputy district electoral officer for the period to which this applies.

(2.1) If more than one deputy district electoral officer is appointed for an electoral district, the chief electoral officer must designate which deputy district electoral officer is to act for the purposes of subsection (2).

(3) The term of appointment for a district electoral officer ends

- (a) 6 months after final voting day for the first general election called after the appointment, or
- (b) when the electoral district is disestablished,

whichever is earlier.

(4) As an exception to subsection (3), if an election for the electoral district is in progress at the end of the term of appointment for a district electoral officer, the chief electoral officer may extend the term of appointment for a specified period.

(5) The term of appointment for a deputy district electoral officer ends

- (a) as specified by the chief electoral officer in the individual's appointment, or
- (b) when the electoral district is disestablished,

whichever is earlier.

(6) An individual may be reappointed as a district electoral officer or deputy district electoral officer.

(7) A district electoral officer must not resign on less than 3 months' notice to the chief electoral officer, except with the consent of the chief electoral officer.

(8) A district electoral officer or deputy district electoral officer must not

- (a) be a member of, be an employee of, hold a position with or make a contribution to a registered political party, a registered constituency association or a political party or constituency association seeking registration, or
- (b) in relation to the individual's candidacy, be an employee of, hold a position with or make a contribution to an individual who is, intends to be or was a candidate in an election.

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(9)The chief electoral officer may rescind the appointment of a district electoral officer or deputy district electoral officer before what would otherwise be the end of the individual's term of appointment on any of the following grounds:

(a)that the official is incapable, by reason of illness or otherwise, of satisfactorily performing the individual's duties under this Act;

(b)that the official has not followed a direction of the chief electoral officer;

(c)that the official has failed to competently discharge a duty of office to the satisfaction of the chief electoral officer;

(d)that, in the opinion of the chief electoral officer, the official has acted in a politically partisan manner during the term of the individual's appointment, whether or not this was done in the course of performing the individual's duties under this Act.

### **Election officials and staff**

**19** (1)If an election is called for an electoral district, the district electoral officer must appoint sufficient election officials required to conduct the election proceedings, taking into account any matters specified by the chief electoral officer under section 79.01.

(2)The district electoral officer may retain other persons necessary for the administration of an election in the electoral district.

### **Oath of office**

**20** Before undertaking duties under this Act, an individual appointed as an election official must make a solemn declaration that the individual

(a)will faithfully and impartially fulfill the duties,

(b)has not received and will not accept any inducement to perform the duties otherwise than impartially and in accordance with this Act or to otherwise subvert the election, and

(c)will preserve the secrecy of the ballot in accordance with section 90.

### **Terms of appointment**

**21** The *Public Service Act* does not apply to persons appointed or retained under this Division and the chief electoral officer may establish their remuneration and the other terms and conditions of their appointment or retainer.

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## **Division 4 — Voter Registration Officials**

### **District registrars of voters**

- 22** (1)The chief electoral officer
- (a)must appoint a district registrar of voters for each electoral district, who is to be responsible for the registration of voters within the electoral district, and
  - (b)may appoint one or more deputy district registrars of voters for an electoral district, who are to assist the district registrar of voters for the electoral district.
- (2)The same individual may be appointed district registrar of voters for more than one electoral district.
- (3)[Repealed 2004-51-3.]

### **Temporary voter registration officials**

- 23** (1)For the purposes of voter registration proceedings in an electoral district, but subject to the direction of the chief electoral officer, the district registrar of voters may retain on a temporary basis individuals necessary for the proceedings and may appoint those individuals as voter registration officials.
- (2)The *Public Service Act* does not apply to individuals retained under subsection (1) and the chief electoral officer may establish their remuneration and the other terms and conditions of their retainers.

## **Part 3 — Calling an Election**

### **Order for a general election**

- 24** (1)For a general election to be held, the Lieutenant Governor in Council must issue an order under this section that
- (a)directs the chief electoral officer to issue writs of election for all electoral districts,
  - (b)sets the date of issue for the writs of election, which must be the same for all writs,
  - (c)specifies the final voting day for the election in accordance with section 27 of this Act and section 23 of the *Constitution Act*, and

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(d)directs that the writs of election be returned in accordance with this Act.

(2)If a general election is called before final voting day for a by-election that is in progress, the by-election is cancelled and the election for that electoral district is to take place as part of the general election.

### **Order for a by-election**

**25** (1)On receiving a warrant under the *Constitution Act* for a by-election, the chief electoral officer must notify the Lieutenant Governor in Council for the purposes of allowing the writ of election to be issued within the time limit established by that Act.

(2)For a by-election to be held, the Lieutenant Governor in Council must issue an order that

(a)directs the chief electoral officer to issue a writ of election for the electoral district,

(b)sets the date of issue for the writ of election,

(c)specifies the final voting day for the election in accordance with section 27, and

(d)directs that the writ of election be returned in accordance with this Act.

### **Election called when writ of election issued**

**26** (1)On receiving an order of the Lieutenant Governor in Council under section 24 or 25, the chief electoral officer must

(a)issue the writ or writs of election in accordance with the order,

(b)transmit each writ to the district electoral officer to whom it is addressed, and

(c)arrange for the writ or writs to be published in the Gazette.

(2)A writ of election must be substantially in the form of Form 1 as set out in the Schedule to this Act and must include the following:

(a)the dates for the start and end of the nomination period for nominations under section 56;

(b)the date of final voting day for the election;

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(c) the day for the return of the writ, being the date on or before which the district electoral officer is to certify to the chief electoral officer the name of the individual elected as member of the Legislative Assembly.

(3) For the purposes of this Act, an election is called when the writ for the election is issued in accordance with the applicable order of the Lieutenant Governor in Council under section 24 or 25.

### **Final voting day**

27 (1) Final voting day for an election,

(a) in the case of a general election conducted in accordance with section 23 (2) or (3) of the *Constitution Act*, and in the case of a by-election, is the ~~28th day~~ [twenty-eighth day](#) after the date on which the election is called, and

(b) in the case of a general election that is not conducted in accordance with section 23 (2) or (3) of the *Constitution Act*, subject to subsection (3) of this section, is at least the ~~32nd day~~ [thirty-second day](#) but no later than the ~~38th day~~ [thirty-eighth day](#) after the date on which the election is called.

(2) Final voting day for a general election described in subsection (1) (a) must occur on a Saturday.

(3) Final voting day for a general election described in subsection (1) (b) must occur on a Saturday, and the date under subsection (1) (b) is to be determined accordingly.

(4) As an exception to subsections (2) and (3), if the day under subsection (1) falls on a holiday, final voting day is the next day that is not a holiday.

### **Notice of election**

28 (1) ~~Within 8 days after an election is called,~~ [As soon as possible after an election is called,](#) the chief electoral officer must publish or direct the district electoral officer to publish a notice of election in accordance with section 270.

(2) The notice of election must include the following:

(a) the dates, times and places at which nominations will be received by the district electoral officer during the nomination period;

(b) how interested individuals can obtain information on the requirements and procedures for making a nomination;

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(c)the dates and voting hours for final voting and advance voting, in the event that an election by voting is required;

(d)any other information the chief electoral officer considers should be included.

(3)The notice of election must also be posted in the office of the district electoral officer throughout the nomination period.

(4)The chief electoral officer may direct or authorize the district electoral officer to provide for additional notice of the election to be given to the public.

## **Part 4 — Voters**

### **Division 1 — Qualifications**

#### **Who may vote**

**29** In order to vote in an election for an electoral district, an individual must

(a)be a Canadian citizen,

(b)be 18 years of age or older on final voting day for the election,

(c)be a resident of the electoral district,

(d)have been a resident of British Columbia for at least 6 months immediately before final voting day for the election,

(e)be registered as a voter for the electoral district or register as such in conjunction with voting, and

(f)not be disqualified by this Act or any other enactment from voting in the election or be otherwise disqualified by law.

#### **Individuals disqualified from voting**

**30** Without limiting section 29 (f), the following individuals are not entitled to vote in an election:

(a)the chief electoral officer and the deputy chief electoral officer;

(b)[Repealed 2003-37-11.]

(c)an individual who is prohibited from voting under Part 12.

### **Division 2 — Registration**

#### **Who may register as a voter**

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**31** (1) An individual must meet all the following qualifications in order to register as a voter:

- (a) the individual must be a Canadian citizen;
- (b) the individual must be
  - (i) an individual who is 18 years of age or older at the time of registration, or
  - (ii) an individual who is not 18 years of age but who, on final voting day for an election, will be 18 years of age;
- (c) the individual must be
  - (i) an individual who has been a resident of British Columbia for the immediately preceding 6 months, or
  - (ii) an individual who has not been a resident of British Columbia for the immediately preceding 6 months but who, on final voting day for an election, will have been a resident of British Columbia for the immediately preceding 6 months;
- (d) the individual must not be disqualified from voting under section 29
- (f).

(1.1) An individual described in subsection (1) (b) (ii) or (1) (c) (ii) may not register before the date that is 90 days before the final voting day for an election for the electoral district for which the individual will be entitled to vote on registration.

(2) An individual who is registered but who ceases to meet the qualifications referred to in subsection (1) is not entitled to continue to be registered.

### **Rules for determining where an individual is resident**

**32** (1) The following rules apply to determine for the purposes of this Act the place where an individual is resident:

- (a) an individual is a resident of the place where the individual lives and to which, whenever absent, the individual intends to return;
- (b) an individual may be the resident of only one place at a time for the purposes of this Act;
- (c) an individual does not change the place where the individual is a resident until the individual has a new place where the individual is a resident;



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(d)an individual does not cease being a resident of a place by leaving the place for temporary purposes only.

(2)Without limiting subsection (1) (d), a temporary purpose within the meaning of that subsection includes being absent from British Columbia

(a)while the individual is engaged in the service of the government of British Columbia ~~or Canada~~[or the government of Canada](#),

(b)as the spouse of an individual referred to in paragraph (a), or

(c)as an individual who is in a child-parent relationship with an individual referred to in paragraph (a) or (b) and who is accompanying that individual for this reason.

(3)As an exception to subsection (1), if for the purposes of attending an educational institution an individual establishes a new place where the individual is a resident that is away from the usual place where the individual is a resident, the individual may choose for the purposes of this Act either the usual place or the new place as the place where the individual is a resident.

(4)As an exception to subsection (1), an individual who is imprisoned in a penal institution is not by that imprisonment a resident of the place where the penal institution is located, but instead is deemed for the purposes of this Act to be a resident of whichever of the following the individual chooses:

(a)the place where the individual was a resident before being imprisoned;

(b)the place where a spouse, parent or dependant of the individual is a resident within the meaning of subsection (1);

(c)if the individual is unable to provide an address under paragraph (a) or (b), either

(i)the place where the individual was arrested, or

(ii)the place of the last court where the individual was convicted and sentenced.

(5)Temporary residential quarters are considered to be an individual's place of residence only if the individual has no other place that the individual considers to be the individual's residence.

(6)For the purposes of this Act, an individual who has no dwelling place may register as a voter on the basis that the individual's place of residence is a shelter, hostel or similar institution that provides food, lodging or other social services.

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### **When an individual may register**

**33** (1) An individual may apply to be registered as a voter at any of the following registration opportunities:

- (a) general registration in accordance with section 36;
- (b) a special registration opportunity under section 39;
- (c) registration in conjunction with voting in accordance with section 41 or 41.1;
- (d) registration during an enumeration under section 42.

(2) If satisfied on the basis of the application for registration in accordance with section 35 that an individual is entitled to be registered as a voter, the voter registration or election official responsible must accept the application and register the individual.

(3) An individual becomes registered as a voter when his or her application for registration is accepted by the voter registration or election official responsible.

### **Updating registration information**

**34** (1) If a registered voter changes the place where he or she is resident, changes his or her name or otherwise changes the information required regarding registration, the voter may apply to update his or her registration information at any of the registration opportunities referred to in section 33.

(2) This Act, as it applies to registration as a voter, applies to the updating of voter registration information, except that

- (a) an application for the updating may be made in any manner acceptable to the official responsible for accepting applications for voter registration, and
- (b) if the voter remains a voter for the same electoral district, the official responsible may waive the requirements of section 41 (2) (b) or 41.1 (2) (b).

### **Application for registration**

**35** (1) An application for registration as a voter must be on a form specified by the chief electoral officer and must include the following information:

- (a) the full name of the applicant;
- (b) the address of the place where the applicant is a resident within the meaning of section 32;

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- (c) the mailing address of the applicant, if this is different from the address referred to in paragraph (b);
- (d) the birth date of the applicant or other identifying information prescribed by regulation;
- (e) any other information required to be included by regulation;
- (f) a confirmation that the applicant meets the requirements of section 31 to be registered as a voter.

(2) For the purposes of subsection (1) (b), an address of an applicant that indicates the place where the applicant is resident within the meaning of section 32 is sufficient if, in the opinion of the voter registration or election official accepting the application, it indicates that place for the purpose of determining the voting area of which the applicant is a resident.

(3) On request, a district registrar of voters must provide an application form without charge to each individual wishing to register as a voter.

(4) On request, the chief electoral officer must provide a reasonable number of application forms without charge to a registered political party or registered constituency association for the organization to use in assisting individuals to register as voters.

## **General registration**

**36** (1) Registration under this section must be available except during a closed period under section 37.

(2) An individual may apply to register as a voter by

(a) delivering an application form completed in accordance with section 35 to

- (i) the chief electoral officer,
- (ii) a district registrar of voters or another voter registration official authorized by a district registrar of voters, or
- (iii) an individual authorized as agent under section 38, or

(b) providing orally to a district registrar of voters or another voter registration official authorized by a district registrar of voters

- (i) the information referred to in section 35 (1) (a) to (e), and
- (ii) confirmation that the applicant meets the requirements of section 31 to be registered as a voter.

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(3) Applications under subsection (2) must be received at the office of any district registrar of voters during its regular office hours and may be received at other times and places authorized by the chief electoral officer or a district registrar of voters.

(4) The officials responsible for accepting applications under this section are the chief electoral officer, the district registrars of voters and any voter registration officials authorized by the chief electoral officer.

### **Closed period for general registration**

37 (1) Applications for registration as a voter for an electoral district must not be received under section 36 (2) during the period beginning on a day specified by the chief electoral officer and ending on the ~~2nd day~~second day after final voting day for the election.

(2) As soon as possible after an election is called, the chief electoral officer must have published in accordance with subsection (3) a notice of the day specified under subsection (1) and stating that from that date an individual may only register or update voter registration information in conjunction with voting.

(3) The notice under subsection (2) must be published on the internet and in one or more newspapers circulating in the affected electoral district such that publication is made throughout the electoral district, if this is possible.

### **Registration through agencies**

38 (1) The chief electoral officer may authorize persons other than voter registration and election officials to act as agents of the chief electoral officer for receiving

- (a) applications for voter registration,
- (b) applications for updating voter registration information, or
- (c) applications for inclusion in the list of future voters.

(2) Applications for voter registration must not be received under this section during a closed period under section 37.

(3) If a form or other document under another enactment is specified by regulation, despite any restriction or prohibition in the other enactment,

- (a) the form or document may be combined with
  - (i) an application for voter registration,

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(ii)an application for updating voter registration information,  
or

(iii)an application for inclusion in the list of future voters, and  
(b)the persons responsible for receiving that form or document may act as agents for the chief electoral officer in relation to this Division.

(4)As an exception to section 35, the chief electoral officer may accept a copy of an application received under this section as an application for voter registration or updating voter registration information.

(4.1)As an exception to section 51.02 (3), the chief electoral officer may accept a copy of an application received under this section as an application for inclusion in the list of future voters.

(5)The officials responsible for accepting applications under this section are the chief electoral officer and any voter registration official authorized by the chief electoral officer.

### **Special voter registration opportunities**

**39** (1)The chief electoral officer may require or authorize a district registrar of voters to arrange a special registration opportunity at which individuals may attend to register.

(2)A special registration opportunity must not be held during the closed period for general registration under section 37.

(3)To register under this section, an individual must deliver an application form completed in accordance with section 35 to the voter registration official responsible at the special registration opportunity.

(4)The official responsible for accepting applications under this section is the district registrar of voters.

### **Registration and updating based on National Register of Electors information**

**39.1** The chief electoral officer may, on the basis of National Register of Electors information and without any application by the individuals involved,

- (a)register as voters those individuals who appear to be qualified to register as voters, and
- (b)update current voter registration information.

### **Automatic updating of information about voters and future voters**

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- 40** (1) In this section, "**provincial identity information services provider**" has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.
- (2) The chief electoral officer may, for the following purposes, request that the Insurance Corporation of British Columbia under the *Motor Vehicle Act* and a provincial identity information services provider provide information contained in records kept by the corporation or, as applicable, the provincial identity information services provider:
- (a) updating voter registration information;
  - (b) updating the list of future voters;
  - (c) contacting youth to provide information about the list of future voters.
- (3) Subject to subsection (4), on receiving a request under subsection (2), the Insurance Corporation of British Columbia and a provincial identity information services provider must provide the information to the chief electoral officer.
- (4) If an individual makes a written request to the Insurance Corporation of British Columbia or the provincial identity information services provider that the corporation or provincial identity information services provider not provide to the chief electoral officer personal information respecting the individual, the corporation or provincial identity information services provider must arrange for that information to be excluded from the information provided under subsection (2) to the chief electoral officer.

### **Registration in conjunction with voting if identification documents available**

- 41** (1) An individual who is not registered as a voter may register in accordance with this section in conjunction with voting.
- (2) In order to register under this section, an individual must
- (a) deliver an application form completed in accordance with section 35 to the district electoral officer or an election official authorized by the district electoral officer, and
  - ~~(b) satisfy that official of the applicant's identity and place of residence in accordance with subsection (3).~~
  - (b) satisfy that election official of the applicant's identity and residential address in accordance with subsection (3).
- ~~(3) For the purposes of subsection (2) (b), an applicant may produce to the election official~~

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~~(a) one document, issued by the Government of British Columbia or Canada, that contains the applicant's name and photograph, and place of residence,~~

~~(b) one document, issued by the Government of Canada, that certifies that the applicant is registered as an Indian under the *Indian Act* (Canada), or~~

~~(c) at least 2 documents of a type authorized by the chief electoral officer, both of which contain the applicant's name and at least one of which contains the applicant's place of residence.~~

~~(3.1) The chief electoral officer must publish each year, in a manner that he or she considers appropriate, a notice setting out the types of documents that are authorized for the purposes of subsection (3) (c).~~

~~(3) For the purposes of subsection (2) (b),~~

~~(a) an applicant may produce to the election official~~

~~(i) one document, issued by the government of British Columbia or the government of Canada, that contains the applicant's name, photograph and residential address,~~

~~(ii) one document, issued by the government of Canada, that certifies that the applicant is registered as an Indian under the *Indian Act* (Canada), or~~

~~(iii) at least 2 documents of a type authorized by the chief electoral officer, both of which contain the applicant's name and at least one of which contains the applicant's residential address, and~~

~~(b) an applicant who resides in a residence that is in a site-based voting area established under section 80 (4) and who attends voting proceedings conducted at the site-based voting area may produce one document of a type authorized by the chief electoral officer that contains the applicant's name.~~

~~(3.1) The chief electoral officer must publish, on an Elections BC authorized internet site, a notice setting out the types of documents that are authorized for the purposes of subsection (3) (a) (iii) and (b).~~

~~(3.2) The information published under subsection (3.1) must continue to be published on the Elections BC authorized internet site.~~

~~(4) The election official receiving an application must note on the application the nature of the documents produced for the purposes of subsection (2) (b).~~

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(5) If satisfied on the basis of the application and documents produced that the applicant is entitled to be registered as a voter, the election official responsible must accept the individual's application for registration.

### **Registration in conjunction with voting if no identification documents**

**41.1** (1) In this section, "**voucher**" means a person, other than the applicant, referred to in subsection (2).

(2) Despite section 41, an applicant who is unable to produce the documents referred to in section 41 (3) may be registered as a voter in conjunction with voting if

(a) the applicant delivers an application form completed in accordance with section 35 to the district electoral officer or an election official authorized by the district electoral officer, and

(b) both the identity and place of residence of the applicant are confirmed in accordance with subsection (3) of this section by one of the following who has produced documents referred to in section 41 (3):

(i) a voter registered in the applicant's electoral district of residence;

(ii) a spouse, parent, grandparent, adult child, adult grandchild or adult sibling of the applicant;

(iii) a person having authority under the common law or an enactment to make personal care decisions in respect of the applicant.

(3) The applicant and the voucher must each make a solemn declaration, in writing, as to the applicant's identity and place of residence within the meaning of section 32, and stating all of the following:

(a) in the case of the applicant,

(i) that the applicant meets all the qualifications to be registered as a voter of the electoral district, and

(ii) the matters set out in section 111 (4) (b) to (e);

(b) in the case of a voucher described in subsection (2) (b) (i),

(i) that the voucher is a person described in subsection (2) (b) (i), and

(ii) the matters set out in section 111 (4) (b) to (d);



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- (c) in the case of a voucher described in subsection (2) (b) (ii) or (iii),
  - (i) that the voucher is a person described in subsection (2) (b) (ii) or (iii), as applicable, and setting out the nature of the relationship to the applicant, and
  - (ii) the matters set out in section 111 (4) (d).

(4) A voucher may make a confirmation under subsection (3) in the same election,

- (a) if the voucher is a voucher described in subsection (2) (b) (i), in respect of only one applicant,
- (b) if the voucher is a voucher described in subsection (2) (b) (ii), in respect of only one or more applicants who are members of the voucher's family, or
- (c) if the voucher is a voucher described in subsection (2) (b) (iii), in respect of only one or more applicants for whom the voucher has authority as described in that subsection.

(5) A person who has been confirmed under subsection (3) may not confirm another applicant at the same election.

(6) The election official receiving an application must

- (a) advise both the applicant and the voucher of
  - (i) the requirements of this section, and
  - (ii) the penalties for which the applicant and the voucher may be liable for a contravention of those requirements, and
- (b) note on the application that a confirmation was made for the purposes of registration.

(7) If satisfied that the applicant is entitled to be registered as a voter, the election official responsible must accept the individual's application for registration.

### **Challenge of registration**

**41.2** (1) An individual's right to register under section 41 or 41.1 may be challenged in accordance with this section at any time during the registration procedure up until the time the individual's application for registration is accepted by the election official responsible.

(2) A challenge may be made

- (a) only by an election official, a candidate representative or a voter for the electoral district, and

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(b) only on the basis that the individual applying to register is not entitled to register.

(3) In relation to a challenge under this section, the election official responsible must record on the application

(a) that the individual was challenged,

(b) the name of the individual who made the challenge, and

(c) whether and how the individual challenged satisfied the requirements of section 41 or 41.1.

## **Enumerations**

**42** (1) The chief electoral officer may require or authorize one or more district registrars of voters to conduct enumerations of all or part of their electoral districts.

(2) An enumeration may be conducted by residence-to-residence visitation or by another method directed or authorized by the chief electoral officer.

## **Cancellation of enumeration if election called**

**43** (1) If an election is called while an enumeration is in progress, the chief electoral officer may cancel the enumeration.

(2) In the case of a by-election, the chief electoral officer may cancel the enumeration in relation to individuals registering as voters for the electoral district for which the election is being held and continue the enumeration for other individuals.

(3) If an enumeration is cancelled, applications for voter registration or updating voter registration information received as part of the enumeration that is cancelled are void and only those individuals who were registered as voters before the start of the enumeration are registered voters.

## **Voter registration officials conducting enumeration**

**44** (1) While conducting an enumeration, each voter registration official must wear or carry identification provided by the chief electoral officer and must produce it on request.

(2) A voter registration official has authority to enter an apartment building, other multiple residence building or area of multiple residences during reasonable hours for the purpose of conducting the enumeration of voters in the building or area,

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and a person having charge of the building or area must allow the official to enter the building or area for this purpose.

(3) An individual must not obstruct a voter registration official in conducting an enumeration.

### **Division 3 — Lists of Voters**

#### **Provincial List of Voters to be maintained**

**45** (1) The chief electoral officer must maintain a record, to be known as the Provincial List of Voters, of those individuals registered as voters.

(2) The Provincial list of voters must include the names of voters, the places where they are resident and other information required to be included in an application for registration that the chief electoral officer considers should be included in the list.

(3) The chief electoral officer or the district registrar of voters may authorize other voter registration officials to assist in the duties under this Division and may authorize those officials to exercise the powers of the district registrar of voters under this Division.

#### **Updating the Provincial list of voters**

**46** (1) The chief electoral officer may amend voter registration information on the Provincial list of voters to correctly show the information regarding a voter that the chief electoral officer considers to be current.

(2) The chief electoral officer may remove the name of an individual from the Provincial list of voters as follows, in which case the individual is no longer registered as a voter:

(a) if satisfied that the individual is no longer alive;

(b) if satisfied that the individual is not qualified to be registered as a voter or is fictitious;

(c) if the individual requests in writing that his or her registration as a voter be cancelled;

(d) if, on an enumeration, it appears that the individual is no longer resident in the electoral district for which he or she is registered as a voter;

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(e)if satisfied that the individual is no longer resident at the address on the voters list and unable to obtain a current address of the place where the individual is a resident within the meaning of section 32.

(3)[Repealed 2004-51-7.]

### **Preparation of list of voters for use in election**

**47** (1)For each election for an electoral district, the chief electoral officer must have prepared a list of voters for the electoral district.

(2)Only a list of voters prepared under subsection (1) may be used for the purposes of conducting an election.

(3)The list of voters for an electoral district must

(a)include information about voters as specified by the chief electoral officer, and

(b)be updated at the times specified by the chief electoral officer, until the date specified by the chief electoral officer under section 37 (1), with information about voters that the chief electoral officer considers to be current information.

(4)The form of a list of voters for an election is in the discretion of the chief electoral officer.

(5)The chief electoral officer must have a copy of the list of voters provided to

(a)the district registrar of voters, and

(b)the district electoral officer of the electoral district.

### **Access to list of voters during election**

**48** (1)Each candidate in an election for an electoral district is entitled without charge to a copy of the list of voters prepared under section 47 as follows:

(a)the chief electoral officer must provide each candidate with an electronic copy of the list of voters for the electoral district as follows:

(i)as soon as practicable after the election is called;

(ii)as soon as practicable after the date specified by the chief electoral officer under section 37 (1);

(b)if requested by a candidate who is not able to use the electronic copy provided under paragraph (a), the district registrar of voters must provide the candidate with a printed copy of the list of voters for the electoral district.

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(2) A copy of the most current list of voters prepared under section 47 must be available for public inspection in the office of the district electoral officer of the electoral district during its regular office hours from the time the list is provided under section 47 (5) until the close of final voting.

### **Objection to the registration of a voter**

**49** (1) The registration of an individual whose name appears on a list of voters prepared under this Act may be objected to in accordance with this section.

(2) An objection must be delivered to the district registrar of voters for the electoral district of which the individual is shown as a resident.

(3) An objection that is received after the start of the closed period for general registration under section 37 must not be dealt with until after the end of that period.

(4) An objection may be made

(a) only by a voter, and

(b) only on the basis that the individual whose name appears on a list of voters

(i) has died, or

(ii) is not qualified to be registered as a voter for the electoral district.

(5) An objection must be made in writing, signed by the individual making it, and include the following:

(a) the name and address of the individual against whose registration the objection is made, as shown on the list of voters;

(b) the basis of the objection, including a statement of facts that the objector believes support this;

(c) the name and address of the individual making the objection.

(6) On receiving an objection, the district registrar of voters must make a reasonable effort to notify the individual against whom the objection is made of the objection, the individual who made the objection and the basis on which it is made.

### **Resolving objections**

**50** (1) An objection on the basis that an individual has died must be resolved in accordance with the following:

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(a) the district registrar of voters must have a search made of the records under the *Vital Statistics Act*;

(b) if a record of death is found, the district registrar of voters must remove the individual's name from the list of voters;

(c) if a record of death is not found and the district registrar of voters is unable to contact the individual, the objection must be resolved in accordance with subsection (2) (c) and (d).

(2) An objection on the basis that an individual is not entitled to be registered as a voter must be resolved in accordance with the following:

(a) if, after receiving notice of the objection, the individual provides proof satisfactory to the district registrar of voters of the individual's entitlement to be registered or makes a solemn declaration as to that entitlement, the individual's name is to stay on the list of voters;

(b) if, after receiving notice of the objection, the individual does not provide proof of entitlement or make a solemn declaration as to entitlement, the district registrar of voters must remove the individual's name from the list of voters;

(c) if the district registrar of voters is unable to contact the individual who is subject to the objection, the district registrar of voters must require the individual who made the objection to provide satisfactory evidence of the basis of the objection and, if this is done, must remove the name from the list of voters;

(d) if the individual who made the objection does not provide satisfactory evidence as required by paragraph (c), the name is to stay on the list of voters.

(3) If a change is made as a result of an objection after the list of voters for the electoral district is prepared, the district registrar of voters must

(a) amend the copy of the list of voters provided by the chief electoral officer to show the change and initial the amendment, and

(b) notify the chief electoral officer of the change so that the Provincial list of voters may be amended.

## **Lists of voters generally**

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**51** (1)The chief electoral officer may prepare and provide a list of voters to an individual or organization requesting it and may charge a fee for preparing and providing the list.

(2)On request and on payment of the reasonable costs of reproduction, the chief electoral officer must provide the following:

(a)to a registered political party or member of the Legislative Assembly, a list of voters;

(b)to a registered political party,

(i)in respect of the most recent general election, a list of voters that indicates which voters on the list voted in that election, and

(ii)in respect of a by-election that takes place between the date of the most recent general election and the date the next general election is called, a list of voters that indicates which voters on the list voted in that by-election;

(c)to a candidate or an individual who was a candidate in an election referred to in subparagraph (i) or a by-election referred to in subparagraph (ii),

(i)in respect of the most recent general election, a list of voters in the electoral district for which the individual is a candidate or was a candidate that indicates which voters on the list voted in that election, and

(ii)in respect of a by-election that takes place between the date of the most recent general election and the date the next general election is called, a list of voters in the electoral district for which the individual is a candidate or was a candidate that indicates which voters on the list voted in that by-election.

(3)For the purpose of tracing unauthorized use of lists of voters, including a list of voters used for election purposes, the chief electoral officer may have fictitious voter information included in a list of voters.

(4)Despite any other provision of this Act, the chief electoral officer may prepare a list of voters, including a list of voters used for election purposes, that omits or obscures the address of a voter or other information about a voter in order to protect the privacy or security of the voter.

## **Voter participation information**

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**51.01** (1) On request, an election official responsible must provide to a candidate, a candidate representative or a registered political party, without charge and in the manner and at the times directed by the chief electoral officer, the following information in relation to each voter who votes at a final voting opportunity and each voter who votes at an advance voting opportunity:

- (a) the voter number, unless paragraph (b) applies;
- (b) if the voter registered or updated the voter's voter registration information in conjunction with voting, the information that the chief electoral officer considers appropriate.

(2) On request, the chief electoral officer may provide, or direct the district electoral officer to provide, to a candidate, a candidate representative or a registered political party, without charge and in the manner and at the times directed by the chief electoral officer, the following information in relation to each voter who votes at a special voting opportunity and each voter who votes using an alternative voting option:

- (a) the voter number, unless paragraph (b) applies;
- (b) if the voter registered or updated the voter's voter registration information in conjunction with voting, the information that the chief electoral officer considers appropriate.

## **Division 4 — List of Future Voters**

### **List of future voters**

**51.02** (1) The chief electoral officer may establish and maintain a list of future voters consisting of youths who are

- (a) Canadian citizens, and
- (b) resident in British Columbia.

(2) The chief electoral officer

- (a) may include youths in the list of future voters who have applied in accordance with subsection (3) to be included, and
- (b) may, without any application by the youth involved, include youths in the list of future voters who meet the requirements set out in subsection (1) and are in the Register of Future Electors under the *Canada Elections Act*.



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(3) An application for inclusion in the list of future voters must be submitted on a form specified by the chief electoral officer and must include the following information:

- (a) the full name of the applicant;
- (b) the residential address of the applicant and, if different, the mailing address of the applicant;
- (c) the birth date of the applicant or other identifying information prescribed by regulation;
- (d) a confirmation that the applicant meets the requirements set out in subsection (1);
- (e) any other information prescribed by regulation.

(4) The chief electoral officer may

- (a) amend information in the list of future voters to correctly show the information that the chief electoral officer considers to be current regarding a youth, and
- (b) update the list of future voters by using information from the Register of Future Electors under the *Canada Elections Act*.

(5) The chief electoral officer may remove the name of an individual from the list of future voters as follows:

- (a) if the chief electoral officer is satisfied that the youth is not qualified to be included in the list of future voters;
- (b) if the youth requests in writing that the youth be removed from the list;
- (c) if the chief electoral officer is satisfied that the youth no longer has the residential address provided to the chief electoral officer;
- (d) if the chief electoral officer is satisfied that the youth is deceased.

(6) The chief electoral officer must transfer information about an individual included in the list of future voters from that list to the list of voters

- (a) when the individual reaches 18 years of age, or
- (b) when the individual is eligible to register as a voter in the 90 days before final voting day.

(7) When the chief electoral officer transfers information about an individual under subsection (6), the individual is a registered voter.

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(8) The chief electoral officer may provide information obtained under this section to the chief electoral officer under the *Canada Elections Act* for the purposes of section 46 of that Act.

(9) Despite any other provision of this Act or any other Act, information obtained by the chief electoral officer under this section may be used only for the following purposes:

- (a) the establishment and maintenance of the list of future voters;
- (b) the transfer of information under subsection (6);
- (c) the provision of information under subsection (8).

(10) For certainty, the list of future voters may not be used for a commercial purpose or disclosed to candidates, constituency associations, political parties, candidate representatives, financial agents of candidates, or representatives or financial agents of constituency associations and political parties.

## **Part 5 — Candidates**

### **Division 1 — Nominations**

#### **Who may be nominated**

**52** (1) To be qualified for nomination as a candidate for office as a member of the Legislative Assembly, an individual must

- (a) be a Canadian citizen,
- (b) be 18 years of age or older on final voting day for the election,
- (c) have been a resident of British Columbia for at least 6 months immediately before the individual becomes a candidate, and
- (d) not be disqualified by this Act or any other enactment from voting in an election or from being nominated for, being elected to or holding office as a member of the Legislative Assembly, or be otherwise disqualified by law.

(2) At any one time, an individual is not entitled to be nominated as a candidate for more than one electoral district.

#### **Who may make nominations**

**53** (1) A nomination must be made by at least 75 voters for the electoral district for which the election is being held.

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(2) For any one election an individual may not be a nominator for more than one candidate.

(3) Even if one or more of the nominators is not qualified in accordance with this section, a nomination is valid as long as the nomination is made by at least the minimum number of qualified nominators.

### **Nomination documents**

**54** (1) A nomination must be made in writing in accordance with this section.

(2) A nomination must be signed by the nominators and must include the following information:

- (a) the electoral district for which the individual is being nominated;
- (b) the full name of the individual nominated;
- (c) the usual name of the individual nominated, if this is different from the full name and the individual wishes to have his or her usual name on the ballot instead;
- (d) the residential address of the individual nominated;
- (e) if applicable, the name of the registered political party that the individual is nominated to represent;
- (f) if the individual is nominated as an independent candidate and wishes to have that status indicated on the ballot, a statement requesting this;
- (g) the names and residential addresses of the nominators.

(3) A nomination must be accompanied by the following:

- (a) a signed declaration of each nominator that he or she is qualified as a voter for the electoral district for which the election is being held;
- (b) a signed consent of the individual nominated to the nomination;
- (c) a signed statement of the individual nominated that he or she is qualified to be nominated;
- (d) in the case of an individual making a request under subsection (2) (c), a signed statement of the individual that the name requested to be used on the ballot is his or her usual name;
- (e) in the case of an individual making a request under subsection (2) (f), a signed statement of the individual that he or she is independent;
- (f) the appointment of the auditor in accordance with section 179 and a signed consent of the auditor to act as such;

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(g) either

(i) a statement that the individual nominated is acting as his or her own financial agent, or

(ii) the appointment of an individual as financial agent in accordance with section 176 and a signed consent of the individual to act as such;

(h) the appointment of any deputy financial agents in accordance with section 178 and the signed consents of the individuals to act as such;

(i) a statement signed by the individual nominated of an address at which documents will be accepted for delivery to or service on the individual and a telephone number at which the individual can be contacted;

(j) the disclosure required by section 2 (1) of the *Financial Disclosure Act*.

(4) [Repealed 2016-4-22.]

(5) The chief electoral officer may require nomination documents, other than the disclosure under the *Financial Disclosure Act*, to be made in a form specified by the chief electoral officer.

### **Nomination deposit**

**55** (1) In order to be effective, a nomination must be accompanied by a deposit of \$250.

(2) The nomination deposit under subsection (1) must be held by the chief electoral officer to be dealt with as follows:

(a) if the financial agent of the individual for whom it is paid files with the chief electoral officer, within 90 days after final voting day for an election, an election financing report under section 209, the nomination deposit is to be returned to the financial agent;

(b) if the individual for whom it is paid dies before the close of final voting for the election, the nomination deposit is to be returned to the financial agent of the individual or to another person determined by the chief electoral officer;

(b.1) if the nomination deposit is in relation to a nomination under section 57 for an electoral district that is disestablished before an

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election is held, the nomination deposit is to be returned to the financial agent of the individual for whom it was paid;  
(c) in other cases, the nomination deposit is forfeited and is to be paid to the consolidated revenue fund.

### **Nomination by filing documents with the district electoral officer**

**56** (1) In order to make a nomination under this section, the nomination documents required by section 54 (2) and (3) must be received by the district electoral officer,

(a) in the case of a general election conducted in accordance with section 23 (2) or (3) of the *Constitution Act*, between the time the election is called and 1 p.m. on the ~~7<sup>th</sup> day~~seventh day after the election is called,

(b) in the case of a general election that is not conducted in accordance with section 23 (2) or (3) of the *Constitution Act*, between 9 a.m. on the ~~3<sup>rd</sup> day~~third day after the election is called and 1 p.m. on the ~~11<sup>th</sup> day~~eleventh day after the election is called, or

(c) in the case of a by-election, between 9 a.m. on the ~~3<sup>rd</sup> day~~third day after the election is called and 1 p.m. on the ~~7<sup>th</sup> day~~seventh day after the election is called.

(2) As exceptions to subsection (1),

(a) if the first day of the nomination period would otherwise fall on a holiday, the nomination period begins at 9 a.m. on the next day that is not a holiday, and

(b) if the end of the nomination period would otherwise fall on a holiday, the nomination period ends at 1 p.m. on the next day that is not a holiday.

(3) Times referred to in this section are Pacific Standard Time or Pacific Daylight Saving Time, as applicable.

(4) For the purposes of this section, nomination documents must be received at the office of the district electoral officer during its regular office hours and may be received at other times and places during the nomination period as allowed by the district electoral officer.

(5) The obligation to ensure that nomination documents are received in accordance with this section rests with the individual nominated.

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(6) Once all the required nomination documents and the required nomination deposit have been received, the district electoral officer must accept the documents for filing unless the individual appears from those documents to be ineligible for nomination.

(7) If nomination documents are not accepted for filing because they are defective, they may be completed, corrected or substituted before the end of the nomination period.

(8) When all the required nomination documents are accepted for filing, the district electoral officer must issue to the candidate a certificate indicating that the individual is a candidate in the election.

(9) The district electoral officer must forward the nomination deposits received under this section to the chief electoral officer.

#### **Standing nominations filed with the chief electoral officer**

57 (1) Nomination documents may be filed with the chief electoral officer at any time up until,

(a) in the case of a general election conducted in accordance with section 23 (2) or (3) of the *Constitution Act*, the end of the day before the date the election is called, or

(b) in the case of a by-election, or a general election that is not conducted in accordance with section 23 (2) or (3) of the *Constitution Act*, the end of the day before the nomination period begins under section 56.

(2) The nomination deposit must be received by the chief electoral officer before nomination documents are accepted for filing under subsection (1).

(3) A nomination under this section is completed when the following documents are accepted for filing by the chief electoral officer:

(a) the disclosure required by section 2 (1) of the *Financial Disclosure Act*;

(b) the signed statement of the individual nominated that he or she is qualified to be nominated.

(4) [Repealed 2008-41-16.]

(5) The obligation to ensure that nomination documents are received in accordance with this section rests with the individual nominated.

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(6) Once all the required nomination documents and the required nomination deposit have been received, the chief electoral officer must accept the documents for filing unless the individual appears from those documents to be ineligible for nomination.

(7) If nomination documents are not accepted for filing because they are defective, they may be completed, corrected or substituted before the day on which the nomination period begins under section 56.

(8) When all the required nomination documents are accepted for filing, the chief electoral officer must issue, after the election is called, to the candidate a certificate indicating that the individual is a candidate in the election.

(9) Subject to subsection (9.1), as soon as possible after the end of the period for making nominations under this section, the chief electoral officer must deliver to the applicable district electoral officer a copy of

(a) the certificate under subsection (8),

(b) the disclosure under the *Financial Disclosure Act*, and

(c) the other nomination documents filed under this section.

(9.1) Subsection (9) does not apply in relation to an individual whose nomination is withdrawn under this Act.

(10) At any time before the individual nominated becomes a candidate, the nomination may be withdrawn by the individual nominated delivering to the chief electoral officer a withdrawal signed by the individual.

(11) [Repealed 2008-41-16.]

(12) If an electoral district is disestablished after nomination documents are filed under this section in relation to the electoral district, the nomination is cancelled.

(13) If an enactment establishes a new electoral district but the enactment does not come into force until a future time, the chief electoral officer may accept nomination documents under this section for the future electoral district.

### **Changes to nomination documents after filing**

**58** After nomination documents have been accepted for filing, they may be amended by the district electoral officer or the chief electoral officer on the basis of information provided by the candidate in writing, but only in relation to matters of fact that have changed since the time of filing.

### **Nomination documents available for public inspection**

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**59** (1) Nomination documents filed under section 56 must be available for public inspection at the office of the district electoral officer during its regular office hours until they are sent to the chief electoral officer under subsection (4).

(2) Nomination documents filed under section 57 must be available for public inspection

(a) at the office of the chief electoral officer during its regular office hours until they are sent to the district electoral officer under section 57 (9), and

(b) at the office of the district electoral officer during its regular office hours from the time they are received from the chief electoral officer until they are returned to the chief electoral officer.

(3) A copy of the required disclosure under the *Financial Disclosure Act* must be made available by the district electoral officer for the purposes of subsection (1) and by the chief electoral officer for the purposes of subsection (2).

(4) The district electoral officer must send the nomination documents under subsections (1) and (2) to the chief electoral officer when returning the writ for the election.

(5) Nomination documents received by the chief electoral officer under subsection (4) must be available for public inspection at the office of the chief electoral officer during its regular office hours until one year after the return of the writ for the election.

### **Information about nomination contests**

**59.01** (1) A registered political party must provide to the chief electoral officer, within 14 days of the end of a nomination contest, a notice in a form specified by the chief electoral officer that must include the following information:

(a) the date established as the beginning of the nomination contest;

(b) the date the nomination contest concluded;

(c) the name, mailing address and telephone number of each nomination contestant and of the financial agent of each nomination contestant, including of a nomination contestant who withdrew from the contest after the date described in paragraph (a);

(d) the name of the nomination contestant being endorsed by the party under section 60;

(e) any other information prescribed by regulation.



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(2) For certainty, a notice under subsection (1) is required even if a nomination contestant is acclaimed or appointed by the registered political party to represent the party as a candidate.

### **Endorsement of candidate by registered political party**

**60** (1) In order for a candidate to represent a registered political party in an election, a written endorsement of the candidate signed by at least 2 principal officers of the political party must be made by one of the following means:

- (a) in all cases, by filing the endorsement with the chief electoral officer before the end of the nomination period;
- (b) in the case of an individual nominated under section 56, by filing the endorsement with the district electoral officer before the end of the nomination period.

(2) For a general election, an endorsement under subsection (1) (a) may be made as a single document endorsing candidates for a number of electoral districts.

(3) At any time up until the end of the nomination period, the status of a candidate as representative of a registered political party may be cancelled by

- (a) the candidate delivering to the district electoral officer or chief electoral officer a written request to this effect signed by the candidate, or
- (b) the registered political party delivering to the district electoral officer or chief electoral officer a written request to this effect signed by at least 2 principal officers of the political party.

(4) If a request under subsection (3) is received, the individual nominated remains a candidate but ceases to be a candidate representing the registered political party.

(5) A registered political party may not at any one time be represented by more than one candidate in an election for a single electoral district.

### **Declaration of candidates and election**

**61** (1) Immediately following the end of the nomination period under section 56, the district electoral officer must publicly declare the following:

- (a) that the nomination period for the election is closed;
- (b) that the individuals whose nomination documents have been accepted for filing are candidates in the election, subject only to a court order under section 66;

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- (c) the names of the individuals who are candidates in the election;
- (d) if there is more than one candidate for the office to be filled, that an election by voting is to be held and the final voting day for that election;
- (e) if there is only one candidate for the office to be filled, that the candidate is elected by acclamation.

(2) The district electoral officer must deliver a certified list of the candidates declared under subsection (1) to each of those candidates who requests it.

(3) As soon as possible after the declaration, the district electoral officer must provide the chief electoral officer with the names of the candidates, the registered political parties they represent, if applicable, and any other information the chief electoral officer directs.

(4) In the case of an election by acclamation, as soon as possible after the declaration, the district electoral officer must return the writ of election to the chief electoral officer certifying the name of the individual elected.

### **Notice of election by voting**

**62** (1) As soon as possible after the declaration of an election by voting, the district electoral officer must publish a notice of election in accordance with section 270.

(2) The notice of election must include the following information:

- (a) the names of the candidates in the order and as the names will appear on the ballots;
- (b) as applicable, the status of each candidate as the representative of a registered political party or as an independent candidate;
- (c) the date, voting hours and voting places for final voting;
- (d) the dates, voting hours and voting places for advance voting;
- (d.1) the identification requirements for voting and for registering to vote in conjunction with voting;
- (e) how an individual may obtain information regarding other opportunities for voting in the election.

## **Division 2 — Candidates**

### **When an individual is a candidate**

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- 63** (1) An individual becomes a candidate when all the required nomination documents are accepted for filing and a certificate is issued by the district electoral officer under section 56 (8) or by the chief electoral officer under section 57 (8).
- (2) A candidate continues to be a candidate until the date of the return of the writ for the election, unless the individual earlier withdraws, dies or is declared under section 66 to no longer be a candidate.

### **Withdrawal of candidate**

- 64** (1) At any time up until 48 hours before the start of advance voting, a candidate may withdraw from the election by delivering a signed withdrawal to the district electoral officer.
- (2) The candidate's signature on a withdrawal must be witnessed by at least one other individual who must sign the withdrawal as witness.
- (3) If only one candidate remains after a withdrawal, the district electoral officer must declare the candidate elected by acclamation and must as soon as possible after the declaration return the writ of election to the chief electoral officer certifying the name of the individual elected.

### **Death of candidate**

- 65** (1) If a candidate dies before the end of the nomination period, the nomination period ends on whichever of the following is later:
- (a) the end of the nomination period under section 56;
  - (b) 1 p.m. on the ~~6th day~~[sixth day](#) after the date of death.
- (2) If a candidate dies between the end of the nomination period and the close of final voting,
- (a) the original election proceedings under the writ for the election are cancelled and election proceedings must be started again as if the writ for the election were issued on the day on which the chief electoral officer received proof of the death, and
  - (b) no new nomination documents and deposit are required for a candidate in the original election proceedings and the individual is deemed to be a candidate in the continued election unless he or she withdraws.

### **Challenge of candidate**

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**66** (1)The nomination of a candidate may only be challenged by an application to the Supreme Court in accordance with this section.

(2)The time period during which an application may be made is between the time the individual becomes a candidate in accordance with section 63 (1) and noon on the ~~4th day~~[fourth day](#) after the end of the nomination period.

(3)A challenge may only be made by a voter of the electoral district for which the election is being held or by another candidate for the election in the electoral district.

(4)A challenge may only be made on one or more of the following bases:

(a)that the individual is not qualified to be nominated or elected;

(b)that the nomination was not made in accordance with Division 1 of this Part;

(c)that the individual is not in fact nominated as an independent candidate, as stated in the nomination documents;

(d)that the usual name given under section 54 (2) (c) in the nomination documents is not in fact the usual name of the individual.

(5)At the time the petition commencing a challenge is filed in the court registry, the court

(a)must set a time for the hearing that is adequate to allow the court to give its decision on the matter within the time limit established by subsection (7), and

(b)may in its discretion fix the place for the hearing.

(6)The individual making a challenge must notify affected individuals by

(a)immediately notifying the district electoral officer and the affected candidate of the challenge and of the time and place at which it will be heard by the court, and

(b)within 24 hours of commencing the application, serving on these individuals the petition, the accompanying affidavit and a notice of the time and place for the hearing.

(7)Within 72 hours after the end of the period for commencing a challenge, not including Saturdays and holidays, the court must hear and determine the challenge.

(8)On the hearing of a challenge, the court may issue an order

(a)confirming the individual as a candidate,

(b)declaring that the individual is not a candidate,

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- (c) declaring that the individual is or is not entitled to have the usual name indicated in the nomination documents used on the ballot, or
- (d) declaring that the individual is not nominated as an independent candidate.

(9) For certainty, the jurisdiction of the court under this section may be exercised by a master of the court.

(10) The decision of the court on a challenge under this section is final and may not be appealed.

### **Candidate entitled to leave from employment**

67 (1) If requested in writing by a candidate, the candidate's employer must grant the individual a leave without pay in accordance with this section.

(2) The leave may be either full time or part time, as requested by the candidate.

(3) If the leave is part time, the candidate's request must specify the days and hours of the leave.

(4) Unless ended earlier by the employee, the leave ends as follows:

- (a) if the individual withdraws as a candidate, the day after that withdrawal;
- (b) if the individual is declared under section 66 to no longer be a candidate, the day after that declaration;
- (c) in other cases, the day after the declaration of the results of the election under section 137.

(5) Despite any other enactment and despite any agreement to the contrary, throughout the leave under this section the employee is entitled, subject to this section, to all benefits attached to the employment except pay.

(6) If the employee makes a written request to this effect before or immediately at the beginning of the leave, the employee may continue to contribute to any pension, medical or other plan beneficial to the employee in which the employee participates, as long as the employee pays both the employee's and the employer's contributions to the plan.

(7) Section 54 of the *Employment Standards Act* applies to a leave under this section and the services of the employee are to be considered continuous for the purposes of sections 57 and 58 and Part 8 of that Act.

(8) An employer must not, because of a leave under this section,

- (a) dismiss, lay off, suspend, demote or transfer the employee, or

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(b) give the employee less favourable employment conditions or diminish any benefit attached to the employment to which the employee is entitled.

(9) An employee who is affected by a contravention of this section may make a complaint to the Director of Employment Standards or the authorized representative of that official, in which case Part 11 of the *Employment Standards Act* applies as if the complaint were made under that Act.

(10) As an alternative to a complaint under subsection (9), an employee affected by a contravention of this section whose employment is covered by a collective agreement may have the complaint dealt with in accordance with the grievance procedure established by that agreement.

(11) Nothing in this section applies to preclude any other rights to leave that an individual may have or acquire.

### **Delivery of documents to candidates**

**68** (1) Where a document is required or authorized for the purposes of this Act to be served on a candidate, if the document is left at the address given in the nomination documents under section 54 (3) (i), the document is deemed to have been personally served on the candidate.

(2) Where a document or information is required or authorized for the purposes of this Act to be served on or otherwise given to a candidate, giving the document or information to the official agent of the candidate is deemed to be giving it to the candidate.

## **Division 3 — Candidate Representatives**

### **Appointment of official agent**

**69** (1) A candidate may appoint one individual as official agent.

(2) An individual may be appointed as both the financial agent and the official agent of the same candidate.

(3) An appointment must be made in writing, must be signed by the candidate and must include the following:

(a) the name of the individual appointed as official agent;

(b) the residential address of the individual appointed;

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(c)an address at which documents will be accepted for delivery to or service on the official agent;

(d)a telephone number at which the official agent can be contacted.

(4)An appointment as official agent becomes effective when the appointment and a signed consent of the individual appointed to act as official agent are filed with the nomination documents or delivered to the district electoral officer.

### **Appointment of scrutineers and other candidate representatives**

**70** (1)A candidate or the candidate's official agent may appoint candidate representatives in accordance with this section to represent the candidate by observing the conduct of voting, registration at the time of voting and counting proceedings for the election.

(2)An appointment as a candidate representative must be in writing, signed by the individual making the appointment, and include the following:

(a)the name of the individual appointed;

(b)if the individual is appointed as a scrutineer, the voting or counting proceedings for which the individual is appointed;

(c)if the individual is appointed as a candidate representative for the purpose of section 93 (2) (d) (iv), a statement of this appointment.

### **Notice of candidate agents**

**71** (1)As soon as possible after the declaration under section 61 of an election by voting, the district electoral officer must publish a notice of candidate agents in accordance with section 270.

(2)The notice of candidate agents must include for each candidate

(a)the name and mailing address of the financial agent, and

(b)if applicable, the name of the official agent and the address at which documents will be accepted for delivery to or service on the official agent.

(3)If there is a change in the official agent or financial agent of a candidate, the district electoral officer must publish a new notice in accordance with this section respecting the candidate.

### **Presence of candidate representatives at election proceedings**

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**72** (1)When requested by an election official, a candidate representative present at election proceedings must produce his or her appointment under this Division.

(2)A candidate representative must not be present at voting or counting proceedings unless he or she has made the solemn declaration to preserve the secrecy of the ballot referred to in section 93 (4).

(3)A candidate representative is entitled to inspect a voting book, list of voters or list of voter numbers being used in voting proceedings, so long as this does not interfere with the proceedings.

(4)The absence of a candidate representative from a place where election proceedings are being conducted does not invalidate anything done in the election.

## **Part 6 — Voting**

### **Division 1 — Voting Opportunities**

#### **Voting opportunities**

**73** A voter for an electoral district who meets the applicable requirements may vote in an election for the electoral district by one of the following:

- (a)final voting under section 96 at a final voting opportunity;
- (b)advance voting under section 97 at an advance voting opportunity;
- (c)voting under section 98 at a special voting opportunity, subject to any applicable restrictions referred to in section 77 (2);
- (d)voting under Division 5 of this Part using an alternative voting option.

#### **Time off from work for voting**

**74** (1)Subject to subsections (1.1) and (1.2), an employee who is entitled to vote in an election or who, on registration, will be entitled to vote in the election is entitled to have 4 consecutive hours free from employment during voting hours for final voting.

(1.1)If both of the following apply, an employee is entitled to have 4 consecutive hours free from employment during voting hours for advance voting:

- (a)the employee has hours of employment scheduled on final voting day such that the employee would not have 4 consecutive hours free from employment during voting hours;



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(b)the employee is willing to vote at an advance voting opportunity.

(1.2)An employee who is entitled to time off under subsection (1.1) is not entitled to time off under subsection (1).

(2)If an individual's hours of employment do not allow for the consecutive hours referred to in subsection (1) or (1.1), the individual's employer must allow the individual time off from employment to provide those hours.

(3)The employer may set time off required by subsection (2) as best suits the convenience of the employer.

(4)An employer must not

(a)without reasonable justification, fail to grant to an employee sufficient time off as required by subsection (2), or

(b)make a deduction in pay for the time off or exact any penalty from the employee for the time off.

(5)The following are not entitled to time off under this section:

(a)election officials and individuals employed or retained by the chief electoral officer or a district electoral officer to work on final voting day;

(b)individuals who, by reason of employment, are in such remote locations that they would be unable to reasonably reach any voting place during voting hours.

### **Final voting opportunities for an electoral district**

75 (1)As soon as reasonably possible after an election is called for an electoral district, the district electoral officer must establish the voting places for final voting by specifying a voting place for each voting area within the electoral district.

(2)A voting place for a final voting opportunity must be in or near the voting area for which it is being conducted.

(3)The voting hours for final voting are from 8 a.m. to 8 p.m. Pacific Standard Time or Pacific Daylight Saving Time, as applicable, on final voting day.

### **Advance voting opportunities for an electoral district**

76 (1)Advance voting opportunities must be held

(a)during a period that consists of 6 consecutive days and commences 8 days before final voting day for an election,

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(b)if final voting day for an election falls on a Monday, during a period that consists of 6 consecutive days and commences 9 days before final voting day for the election, or

(c)if one or more of the dates for an advance voting opportunity to be held under paragraph (a) or (b) falls on a holiday other than a Sunday, on 6 days during a period established by the chief electoral officer that

(i)commences 12 days before final voting day for the election, and

(ii)ends at least 2 days before final voting day for the election.

(2)As soon as reasonably possible after an election is called for an electoral district, the district electoral officer must establish one or more voting places for advance voting opportunities such that voters in different parts of the electoral district have a reasonable opportunity to attend at least one advance voting opportunity.

(3)The voting hours for an advance voting opportunity are from 8 a.m. to 8 p.m. on each day referred to in subsection (1).

### **Special voting opportunities**

77 (1)In order to give voters who may otherwise be unable to vote an opportunity to do so, the district electoral officer may establish one or more special voting opportunities under this section.

(2)If a special voting opportunity is within a class established by the chief electoral officer by regulation, any restrictions established by the regulation on who may vote apply.

(3)For each special voting opportunity, the district electoral officer must establish

(a)the place where the voting opportunity is to be conducted,

(b)the date of the voting opportunity, and

(c)the voting hours for the voting opportunity, such that the time established does not extend later than the time set by section 75 (3) for the close of final voting.

(4)If a site-based voting area is established under section 80 (4), voting under this section for the voting area is deemed to be final voting for that voting area and a final voting opportunity under section 75 is not required.

(5)If authorized by the chief electoral officer, a special voting opportunity may be held outside the boundaries of the electoral district for which the district electoral officer is responsible.

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(6)The chief electoral officer may establish different election procedures at a special voting opportunity from those established under other provisions of this Act, in which case the procedures established by the chief electoral officer apply and the others do not.

(7)Without limiting subsection (6), if authorized by the chief electoral officer, the district electoral officer may limit the number of scrutineers who may be present at a special voting opportunity, subject to the requirement that at least 2 scrutineers must be allowed to be present.

(8)If the number of scrutineers permitted to be present is limited under subsection (7), the scrutineers must be selected

(a)by agreement among the candidates in the election, or

(b)if agreement cannot be reached, by lot conducted by the district electoral officer to select the candidates, who may each designate one scrutineer to attend the special voting opportunity.

### **Specified alternative voting options**

**78** (1)As soon as reasonably possible after the district electoral officer establishes an office for use during an election, voting at the office of the district electoral officer as described in section 104 must be available from that office until 4 hours before the time set by section 75 (3) for the close of final voting.

(2)Voting by mail-in voting must be available as soon as reasonably possible after mail-in voting packages have been prepared.

(3)A voter may return a mail-in voting package

(a)by mail to the address printed on the outer envelope included in the mail-in voting package provided to the voter, or

(b)to an authorized drop-off location.

(4)If the chief electoral officer specifies locations for the purposes of paragraph (c) of the definition of “authorized drop-off location”, the chief electoral officer must publish, on an Elections BC authorized internet site, the location and office hours of each authorized drop-off location as soon as reasonably possible after voting by mail-in voting is available under subsection (2).

(5) Despite sections 25 (3) and (4) and 25.5 (1) and (2) of the *Interpretation Act* and any other provision of this Act, an individual or organization responsible for an authorized drop-off location is not required to collect a mail-in voting package outside the location’s regular office hours.

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### **Notice of voting opportunities**

- 79** (1)The chief electoral officer must arrange for notice regarding voting opportunities to be given to voters.
- (2)Without limiting the discretion of the chief electoral officer, notice may be given by one or more of the following methods:
- (a)mailing to individual voters a notice indicating where they are entitled to vote;
  - (b)publishing notice in newspapers or other media;
  - (c)providing a central telephone information service.

## **Division 1.1 — Voting Administration Tools**

### **Voting administration tools**

- 79.01** (1)In this Part and Part 7, "**voting administration tools**" means the following types of tools:
- (a)electronic voting books;
  - (b)ballot printers;
  - (c)vote-counting equipment;
  - (d)any other prescribed types of tools to assist in the conduct of voting proceedings.
- (2)Voting administration tools under subsection (1) (d) must not include the following:
- (a)tools to enable voting using the internet;
  - (b)tools to enable a voter to record a voter's candidate choice that does not involve marking a ballot paper.
- (3)For each election, the chief electoral officer may
- (a)specify whether one or more types of voting administration tools are to be used for the following:
    - (i)a specified electoral district or a specified class of electoral districts;
    - (ii)a specified geographic area or community within an electoral district;
    - (iii)a specified voting opportunity or a specified class of voting opportunities;

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(iv) a specified alternative voting option or a specified class of alternative voting options;

(v) a specified voting place or a specified class of voting places;

(vi) any other prescribed circumstance in which, or location at which, one or more voting administration tools are to be used, and

(b) specify the following in accordance with voting administration tools specified:

(i) the number of election officials required to conduct the election proceedings;

(ii) the responsibilities of election officials in relation to the voting proceedings in which the voting administration tools are used.

(4) If the chief electoral officer specifies anything under this section, the chief electoral officer must publish the matters specified on an ~~authorized Elections BC internet site~~ [Elections BC authorized internet site](#) as follows:

(a) in the case of a general election conducted in accordance with section 23 (2) or (3) of the *Constitution Act*, at least 60 days before the date the election is called;

(b) in the case of a by-election, or a general election that is not conducted in accordance with section 23 (2) or (3) of the *Constitution Act*, as soon as practicable after the date the election is called.

(5) If, in the opinion of the chief electoral officer, circumstances arise in which changing a matter specified under this section would facilitate the conduct of voting proceedings, the chief electoral officer

(a) may make the change, and

(b) must publish the change on an ~~authorized Elections BC internet site~~ [Elections BC authorized internet site](#) as soon as practicable.

### **Use of electronic voting book**

**79.02** (1) This section applies if the chief electoral officer specifies the use of an electronic voting book under section 79.01.

(2) The chief electoral officer must establish procedures respecting the use of an electronic voting book, which must include the following:

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- (a) procedures in relation to how the electronic voting book is to be used by the chief electoral officer, district electoral officers and election officials;
- (b) procedures in relation to the security of the electronic voting book, including how the data in the electronic voting book are to be stored and protected from damage or loss;
- (c) procedures in relation to how and when the data in the electronic voting book may be accessed;
- (d) procedures in relation to addressing circumstances in which there may be connectivity issues, software issues or similar issues that prevent or compromise the use of the electronic voting book;
- (e) procedures in relation to anything else the chief electoral officer considers necessary for conducting voting proceedings and maintaining the integrity of voting proceedings in which the electronic voting book is used.

### **Use of ballot printer**

**79.03** (1) This section applies if the chief electoral officer specifies the use of ballot printers under section 79.01.

(2) Subject to subsection (3), a ballot printer may be used to print a ballot only in the following circumstances:

- (a) if a voter is voting for another electoral district for which an election is being conducted at the same time as the election in which the voter is voting;
- (b) if there are not sufficient numbers of pre-printed ballots.

(3) The chief electoral officer may direct the use of a ballot printer for a voter voting for another voting area in the same electoral district as the voting area in which the voter is resident.

(4) The chief electoral officer must establish procedures for the use of a ballot printer, which must include the following:

- (a) procedures establishing how the ballot printer is to be used by the chief electoral officer, district electoral officers and election officials;
- (b) procedures in relation to the security of the ballot printer, both while being used in a voting proceeding and at other times.

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### **Use of vote-counting equipment**

**79.04** (1) This section applies if the chief electoral officer specifies the use of vote-counting equipment under section 79.01.

(2) The following restrictions apply with respect to the use of vote-counting equipment:

- (a) the vote-counting equipment must not be a part of or connected to an electronic network during the voting proceedings;
- (b) at the discretion of the chief electoral officer, the vote-counting equipment may be securely connected to an electronic network for the purpose of transmitting information to the chief electoral officer or, if authorized by the chief electoral officer, to a district electoral officer;
- (c) the vote-counting equipment must be tested in accordance with industry standards;
- (d) before the first use of the vote-counting equipment for the election, the supervising election official must demonstrate that no votes have been recorded on the equipment;
- (e) the vote-counting equipment must not be used to generate, print or report election results until after the close of final voting on final voting day.

(3) For the purpose of subsection (2) (c), testing includes, without limitation, logic and accuracy testing.

(4) The chief electoral officer must establish procedures for the use of vote-counting equipment, which must include the following:

- (a) procedures establishing how the vote-counting equipment is to be used by the chief electoral officer, district electoral officers and election officials;
- (b) procedures in relation to the testing of the vote-counting equipment as described in subsection (2) (c);
- (c) procedures in relation to the security of the vote-counting equipment, while it is being used in a voting proceeding and at other times;
- (d) procedures establishing what steps to take if the vote-counting equipment provides a notification described in subsection (5);
- (e) procedures in relation to anything else the chief electoral officer considers necessary for conducting voting proceedings and

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maintaining the integrity of voting proceedings in which vote-counting equipment is used.

(5)Vote-counting equipment must be programmed in such a manner that the equipment provides a notification if the equipment detects the following:

- (a)there is no mark on the ballot or the mark made cannot be read by the vote-counting equipment;
- (b)there is more than one mark on the ballot;
- (c)the mark on the ballot is ambiguous.

### **Depositing ballot in ballot box**

**79.05** If vote-counting equipment is used, depositing a ballot in a ballot box includes the following:

- (a)an election official or a voter inserting the ballot in the vote-counting equipment;
- (b)an election official or a voter inserting the ballot in an auxiliary compartment;
- (c)a prescribed action by an election official in relation to the vote-counting equipment.

## **Division 2 — Arrangements for Voting**

### **Voting areas**

**80** (1)The chief electoral officer must establish voting areas for each electoral district.

(2)In establishing voting areas, the chief electoral officer must

- (a)consider the boundaries of municipalities, regional districts and federal electoral districts,
- (b)consider any geographic or other factors that might affect the convenience of voters, and
- (c)include in each voting area the number of voters, from the Provincial list of voters, that the chief electoral officer considers will facilitate conducting voting proceedings for the voters.

(3)Without limiting the authority under subsection (1), a voting area may be established consisting of one or more areas that are not immediately adjacent to each other.



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(4)The chief electoral officer may establish a site-based voting area for the purposes of section 77 (4) if satisfied that the voters for the voting area will have an adequate opportunity to vote under that section.

(5)If there is doubt as to the voting area to which a voter should be assigned, the voter registration official or election official authorized by the chief electoral officer must decide the matter having regard to the convenience of the voter and must inform the district registrar of voters of this decision.

(6)Voting areas may be established by the use of maps or otherwise.

(7)Notice of the boundaries of the voting areas, or of where an individual may inspect materials to determine those boundaries, must be published in the Gazette.

(8)Maps of the voting areas and, if these have been prepared under the direction of the chief electoral officer, indexes to residential addresses within the voting areas must be available for public inspection at the office of the chief electoral officer during its regular office hours.

## **Voting places**

**81** (1)So far as reasonably possible, a voting place must be in a convenient location for a majority of the voters and must be easily accessible to individuals who have a physical disability or whose mobility is impaired.

(2)A voting place must be in the electoral district unless the district electoral officer considers that another location will be more convenient for a majority of the voters.

(3)If requested by a district electoral officer,

(a)accommodation in a school that is the property of a board of school trustees under the *School Act* must be made available by the board for use as a voting place, and

(b)accommodation in a facility that is owned by a francophone education authority as defined in the *School Act* or leased by a francophone education authority from a board of school trustees must be made available by the francophone education authority for use as a voting place.

## **Voting stations**

**82** (1)A voting station is a location where an individual obtains a ballot to use for voting at a voting opportunity.

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(2) Subject to subsection (3), there must be a ballot box at each voting station and an election official responsible for each voting station.

(3) If voting administration tools are used, the ballot box and vote-counting equipment used with the ballot box may be placed in a location at the voting place other than at the voting station.

(4) For a voting opportunity,

(a) the district electoral officer must establish sufficient voting stations to accommodate the number of voters that are anticipated to attend to vote at the opportunity, and

(b) an election official may direct a voter to a voting station.

### **Voting screens**

**83** (1) For each voting place there must be one or more voting screens.

(2) The election official responsible must ensure that the voting screens are arranged in such a manner that voters may mark their ballots screened from observation by others and without interference.

(3) A notice to provide directions for voting, in the form specified by the chief electoral officer, must be at each voting screen in use.

### **Voting books**

**84** (1) The chief electoral officer must

(a) arrange for the preparation of voting books, in the format and with the content specified by the chief electoral officer, and

(b) ensure that each district electoral officer has, or has access to, the following:

(i) the required voting books;

(ii) any voting administration tools required in relation to voting books, and equipment to support the use of the voting administration tools, if the use of the voting administration tools is specified by the chief electoral officer under section 79.01.

(2) The chief electoral officer may specify the use of separate voting books for different types of voting opportunities and for alternative voting options.

### **Ballot boxes**

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**85 (1)**A ballot box

(a) must be constructed so that

(i) ballots can be inserted into it, and

(ii) inserted ballots cannot be withdrawn unless the box is opened, and

(b) may be constructed

(i) with an auxiliary compartment, and

(ii) so that vote-counting equipment can be attached.

(2) The chief electoral officer must establish procedures to ensure that ballots are kept in a way to facilitate the preparation of ballot accounts.

## **Ballots**

**86 (1)**A ballot must not include any of the following:

(a) an indication that a candidate is holding or has held an elected office;

(b) a candidate's occupation;

(c) an indication of a title, honour, degree or other decoration received or held by a candidate.

(2) Ordinary ballots must be prepared in the form prescribed by regulation and must include the following:

(a) the full name of each candidate in the election or, if a candidate specified a different usual name in the nomination documents, this usual name;

(b) in the case of a candidate nominated as a representative of a registered political party, the identification of the political party filed with the chief electoral officer under section 155 (3) (c);

(c) if requested by an independent candidate in the candidate's nomination documents, an indication that the candidate is independent.

(3) The names of the candidates must be arranged on an ordinary ballot alphabetically by their surnames and, if 2 or more candidates have the same surname, must be arranged alphabetically in order of their first given or usual names to be used on the ballot.

(4) If 2 or more candidates

(a) have the same surnames and given names, or

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(b) have names so similar that, in the opinion of the chief electoral officer, they are likely to cause confusion,

the chief electoral officer may modify the names or include additional information to assist voters to identify the candidates, subject to the restrictions under subsection (1), and may establish their order on the ballot.

~~(5) Write-in ballots must be prepared in the form prescribed by regulation to permit the voter to vote by writing in the name or political party of the candidate for whom the individual wishes to vote.~~

(5) Write-in ballots must be prepared in the form prescribed by regulation to permit the voter to vote by writing in the name of the candidate, registered political party of the candidate or leader of the registered political party of the candidate for whom the individual wishes to vote.

(6) If an election by voting is still required after a candidate withdraws under section 64 or an order is made under section 66 (8) (b) and the ordinary ballot papers for the electoral district have been prepared, the district electoral officer must notify each supervising election official as soon as possible and, as time allows,

(a) have ballot papers prepared without the name of the individual,

(b) indicate on the ballots that the individual has ceased to be a candidate, or

(c) have posted at each voting station a notice that the individual has ceased to be a candidate.

(7) If the ordinary ballot papers for the electoral district have been prepared before an order is made under section 66 (8) (c) or (d), the district electoral officer must notify each supervising election official as soon as possible and, as time allows,

(a) have ballot papers prepared in accordance with the order of the court,

(b) indicate on the ballot, as applicable, the status or usual name of the candidate in accordance with the order of the court, or

(c) have posted at each voting station a notice of the order of the court.

(8) No ballot is invalid by reason that it includes the name of an individual who is not a candidate or a name or status that is not as ordered by a court under section 66.

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(9) Subject to this section, the decision of the chief electoral officer respecting the form and content of a ballot is final and may not be the subject of an application under Part 8.

### **Ballot papers, certification envelopes and other materials**

**87** (1) The chief electoral officer is responsible for the following:

- (a) arranging the preparation of ballot papers, certification envelopes and other election materials required for the conduct of voting;
- (b) arranging the delivery of the materials described in paragraph (a) to the district electoral officer;
- (c) if the chief electoral officer has specified the use of a voting administration tool under section 79.01, arranging the preparation, or procurement, of the voting administration tool and equipment to support the use of the voting administration tool;
- (d) arranging the delivery of a voting administration tool and equipment described in paragraph (c) to the district electoral officer.

(2) Certification envelopes must be prepared in the form specified by the chief electoral officer.

(3) For the purpose of voting under section 104.01, mail-in voting packages must be prepared containing the following:

- (a) a ballot;
- ~~(b) a secrecy envelope;~~
- [\(b\) a secrecy enclosure;](#)
- (c) a certification envelope;
- (d) an outer envelope on which is printed the address of the office of the election official to whom the envelope is to be returned;
- (e) instructions on how to vote by mail-in voting;
- (f) anything else the chief electoral officer considers advisable.

### **Assignment of election official responsibilities**

**88** (1) For each voting opportunity, the district electoral officer must assign

- (a) the required number of election officials, and
- (b) the required responsibilities to the election officials

to conduct the election proceedings, taking into account any matters specified by the chief electoral officer under section 79.01.

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- (2) For each voting opportunity, the district electoral officer
- (a) must designate an election official to be responsible for supervising the election officials assigned under subsection (1), and
  - (b) may assign an election official to act as the supervising election official if the designated supervising election official under paragraph (a) is absent or incapable of acting.
- (3) As required, the district electoral officer may assign election officials necessary for special voting opportunities and alternative voting options.

### **Division 3 — Voting Proceedings**

#### **Each individual may vote only once in an election**

**89** An individual must not vote more than once in the same general election or by-election.

#### **Voting to be by secret ballot**

- 90** (1) Voting at an election must be by secret ballot.
- (2) Each individual present at a place at which a voter exercises the right to vote, including individuals present to vote, and each individual present at the counting of the vote must preserve the secrecy of the ballot and, in particular, must not do any of the following:
- (a) interfere with an individual who is marking a ballot;
  - (b) attempt to discover how an individual voted;
  - (c) communicate information regarding another individual's candidate choice;
  - (d) induce an individual, directly or indirectly, to show the ballot in a way that reveals how the individual voted.
- (3) A voter may not be required in any legal proceedings to reveal how he or she voted in an election.

#### **How to mark a ballot**

- 91** (1) In the case of an ordinary ballot, an individual votes by marking the ballot to clearly indicate the candidate for whom the individual wishes to vote in accordance with the following, as applicable:
- (a) directions provided at the voting screen;

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(b) directions provided in a mail-in voting package;

(c) directions provided by the chief electoral officer.

~~(2) In the case of a write-in ballot, an individual votes by writing in the blank space provided on the ballot either~~

~~(a) the name of the candidate for whom the voter wishes to vote, or~~

~~(b) the name of the registered political party of the candidate for whom the individual wishes to vote.~~

(2) In the case of a write-in ballot, an individual votes by writing in the blank space provided on the ballot

(a) the name of the candidate for whom the voter wishes to vote,

(b) the name of the registered political party of the candidate for whom the individual wishes to vote, or

(c) the name of the leader of the registered political party of a candidate for whom the individual wishes to vote.

(3) When providing a ballot, an election official may explain the proper method for voting by ballot and must explain this if requested by a voter or an individual assisting a voter under section 109.

### **Individuals who must be present at voting proceedings**

92 The supervising election official designated or assigned under section 88 must ensure that there are sufficient election officials present at a place where voting proceedings are conducted to monitor, at all times during the voting proceedings, the ballot boxes and, if used, voting administration tools.

### **Individuals who may be present at voting proceedings**

93 (1) Except as provided in this section, an individual must not be present at a voting place while voting proceedings are being conducted.

(2) The following individuals may be present at a voting place while voting proceedings are being conducted:

(a) election officials authorized to be present at the voting place;

(b) individuals who are present at the voting place for the purpose of voting, individuals in the care of an individual attending to vote or individuals assisting in voting under section 109;

(c) individuals acting as translators under section 269 at the voting place;

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(d)for each candidate,

(i)the official agent of the candidate,

(ii)one scrutineer at each voting station at the voting place,

(iii)one additional scrutineer at the voting place, and

(iv)candidate representatives temporarily present at the voting place for the purpose of conveying information to and from scrutineers, to a maximum number equal to the number of voting stations;

(e)other individuals permitted to be present at the voting place by the district electoral officer or an election official authorized by the district electoral officer.

(3)Other than for the purpose of voting, a candidate must not be present while voting proceedings are being conducted.

(4)Other than an individual attending to vote, an individual in the care of an individual attending to vote or a peace officer assisting the election official under section 273, each individual present at a voting place while voting proceedings are being conducted and each candidate representative present at a special voting opportunity must make a solemn declaration to preserve the secrecy of the ballot in accordance with section 90.

### **Only one individual at a time may use a voting screen**

**94** (1)While a voter is using a voting screen to mark a ballot, no other individual may observe or be in a position to observe the ballot being marked.

(2)As exceptions to subsection (1),

(a)an individual assisting a voter to mark a ballot under section 109 may be present with the voter, and

(b)if the election official responsible permits, an individual who is under the care of a voter may be present with the voter.

### **Sealing of ballot boxes**

**95** (1)Before a ballot box is used for ballots, the election official responsible, in the presence of at least one witness, must inspect the ballot box to ensure that it is empty and seal it in such a manner that it cannot be opened without breaking the seal.



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(2) At the end of voting for a voting opportunity, or if a ballot box becomes full while voting proceedings are being conducted, the election official responsible must seal the ballot box in a manner to prevent the addition or withdrawal of ballots.

(3) In addition to sealing by the election official responsible, candidate representatives are entitled to sign or otherwise mark the seal for the purposes of this section.

(4) A ballot box that has been sealed under subsection (2) must remain sealed and unopened until the ballots are to be counted, unless it is a ballot box for voting at an alternative voting option.

(4.1) During voting proceedings, an election official may, in the presence of at least one witness, remove the ballots from the auxiliary compartment of a ballot box used with vote-counting equipment, for the purpose of inserting the ballots into the vote-counting equipment in accordance with procedures established by the chief electoral officer under section 79.04 (4).

(5) If a ballot box sealed under subsection (2) is to be used again in the election, the election official responsible must break the seal in the presence of at least one witness.

(6) A ballot box used for voting at an alternative voting option may be locked rather than sealed, so long as the purposes of this section are reasonably met.

(7) If, at any time that a ballot box is required to be sealed or locked under this section, it appears that there may have been tampering with the seal or lock, this must be reported to the district electoral officer and must be recorded on the ballot account for the ballot box, together with any reasons for this known to the election official responsible.

### **Before first use of vote-counting equipment**

**95.01** Before vote-counting equipment is first used in a place where voting proceedings are conducted, the election official responsible, in the presence of at least one witness, must do the following:

- (a) inspect the ballot box that is to be used with the vote-counting equipment to ensure that it is empty and seal it in such a manner that it cannot be opened without breaking the seal;
- (b) inspect the auxiliary compartment to ensure that it is empty;

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(c) inspect the vote-counting equipment to ensure that it has not been interfered with.

## **Division 4 — Voting at a Voting Opportunity**

### **Final voting**

**96** (1) For final voting in accordance with this section, an individual must attend to vote at a final voting opportunity established

- (a) for the voting area in which the individual is resident, and the election procedures in subsections (2) to (5) apply,
- (b) for another voting area in the same electoral district as the voting area in which the individual is resident, and the election procedures prescribed by regulation under subsection (6) apply, or
- (c) for another electoral district for which an election is being conducted at the same time as the election in which the individual is voting, and the election procedures prescribed by regulation under subsection (6) apply.

(2) In order to obtain a ballot for final voting, the following requirements must be met:

- (a) the individual voting must
  - (i) provide the documents described in section 41 (3), or
  - (ii) if the individual does not have sufficient documentation, have the individual's identity and place of residence confirmed in accordance with section 41.1, and for this purpose, section 41.1 (4) and (5) applies;
- (b) if the individual is registering as a voter for the electoral district in conjunction with voting, the election official responsible must record information about the individual as specified by the chief electoral officer;
- (c) if the individual voting is a registered voter, the election official responsible must update information about the voter, if applicable, as specified by the chief electoral officer;
- (d) the individual voting must, as directed by the election official responsible,

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(i) make a written declaration that the individual is entitled to vote in the election, or

(ii) make an oral declaration that the individual is entitled to vote in the election, in which case the election official responsible must make a record that the individual made an oral declaration;

(e) if the individual requires assistance to vote, the requirements of section 109 must also be met;

(f) if the individual is challenged under section 111, the individual must also meet the requirements of that section;

(g) if it appears that another individual has already voted using the individual's name, the individual must also meet the requirements of section 112.

(3) Once the requirements referred to in subsection (2) have been met, the election official responsible must

(a) announce the name of the individual,

(b) initial a ballot,

(c) hand the individual the initialled ballot, and

(d) provide the individual with directions about the following:

(i) how to keep marks on the ballot concealed once the individual has marked the ballot by either

(A) placing the ballot in a secrecy sleeve, or

(B) refolding the ballot to conceal the names of the candidates and any mark made on the ballot by the individual;

(ii) what to do with the ballot once the individual has marked the ballot.

(4) To vote after receiving a ballot, an individual must

(a) go directly to a voting screen provided,

(b) while the ballot is screened from observation, mark it in accordance with section 91,

(c) conceal the names of the candidates and any mark made on the ballot by the individual as directed, under subsection (3) (d), by the election official,

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(d) return the ballot to the election official responsible, who must confirm that the ballot is the one that was given to the individual by examining the initials on the ballot, and

(e) at the individual's choice,

(i) if no vote-counting equipment is used, either

(A) accept the ballot back and deposit it in the appropriate sealed ballot box while observed by the election official responsible, or

(B) observe the election official responsible deposit the ballot in the appropriate sealed ballot box, or

(ii) if vote-counting equipment is used, either

(A) accept the ballot back and insert it into the appropriate vote-counting equipment or auxiliary compartment, as directed by the election official responsible, or

(B) observe an election official responsible insert the ballot into the appropriate vote-counting equipment or auxiliary compartment.

(5) If vote-counting equipment is used and the vote-counting equipment provides a notification described in section 79.04 (5), the election official responsible must follow the procedures established under section 79.04 (4) (d).

(6) The chief electoral officer must make regulations prescribing election procedures about the following, which may include modifying, for the purposes of this subsection, the election procedures set out in subsections (2) to (4):

(a) voting at a final voting opportunity established for another voting area in the same electoral district as the voting area in which the individual is resident;

(b) voting at a final voting opportunity established for another electoral district for which an election is being conducted at the same time as the election in which the individual is voting.

### **Advance voting**

**97** (1) For advance voting in accordance with this section, an individual must attend to vote at an advance voting opportunity established

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(a) for the electoral district for which the individual is a voter, and, subject to subsection (2), the election procedures in section 96 (2) to (5) apply, or

(b) for another electoral district for which an election is being conducted at the same time as the election in which the individual is voting, and, subject to subsection (2), the election procedures prescribed by regulation under section 96 (6) apply.

(2) The chief electoral officer may make regulations for advance voting opportunities, which may include modifying, for the purposes of this section, the election procedures set out in section 96 (2) to (5) or prescribed by regulation under section 96 (6).

### **Voting at a special voting opportunity**

**98** (1) For voting at a special voting opportunity in accordance with this section, an individual must

(a) attend to vote at the time and place where the voting opportunity is being conducted, and

(b) be entitled to vote at the special voting opportunity, if any restrictions referred to in section 77 (2) on who may vote at the voting opportunity apply.

(2) Unless the time for voting is extended under section 114 or the voting opportunity is adjourned under section 272, an individual may not vote under this section after the time set by section 75 (3) for the close of final voting for the election in which the individual is voting.

(3) In order to obtain a ballot at a special voting opportunity, the following requirements must be met:

(a) the individual voting must, as directed by the election official responsible,

(i) make a written declaration that the individual is entitled to vote in the election and, if restrictions referred to in subsection (1) (b) apply, that the individual is entitled to vote at the special voting opportunity, or

(ii) make an oral declaration that the individual is entitled to vote in the election and, if restrictions referred to in subsection (1) (b) apply, that the individual is entitled to vote at the special

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voting opportunity, in which case the election official responsible must make a record that the individual made an oral declaration;

(b) the requirements referred to in section 96 (2) (a) and, if applicable, the additional requirements referred to in [section 96 \(2\) \(e\) to \(g\)](#) must be met.

(4) Once the requirements of subsection (3) have been met, unless other procedures have been established under section 77, the election official responsible must

(a) announce the name of the individual,

(b) initial a ballot,

(c) hand to the individual the initialled ballot,

(d) if the ballot is a write-in ballot, provide the individual with a copy of the list of candidates, indicating the names of the candidates for the electoral district for which the individual is a voter and, as applicable, the status of the candidates as representatives of specific registered political parties or as independent candidates, and

(e) provide the individual with directions for the following:

(i) how to keep marks on the ballot concealed once the individual has marked the ballot;

(ii) what to do with the ballot once the individual has marked the ballot.

(5) In order to vote after receiving a ballot, an individual must proceed in accordance with section 96 (4) and (5) unless other procedures have been established under section 77.

(6) As an exception to subsection (5), if the individual is voting in an election for another electoral district than the one for which the voting opportunity is being held, the ballot must be dealt with in accordance with regulations prescribed under subsection (7) of this section.

(7) The chief electoral officer must make regulations respecting the conduct of voting at a special voting opportunity established for another electoral district for which an election is being conducted at the same time as the election in which the individual is voting, which may include modifying, for the purposes of this subsection, the election procedures set out in subsection (3) or (4).

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**Repealed**

99 [Repealed 2019-42-41.]

**Repealed**

100 [Repealed 2019-42-41.]

**Repealed**

101 [Repealed 2019-42-41.]

## **Division 5 — Alternative Voting Options**

### **Alternative voting options — general**

**102** (1) Voting under sections 104 and 104.01 must be available as set out in section 78.

(2) If an alternative voting option is within a class established by the chief electoral officer by regulation, any restrictions established by the regulations on who may vote apply.

**Repealed**

103 [Repealed 2019-42-43.]

### **Voting at office of district electoral officer**

**104** (1) An individual may attend to vote under this section at the office of a district electoral officer during its regular office hours.

(2) Voting under this section may be done at any time up until 4 hours before the time set by section 75 (3) for the close of final voting for the election in which the individual is voting.

(3) In order to vote under this section, the following requirements must be met:

(a) the individual voting must, as directed by the election official responsible,

(i) make a written declaration that the individual is entitled to vote in the election, or

(ii) make an oral declaration that the individual is entitled to vote in the election, in which case the election official responsible must make a record that the individual made an oral declaration;

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(b)the requirements referred to in section 96 (2) (a) and, if applicable, the additional requirements of section 96 (2) (e) to (g) must be met.

(4)Once the requirements of subsection (3) are met, section 96 (3), (4) and (5) applies to the voting.

(5)The chief electoral officer may make regulations in relation to voting at the office of a district electoral officer before ordinary ballots for voting have been prepared, which may include regulations modifying, for the purposes of this section, the election procedures set out in section 96 (3), (4) and (5).

### **Voting with mail-in voting package**

**104.01** An individual may

(a)apply, in accordance with section 105 or 105.01, as applicable, for a mail-in voting package

(i)to the chief electoral officer, or

(ii)to the district electoral officer if the chief electoral officer has so specified or if it would be more convenient for the individual, and

(b)vote using a mail-in voting package in accordance with section 106.

### **How to obtain mail-in voting package**

**105** (1)An application for a mail-in voting package may be made at any time up until 4 hours before the time set by section 75 (3) for the close of final voting for the election in which the individual is voting.

(2)Subject to section 105.01, an individual must not apply for more than one mail-in voting package for an election.

(3)An application under subsection (1) must include the following:

(a)the name and residential address of the individual;

(b)an address at which the individual can be reached and to which the mail-in voting package is to be sent, if this is different from the residential address of the individual;

(c)if the application is made in the 10 days before final voting day, a telephone number at which the individual can be contacted, if available.

(4)Subject to subsection (5), the chief electoral officer or district electoral officer must mail or otherwise provide a mail-in voting package prepared under section 87 (3) to an individual who has applied if the officer is satisfied that the individual



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is a voter for the electoral district for which the individual is applying to vote or is entitled to register as such.

~~(5)The chief electoral officer or district electoral officer is not required to mail a mail-in voting package to an individual who has applied if the officer considers that there is insufficient time for the mail-in voting package to be received by the following before the close of final voting:~~

~~(a)the individual;~~

~~(b)the office at the address described in section 106 (1) (g) (i);~~

~~(c)the district electoral officer under section 106 (1) (g) (ii).~~

(5)The chief electoral officer or the district electoral officer is not required to provide a mail-in voting package to an individual who has applied if the officer considers that there is insufficient time for the mail-in voting package

(a)to be received by the individual, and

(b)to be delivered in accordance with section 106 (1) (g).

(6)If an application under this section is made in the last 10 days before final voting day for the election in which the individual is voting, the individual who has applied is responsible for arranging delivery of the mail-in voting package to the chief electoral officer or district electoral officer.

(7)Before sending out a mail-in voting package, the chief electoral officer or district electoral officer must make a record that a mail-in voting package will be mailed to the individual who has applied.

(8)The chief electoral officer or district electoral officer may include and, if requested by the individual to whom the mail-in voting package is being provided, must include with a mail-in voting package

(a)an application for registration as a voter or for updating voter registration information, and

(b)instructions on how to complete the application.

## **How to arrange for replacement of mail-in voting package**

**105.01** (1)An individual who

(a)receives a mail-in voting package with an incorrect name or a misspelled name of the individual or an incorrect residential address,

(b)loses, mutilates or destroys the mail-in voting package,

(c)spoils a ballot or certification envelope before it is delivered in accordance with section 106 (1) (g), or

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(d)has applied requesting a voting package in accordance with section 105 but did not receive a mail-in voting package

may apply to the chief electoral officer or district electoral officer to request a replacement mail-in voting package.

(2)An application under subsection (1) may be made at any time up until 4 hours before the time set by section 75 (3) for the close of final voting for the election in which the individual is voting.

~~(3)The chief electoral officer or district electoral officer is not required to provide a mail-in voting package to an individual referred to in subsection (1) if the officer considers that there is insufficient time for the mail-in voting package to be received by the following before the close of final voting:~~

~~(a)the individual;~~

~~(b)the office at the address described in section 106 (1) (g) (i);~~

~~(c)the district electoral officer under section 106 (1) (g) (ii).~~

(3)The chief electoral officer or the district electoral officer is not required to provide a mail-in voting package to an individual referred to in subsection (1) if the officer considers that there is insufficient time for the mail-in voting package

(a)to be received by the individual, and

(b)to be delivered in accordance with section 106 (1) (g).

(4)If the chief electoral officer or district electoral officer provides a replacement mail-in voting package under this section, the officer must

(a)designate the replaced mail-in voting package as cancelled on the record maintained for that purpose, and

(b)instruct the individual on what is to be done with the cancelled mail-in voting package, if applicable.

### **How to vote using mail-in voting package**

**106** (1)In order to vote using a mail-in voting package, an individual must do the following:

(a)mark the ballot in accordance with the directions provided in the mail-in voting package;

~~(b)place the marked ballot in the secrecy envelope provided and seal this secrecy envelope;~~

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~~(c) follow the directions provided in the mail-in voting package in respect of the following:~~

~~(i) the individual's completion of the certification envelope;~~

~~(ii) in the presence of a witness, the individual's signing of a declaration that the individual~~

~~(A) is registered as a voter for the electoral district for which the individual is voting or is applying to register as such in conjunction with voting, and~~

~~(B) has not previously voted in the election and will not afterwards vote again in the same election;~~

~~(iii) the individual ensuring that the declaration is signed by the witness to the signing of the declaration under subparagraph~~

~~(ii);~~

(b) place the marked ballot in the secrecy enclosure provided and, if the secrecy enclosure is a secrecy envelope, seal the secrecy envelope;

(c) follow the directions provided in the mail-in voting package in respect of

(i) completing the certification envelope, and

(ii) including the individual's date of birth on the certification envelope;

(d) place the certification envelope in the outer envelope provided;

~~(e) if the individual is registering as a voter in conjunction with voting or is updating voter registration information, enclose in the outer envelope~~

~~(i) the application form and documents required by section 41 (2) and (3) or the copies permitted by subsection (2) of this section, or~~

~~(ii) the application form and solemn declarations required by section 41.1 (2) and (3);~~

(e) if the individual is registering as a voter in conjunction with voting or is updating voter registration information, fulfill the prescribed verification requirements for registering as a voter or updating voter registration information;

(f) seal the outer envelope;

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~~(g) arrange for the sealed outer envelope containing the applicable materials referred to in paragraphs (a) to (e) of this section to be delivered~~

~~(i) to the address of the office of the election official printed on it, so that it is received before the time set by section 75 (3) for the close of final voting for the election, or~~

~~(ii) if the individual is concerned that the envelope will not be received at the address of the office of the election official printed on it before the time set by section 75 (3) for the close of final voting for the election, to the office of a district electoral officer.~~

(g) arrange for the sealed outer envelope containing the applicable materials referred to in paragraphs (a) to (d) of this subsection to be delivered to

(i) the address printed on the outer envelope, or

(ii) an authorized drop-off location.

~~(2) For the purposes of satisfying the requirements referred to in subsection (1) (e), an individual may enclose copies rather than originals of documents with the application for registration or for updating voter registration information.~~

(2) For the purposes of subsection (1) (e), the individual may fulfill the prescribed verification requirements in the period between the date of the request for a mail-in voting package and the date of the return of the mail-in voting package.

(3) If it appears to the chief electoral officer that there is an error in materials received under subsection (1) (g), the chief electoral officer

(a) may give notice to the individual, in the manner and within the time period established by the chief electoral officer, and

(b) may correct the error, after considering submissions, if any, and examining the evidence.

## **Receipt of mail-in voting packages**

**107** (1) An envelope that is received as required by ~~section 106 (1) (g) (i)~~ [section 106 \(1\) \(g\)](#) before the time set by section 75 (3) for the close of final voting must be dealt with by the election official responsible as follows:

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- (a) ~~immediately on receipt~~, as soon as possible after receipt, the election official must open the outer envelope and record the date of receipt on the certification envelope and in the voting book;
- (b) if, on the basis of an included application for registration, the election official is satisfied that the individual is entitled to be registered as a voter, the election official must accept the application and register the individual;
- (c) if the election official is satisfied that the individual identified on the certification envelope is the individual to whom the envelope was provided under section 105 or 105.01, the election official must deal with the certification envelope in accordance with procedures specified by the chief electoral officer;
- (d) if the election official is not satisfied as referred to in paragraph (b) or (c), the election official must note this on the certification envelope and must place the envelope in a ballot box in accordance with the procedures specified by the chief electoral officer.

~~(2) An envelope that is received as required by section 106 (1) (g) (ii) before the time set by section 75 (3) for the close of final voting must be dealt with by the election official responsible as follows:~~

- ~~(a) immediately on receipt, the election official must open the outer envelope and record the date of receipt on the certification envelope and in the voting book;~~
- ~~(b) if, on the basis of an included application for registration, the election official is satisfied that the individual is entitled to be registered as a voter, the election official must accept the application and register the individual;~~
- ~~(c) if the election official is satisfied that the individual identified on the certification envelope as using the envelope to vote is the individual to whom the envelope was issued, the election official must initial the certification envelope and place it in a ballot box;~~
- ~~(d) if the election official is not satisfied as referred to in paragraph (b) or (c), the election official must note this on the certification envelope and must place the envelope in a ballot box.~~

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(3) An envelope that is received under section 106 (1) (g) after the time set by section 75 (3) for the close of final voting must be dealt with by the election official responsible as follows:

- (a) on receipt, the election official must open the outer envelope and record the date and time of receipt on the certification envelope and in the voting book;
- (b) the election official must forward any enclosed application for registration as a voter or for updating voter registration information to the applicable district registrar of voters to be dealt with as if it were received as part of the general registration;
- (c) the certification envelope must remain unopened and must not be considered in the initial count, the final count or any judicial recount for the election.

### **Special provision of mail-in voting packages for armed forces and others**

**108** (1) For the purposes of enabling voting by a group of members of the Canadian armed forces or of another specific class of individuals who, in the opinion of the chief electoral officer, are entitled to vote but are likely to be from a number of different electoral districts, the chief electoral officer may appoint a member of the group as an election official for the purposes of this section.

(2) The chief electoral officer may provide to the election official mail-in voting packages, a voting book, applications for registration as a voter and for updating voter registration information.

(3) The election official has the same duties and powers as an election official responsible regarding the provision of mail-in voting packages, the recording of information regarding this and the acceptance of applications for voter registration and updating of voter registration information.

~~(4) As an exception to section 106 (1) (e), the election official has the authority to accept applications for voter registration and updating of voter registration information and the documents required under section 41 (3), or the solemn declaration required under section 41.1 (3), do not need to be enclosed with the certification envelopes.~~

(4) As an exception to section 106 (1) (e), the election official has the authority to verify the applicant's identity in accordance with section 41 (3) or 41.1.

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(5) For a ballot issued under this section to be counted as a vote, the materials referred to in section 106 (1) (g) must be received by the chief electoral officer before the time set by section 75 (3) for the close of final voting for the election in which the individual is voting.

(6) On receiving the materials referred to in subsection (5), the chief electoral officer must deal with the package in accordance with section 107.

(7) The election official must return the voting book and any unused mail-in voting packages to the chief electoral officer in accordance with procedures specified by the chief electoral officer.

### **Assisted telephone voting**

**108.01** (1) The chief electoral officer may establish assisted telephone voting to enable voting by individuals with a vision impairment that would make it difficult for the individuals to vote at a voting opportunity, in ~~a district electoral office~~ [the office of a district electoral officer](#) or by mail-in voting.

(2) The chief electoral officer may offer an assisted telephone voting option to individuals other than those described in subsection (1).

(3) If the chief electoral officer offers an assisted telephone voting option under subsection (2) of this section, the report of the chief electoral officer under section 13 (1) (b) must include a report on the offer and the circumstances under which the offer was made.

(4) Despite sections 41 and 41.1, an individual may only vote using the option for assisted telephone voting if the voter is a registered voter.

(5) The chief electoral officer must, if the chief electoral officer establishes assisted telephone voting, make regulations respecting assisted telephone voting, including, without limitation, establishing the following:

- (a) the period of time during which assisted telephone voting is available;
- (b) procedures to ensure the secrecy of the ballot;
- (c) procedures to ensure that election officials mark the ballot in accordance with the wishes of the voter.

### **Voting in exceptional circumstances**

**108.02** (1) If, in the opinion of the chief electoral officer, exceptional circumstances arise in an election that would make it unsafe for individuals in a

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specified community or specified location to vote, the chief electoral officer may authorize the district electoral officer to provide an exceptional opportunity for the individuals in the specified community or specified location to vote.

(2) In order to obtain a ballot for voting under this section, the requirements set out in section 96 (2) must be met.

(3) Subject to subsection (4) of this section, the election procedures set out in section 96 (3), (4) and (5) and prescribed by regulation under section 96 (6) apply to voting under this section.

(4) The district electoral officer may modify the procedures referred to in subsection (3) of this section.

(5) A procedure modified under subsection (4) of this section must preserve the secrecy of the ballot.

## **Division 6 — Special Circumstances**

### **Individuals needing assistance — voting in person**

**109** (1) This section applies to voters

~~(a) who vote by attending at a voting opportunity, and~~

[\(a\) who vote by attending at a voting opportunity or at the office of a district electoral officer, and](#)

(b) who

(i) are unable to mark a ballot because of physical disability or difficulties with reading or writing, or

(ii) require the assistance of a translator to read the ballot and the instructions for voting.

(2) A voter referred to in subsection (1) may be assisted in voting by an election official or by an individual accompanying the voter.

(3) An individual other than an election official must not act under this section to assist more than one voter in an election to mark a ballot under this section.

(4) As an exception to subsection (3), an election official may permit an individual to assist more than one member of the individual's family.

(5) In order to receive a ballot to be marked under this section, the following requirements must be met:

(a) if the individual assisting is not an election official, the individual must make a solemn declaration that the individual



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(i) will preserve the secrecy of the ballot in accordance with section 90,

(ii) if needed, will mark the ballot in accordance with the wishes of the voter,

(iii) will refrain from attempting in any manner to influence the voter as to how the voter should vote, and

(iv) has not, except as permitted under subsection (4), assisted another individual under this section in the election;

(b) if assistance is needed because the voter needs a translator to be able to read the ballot and the instructions for voting, the individual assisting must make a solemn declaration in accordance with section 269 (4).

(6) The individual assisting must accompany the voter to the voting screen or other place to be used for voting and mark the ballot in accordance with the directions of the voter.

(7) Candidates and candidate representatives must not assist in marking a ballot.

(8) An individual does not vote by assisting under this section.

### **Individuals needing assistance — mail-in voting**

**109.01** (1) This section applies to voters

(a) who vote by using a mail-in voting package, and

(b) who

(i) are unable to mark a ballot or request a mail-in voting package because of physical disability or difficulties with reading or writing, or

(ii) require the assistance of a translator to read the ballot and the instructions for voting.

(2) A voter referred to in subsection (1) may be assisted by an individual in voting or in requesting a mail-in voting package.

(3) An individual must not act under this section to assist more than one voter in an election.

(4) As an exception to subsection (3), an individual may assist more than one member of the individual's family to whom subsection (1) (b) (i) or (ii) applies.

(5) An individual who is assisting a voter under this section must

(a) preserve the secrecy of the ballot in accordance with section 90,

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(b)if needed, mark the ballot in accordance with the directions of the voter, ~~and~~

[\(b.1\)write the individual's name on the certification envelope of the voter's mail-in voting package, and](#)

(c)refrain from attempting in any manner to influence the voter as to how the voter should vote.

(6)If a voter referred to in subsection (1) (b) (i) is unable to sign the declaration, which may be on the certification envelope or otherwise, the individual assisting the voter

(a)must sign the declaration that the voter

(i)is registered as a voter for the electoral district for which the voter is voting or is applying to register as such in conjunction with voting, and

(ii)has not previously voted in the election and will not afterwards vote again in the same election, and

(b)must provide information in accordance with the directions in the mail-in voting package.

(7)Under this section, the signature of the individual assisting the voter is considered to be the signature of the voter who is assisted in voting under this section.

(8)An individual must not provide assistance as a translator under this section unless the individual is able to make the translation and makes it to the best of the individual's abilities.

(9)An individual is not considered to have voted or to have applied for a mail-in voting package by assisting a voter under this section.

### **Individuals unable to enter a voting place**

**110** (1)This section applies to voters who come to a voting place to vote but who are unable to enter the voting place because of physical disability or impaired mobility.

(2)A voter referred to in subsection (1) may request to vote at the nearest location to the voting place to which the voter has access.

(3)If a request is made, the election official responsible must attend the voter at the nearest location to the voting place for the purpose of allowing the voter to meet the applicable requirements to obtain a ballot.

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(4)The election official responsible must ensure that the voter's marked ballot is deposited in the appropriate ballot box, taking whatever steps the official considers necessary to maintain the secrecy of the ballot.

(5)The election official responsible may temporarily suspend voting proceedings in order to allow a voter to vote under this section.

(6)Separate ballot boxes may be used for the purposes of this section.

### **Challenge of a voter**

**111** (1)An individual's right to vote at a voting opportunity or at an alternative voting option may be challenged in accordance with this section at any time during the procedures to obtain a ballot up until the time the individual receives the ballot.

(2)A challenge may be made

(a)only by an election official, a candidate representative or a voter for the electoral district, and

(b)only on the basis that the individual proposing to vote is not entitled to vote.

(3)In order to receive a ballot, an individual whose right to vote has been challenged must either

(a)provide evidence satisfactory to the election official responsible that the individual is entitled to vote, or

(b)make a solemn declaration before the election official responsible as to the individual's entitlement to vote.

(4)The solemn declaration required by subsection (3) (b) must state that the individual

(a)meets all the qualifications to be registered as a voter and is either registered as a voter of that electoral district or is applying to register in conjunction with voting,

(b)is entitled to vote in the election,

(c)is in fact the individual under whose name the individual is registered or registering as a voter,

(d)has not contravened section 255, and

(e)has not voted before in the same election and will not vote again in the same election.

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(5) In relation to a challenge under this section, the election official responsible must record in the voting book

- (a) that the individual was challenged,
- (b) the name of the individual who made the challenge, and
- (c) whether and how the individual challenged satisfied the requirement of subsection (3).

### **If another individual has already voted under a voter's name**

**112** (1) This section applies if a voter otherwise meets the requirements to obtain a ballot but the voting book or other election record indicates that an individual has already voted using the name of the voter.

(2) In order to obtain a ballot, the individual asserting the right to vote as the named voter must either

- (a) provide evidence satisfactory to the election official responsible that the individual is the named voter, or
- (b) make a solemn declaration as to the individual's entitlement to vote as the named voter.

(3) The election official responsible must record in the voting book

- (a) that a second ballot was issued in the name of the voter, and
- (b) whether and how the individual asserting the right to vote satisfied the requirement of subsection (2).

### **Replacement of spoiled ballot**

**113** (1) In the following cases, a voter may obtain a replacement ballot by giving the spoiled ballot to the election official responsible:

- (a) the voter spoils the ballot and requests the replacement ballot before the spoiled ballot is deposited in the ballot box;
- (b) the vote-counting equipment provides a notification described in section 79.04 (5) in relation to the voter's ballot.

(2) The election official responsible must immediately mark as spoiled a ballot replaced under subsection (1) and retain the spoiled ballot for inclusion with the election materials under section 126.

### **Time for voting extended**

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**114** (1) If the start of voting, as set under this Act, is delayed at a location and the district electoral officer considers that a significant number of voters would not be able to vote without an extension under this section, the district electoral officer may extend the time for the end of the voting but the extension must not permit voting for a longer length of time than would have been permitted had voting not been delayed.

(2) As soon as possible, the district electoral officer must inform the chief electoral officer of an extension under subsection (1).

(3) If, at the time set under this Act for the end of voting at a location, there are individuals waiting in or in line outside the place in order to vote, those individuals are entitled to vote and the ballot box must remain unsealed until their ballots are deposited.

(4) No individuals other than those referred to in subsection (3) are entitled to vote after the time set for the end of the voting.

(5) The decision of the election official responsible as to who is or who is not entitled to vote under subsection (3) is final and may not be the basis of an application under Part 8.

## **Part 7 — Counting of the Vote**

### **Division 1 — Initial Count**

#### **What is the initial count**

**115** (1) The initial count is to be a count of the votes on the ballots for an election other than, subject to subsection (2), the ballots contained in certification envelopes.

(2) The chief electoral officer may specify that ballots contained in certification envelopes are to be included in the initial count if the certification envelopes contain ballots used for voting at a voting opportunity or at an alternative voting option at which an electronic voting book was used.

#### **When the initial count is to take place**

**116** (1) The initial count must not take place until the close of final voting for the election but must take place as soon as possible after this time.

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(2) If the close of final voting is extended under section 114, the initial count for voting opportunities other than the one for which there was an extension may begin as soon as possible after the close of final voting for the other voting opportunities.

(3) If the close of final voting is extended under section 272 by an adjournment, the initial count for all voting opportunities must not begin until the close of final voting for the adjourned voting opportunity.

### **Where the initial count is to take place**

**117** (1) The initial count of ballots used for final voting must be conducted at the voting place where the final voting was conducted, unless the district electoral officer directs that the count is to take place at another location.

(1.1) If the chief electoral officer specifies under section 115 (2) that ballots contained in certification envelopes are to be included in the initial count, the initial count of ballots contained in certification envelopes must be conducted at a place specified by the chief electoral officer.

(1.2) The chief electoral officer must notify the following individuals or organizations of the place at which the initial count of ballots described in subsection (1.1) is to be conducted:

(a) the candidates who have not been endorsed in the election by a political party;

(b) the registered political parties that have endorsed candidates in the election.

(2) The initial count of ballots other than those referred to in subsections (1) and (1.1) must be conducted at a place specified by the district electoral officer.

(3) The district electoral officer must notify the candidates of the places specified under subsection (2), other than a voting place referred to in subsection (1).

### **Who conducts the initial count**

**118** (1) The initial count of the following must be conducted by election officials assigned responsibility to do so by a district electoral officer:

(a) ballots used for final voting;

(b) ballots used for advance voting;

(c) ballots used for voting at a special voting opportunity if the ballots are not contained in certification envelopes.

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(2)The initial count of ballots used for voting other than voting referred to in subsection (1) must be conducted by election officials assigned responsibility to do so by the chief electoral officer.

### **Who must and may be present at the initial count**

**119** (1)At the initial count where no vote-counting equipment is used,

- (a)the election official responsible for the ballot box and at least one other election official must be present,
- (b)candidates in the election are entitled to be present, and
- (c)each candidate is entitled to have one candidate representative present for each ballot box for which the count is being separately conducted.

(2)At the initial count where vote-counting equipment is used,

- (a)the election official responsible for the vote-counting equipment and at least one other election official must be present,
- (b)candidates in the election are entitled to be present,
- (c)each candidate is entitled to have one candidate representative present for each electronic vote-counting machine for which the count is being separately conducted, and
- (d)a registered political party that has received notice under section 117 (1.2) is entitled to designate one individual to be present for each electronic vote-counting machine for which the count is being conducted.

(3)Individuals other than those permitted by subsections (1) and (2) and other than election officials taking part in the count may not be present during the initial count unless permitted by

- (a)the chief electoral officer or an election official authorized by the chief electoral officer, or
- (b)the district electoral officer or an election official authorized by the district electoral officer.

### **Proceedings on the initial count — without vote-counting equipment**

**120** (0.1)This section applies if the chief electoral officer does not specify the use of vote-counting equipment under section 79.01.

(1)The initial count of the votes on ballots in a ballot box must proceed as follows:

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(a) a ballot account for the ballot box is to be prepared in accordance with section 121 (1);

(b) the ballot box is to be opened by the election official;

(b.1) if

(i) a ballot used by an individual for voting for an electoral district other than the electoral district in which the individual is voting is found in the ballot box and is not in a ~~secrecy envelope~~[secrecy enclosure](#) and certification envelope, and

(ii) of the ballots in the ballot box, the ballot is the only ballot described by subparagraph (i),

the ballot is to be placed by the election official responsible in a ~~secrecy envelope~~[secrecy enclosure](#) and certification envelope associated with the ballot, and the certification envelope is to be sealed, and the certification envelope is to be kept separate and unopened, for inclusion with the other election materials required by section 126;

(c) any certification envelopes found in the ballot box are to be removed by the election official and kept separate and unopened for inclusion with the other election materials as required by the procedures established under section 126;

(d) the remaining ballots are to be considered in accordance with sections 122, 123 and 124;

(e) the ballot account for the ballot box is to be completed in accordance with section 121 (2);

(f) the ballots and other materials are to be packaged in accordance with the procedures established under section 126 for delivery to the district electoral officer.

(2) If it appears from the ballot account prepared in accordance with section 121

(1) that there are so few ballots in a ballot box that the secrecy of the ballots may be at risk, the district electoral officer may authorize the ballots in the ballot box to be combined with other ballots in another ballot box unless this would substantially delay the time at which the ballots would otherwise be counted.

(3) If ballots are combined under subsection (2),



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- (a) the ballot account prepared in accordance with section 121 (1) for the ballot box that contains the smaller number of ballots must be attached to the ballot account for the other ballot box, and
- (b) the ballot account for the ballot box that contains the larger number of ballots must be completed for all combined ballots in the box in accordance with section 121 (2).

### **Proceedings on the initial count — with vote-counting equipment**

- 120.01** (1) This section applies if the chief electoral officer specifies the use of vote-counting equipment under section 79.01.
- (2) During proceedings on the initial count under this section, ballot accounts must be prepared and completed in accordance with section 121.
- (3) The election official responsible must use, in accordance with the procedures specified by the chief electoral officer under section 79.04 (4), the vote-counting equipment to produce a record in paper format of
- (a) the number of votes accepted for each candidate, and
  - (b) the number of ballots rejected.
- (4) Subject to subsection (7), the initial count of the votes on ballots in a ballot box must proceed in accordance with subsections (2) and (3) and with the regulations under subsection (5).
- (5) The chief electoral officer must make regulations prescribing additional requirements respecting how the initial count of votes is to proceed that must include the following:
- (a) the circumstances in which an election official may transcribe a voter's candidate choice, if the voter's intent is clear, onto an ordinary ballot if
    - (i) the ballot is rejected by the vote-counting equipment, or
    - (ii) the voter's mark on the ballot is not readable by the vote-counting equipment;
  - (b) the procedures that must be followed when transcribing a voter's candidate choice under paragraph (a).
- (6) In making a regulation under subsection (5), the chief electoral officer may make different regulations for ballots used for voting at a voting opportunity and for ballots used for voting at an alternative voting option.

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(7) If, in the opinion of the election official responsible, there are technical or similar problems with the vote-counting equipment, the district electoral officer may do the following:

(a) direct the election official responsible to conduct the initial count in accordance with the proceedings set out in section 120;

(b) specify a different place at which the initial count is to be conducted.

(8) If the district electoral officer specifies a place under subsection (7) (b), the district electoral officer must notify the affected candidates of the place at which the initial count is to be conducted.

### Quality assurance process

**120.02** (1) The chief electoral officer must make regulations establishing a quality assurance process to determine whether the vote-counting equipment processed ballots accurately in accordance with section 123.

(2) ~~The chief electoral officer must~~ [The chief electoral officer or the district electoral officer, as applicable, must](#) notify candidates of

(a) the place where the process will be undertaken, and

(b) the time when the process will be undertaken, which may be a time after the initial count or the declaration of preliminary results but before the final count.

(3) The following are entitled to be present when the process is undertaken:

(a) candidates in the election;

(b) one candidate representative for each candidate in the election;

[\(c\) one individual designated by a registered political party that has received notice under section 117 \(1.2\).](#)

~~(4) If the results of the quality assurance process indicate that the vote-counting equipment did not process ballots accurately in accordance with section 123, the district electoral officer must consider whether to exercise the district electoral officer's discretion under section 136 (1) (a) to recount some or all of the ballots.~~

[\(4\) If the results of the quality assurance process indicate that the vote-counting equipment did not process ballots accurately in accordance with section 123, the chief electoral officer or the district electoral officer must consider whether to exercise the chief electoral officer's or the district electoral officer's discretion under section 136 \(1\) \(a\) to recount some or all of the ballots.](#)

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### **Ballot account for initial count**

**121** (1)The election official responsible must prepare in duplicate a ballot account in the form specified by the chief electoral officer with the information specified by the chief electoral officer.

(1.1)The chief electoral officer may specify that different information be included under subsection (1) for ballot accounts that account for ballots used in voting proceedings in which one or more types of voting administration tools were used.

(2)After the counting under section 120 (1) (d), 120.01 (4) or 122.02 (5), as applicable, is complete, the election official responsible must record on each duplicate ballot account

(a)the number of votes accepted for each candidate, and

(b)the number of ballots rejected.

(3)After the information is recorded under subsection (2), the duplicate ballot accounts must be signed by the election official responsible and may be signed by any other individual present at the initial count who wishes to do so.

(4)One completed ballot account must be placed in the ballot box in accordance with the procedures established under section 126 and the other duplicate must be separately packaged and personally delivered to the district electoral officer or sent to the district electoral officer in the manner directed by the district electoral officer.

(5)The election official responsible must provide a signed copy of the ballot account to each candidate or candidate representative present who requests it.

### **Consideration of ballots — without vote-counting equipment**

**122** (0.1)This section applies to ballots in a ballot box with which no vote-counting equipment was used.

(1)Each ballot to be considered on the initial count must be dealt with as follows:

(a)the election official responsible must consider in accordance with section 123 whether the ballot is to be accepted as a vote or whether it is to be rejected;

(b)after making the consideration, the election official responsible must call out in a distinct voice, as applicable,

(i)the name of the candidate for whom the vote is recorded, if the ballot is accepted as a vote, or

(ii)that the ballot is rejected;

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(c) the election official responsible must place the ballot in such a manner that any candidates and candidate representatives present are able to see how the ballot is marked.

(2) The election official responsible must record or have another election official record the votes for each candidate as they are counted.

(3) Once started, counting must proceed as continuously as practical.

### **Consideration of certification envelopes**

**122.01** (1) This section applies if the chief electoral officer specifies under section 115 (2) that ballots contained in certification envelopes are to be included in the initial count.

(2) A certification envelope must remain unopened and any ballot in it must not be considered on the initial count if one or more of the following applies:

- (a) the envelope is not completed as required under this Act;
- (b) the individual identified on the envelope as using the envelope to vote is not the individual to whom the envelope was issued;
- (c) the individual identified on the envelope as using the envelope to vote is not entitled to vote in the election;
- (d) the individual identified on the envelope as using the envelope to vote appears to be voting more than once in the election.

(3) If a certification envelope is to remain unopened under subsection (2), the election official responsible must mark this on the envelope, together with the applicable reason.

(4) A candidate, candidate representative or a person designated by a registered political party under section 119 (2) (d) may object in accordance with section 124 to a decision on whether or not a certification envelope is to remain unopened under subsection (2) of this section, and for this purpose, a reference in section 124 to a ballot is to be read as a reference to a certification envelope.

### **Consideration of ballots from certification envelopes**

**122.02** (1) This section applies if the chief electoral officer specifies under section 115 (2) that ballots contained in certification envelopes are to be included in the initial count.

(2) The certification envelopes other than those referred to in sections 120 (1) (c) and 122.01 must be opened one at a time and dealt with as follows:

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- (a) if a certification envelope contains more than one ~~secrecy envelope~~[secrecy enclosure](#) and 2 or more of those ~~secrecy envelopes~~[secrecy enclosures](#) contain a ballot,
  - (i) the ~~secrecy envelopes~~[secrecy enclosures](#) must be marked as being required to remain unopened under this provision and must be placed inside the certification envelope, which must be resealed,
  - (ii) the certification envelope must be marked as having been dealt with under this provision, and
  - (iii) the certification envelope must not be reopened, and the ~~secrecy envelopes~~[secrecy enclosures](#) must remain unopened and any ballots in them must not be considered on the initial count and on the final count;
- (b) if a certification envelope contains more than one ~~secrecy envelope~~[secrecy enclosure](#) and only one of those ~~secrecy envelopes~~[secrecy enclosures](#) contains a ballot, the ~~secrecy envelope~~[secrecy enclosure](#) with the ballot is to be removed from its certification envelope for opening under subsection (3);
- (c) if a certification envelope contains a ballot but no ~~secrecy envelope~~[secrecy enclosure](#), the election official responsible must deposit the ballot in the ballot box to be used for the initial count, with care to conceal any marking on the ballot from other individuals present;
- (d) if a ~~secrecy envelope~~[secrecy enclosure](#) is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified, the election official responsible must open the ~~secrecy envelope~~[secrecy enclosure](#), remove the ballot and deposit the ballot in the ballot box to be used for the initial count, with care to conceal any marking ~~on the envelope~~[on the enclosure](#) and ballot from other individuals present;
- (e) if not otherwise dealt with under this subsection, a ~~secrecy envelope~~[secrecy enclosure](#) is to be removed from its certification envelope for opening under subsection (3).

(3) The remaining ~~secrecy envelopes~~[secrecy enclosures](#) referred to in subsection

(2) (e) are to be opened one at a time and dealt with as follows:

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- (a) if a ~~secrecy envelope~~[secrecy enclosure](#) contains more than one ballot,
  - (i) in the case in which only one ballot is marked, the marked ballot must be placed in the ballot box to be used for the initial count, and
  - (ii) in the case in which more than one of the ballots are marked,
    - (A) the ballots ~~must be resealed in~~[must be placed in](#) the ~~secrecy envelope~~[secrecy enclosure](#),
    - (B) the ~~secrecy envelope~~[secrecy enclosure](#) must be marked as having been dealt with under this provision, and
    - (C) the ~~secrecy envelope~~[secrecy enclosure](#) must not be reopened and the ballots in it must not be considered on the initial count and on the final count;
- (b) if a ~~secrecy envelope~~[secrecy enclosure](#) contains only one ballot, the ballot must be deposited in the ballot box to be used for the initial count.

(4) After all ballots to be considered have been deposited in the ballot box, the contents of the ballot box must be mixed to ensure the secrecy of the ballot.

(5) After the ballot box has been prepared in accordance with subsections (2) and (3), the initial count of the ballots in the ballot box is to be completed

- (a) in the case where no vote-counting equipment is used, by
  - (i) considering the ballots one at a time in accordance with sections 122, 123 and 124, and
  - (ii) completing the ballot account in accordance with section 121 (2), and
- (b) in the case where vote-counting equipment is used, by
  - (i) transcribing a voter's candidate choice, if the voter's intent is clear, onto an ordinary ballot if the ballot is not readable by the vote-counting equipment,
  - (ii) using the vote-counting equipment to consider the ballot and record the vote, and
  - (iii) completing the ballot account in accordance with section 121 (2).

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### **Early consideration of certification envelopes and ballots from certification envelopes**

- 122.03** (1) The chief electoral officer may authorize procedures described in sections 122.01 and 122.02 (2) and (3) and in the regulations under section 120.01 (5) (b) to be undertaken before the times set out in section 116.
- (2) If the chief electoral officer provides an authorization under subsection (1), the chief electoral officer must notify candidates and registered political parties of the date and time when, and the place where, the proceedings will be undertaken.

### **Rules for accepting and rejecting ballots**

- 123** (1) A ballot must be rejected if any of the following applies:
- (a) the ballot physically differs from the ballots officially provided for the voting proceedings for which the counting is being conducted;
  - (b) there is no mark referred to in subsection (2) or (3) on it;
  - (c) in the case where vote-counting equipment is not used, the ballot is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified, other than is necessary for the purposes of voting by write-in ballot;
  - (d) the ballot is marked as voting for more than one candidate;
  - (e) the ballot does not clearly indicate the intention of the voter to vote for a candidate;
  - (f) the ballot is a write-in ballot marked for a registered political party that is not represented by a candidate in the election;
  - (g) the ballot is a write-in ballot marked for both a candidate and a registered political party, but the candidate is not a representative of that political party;
  - [\(h\) the ballot is a write-in ballot marked for both a registered political party and the leader of the registered political party, but the name of the person on the ballot is not the name of the leader of the registered political party.](#)
- (2) Unless rejected under subsection (1), either of the following on an ordinary ballot is to be accepted and counted as a vote for the applicable candidate:
- (a) a filling in of the blank space provided on the ballot opposite the name of the candidate;
  - (b) a mark that clearly indicates the intention of the voter to vote for the candidate.

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(3) Unless rejected under subsection (1), any of the following marks on a write-in ballot is to be accepted and counted as a vote for the applicable candidate:

(a) the name of the candidate marked on the ballot in accordance with section 91 (2);

(b) the name of the registered political party represented by the candidate marked on the ballot in accordance with section 91 (2);

[\(b.1\) the name of the leader of a registered political party marked in accordance with section 91 \(2\);](#)

(c) an indication of either the name of the candidate or the registered political party represented by the candidate that, although misspelled or abbreviated, clearly indicates the intention of the voter;

[\(d\) an indication of the name of the leader of the registered political party of the candidate marked on the ballot in accordance with section 91 \(2\) that, although misspelled or abbreviated, clearly indicates the intention of the voter.](#)

### **Objections to the acceptance of a vote or the rejection of a ballot — without vote-counting equipment**

**124** (0.1) This section does not apply if the chief electoral officer has specified the use of vote-counting equipment under section 79.01.

(1) A candidate or candidate representative may object to the acceptance of a vote or the rejection of a ballot.

(2) An objection must be made at the time the ballot is considered by the election official responsible under section 122.

(3) The decision of the election official responsible regarding the acceptance of a vote or the rejection of a ballot may not be challenged except as provided in this section and the decision may only be changed ~~by the district electoral officer~~ under section 136 on the final count or on a judicial recount under Division 3 of this Part.

(4) If a ballot is subject to an objection, the election official responsible must

(a) record the objection on the form specified by the chief electoral officer, numbering each objection with a sequential number, and

(b) mark the assigned number on the back of the ballot and initial this number.

### **Preliminary election results**



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- 125** (1)The chief electoral officer must establish procedures for reporting preliminary election results that must include the following:
- (a)who must make the reports;
  - (b)to whom the reports must be made.
- (2)The chief electoral officer may make public preliminary results for the election.

### **Packaging and delivery of election materials to district electoral officer**

- 126** (1)The chief electoral officer must establish procedures for the packaging and delivery of any election materials and, if used, voting administration tools to the district electoral officer.
- (2)After the ballot account is completed, the election official responsible must package and deliver election materials and voting administration tools, if any, to the district electoral officer in accordance with the procedures established under subsection (1).

## **Division 2 — Final Count**

### **What is the final count**

- 127** (1)The final count for an election is to be a count of the votes on the ballots for an election that were not considered as part of the initial count and a determination of the results of the election based on the votes accepted in the initial count and in the final count.
- (2)The final count is to be conducted by
- (a)counting in accordance with section 135 the votes on ballots that were not considered as part of the initial count,
  - (b)if applicable, recounting in accordance with section 136 some or all of the ballots considered in the initial count, and
  - (c)determining the results of the election on the basis of the ballot accounts from the initial count, the counting referred to in paragraph (a) and the recounting referred to in paragraph (b).
- (3)Certification envelopes containing ballots to be considered at the final count must be dealt with in accordance with section 131.

### **When and where the final count is to take place**

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**128** (1)The final count must take place on a date specified by the chief electoral officer, which date must not be before the ~~4th day~~[fourth day](#) after final voting day.

~~(2)The final count must be conducted at the office of the district electoral officer unless the district electoral officer gives notice under subsection (3) that it is to be conducted at another location.~~

~~(3)The district electoral officer must notify the candidates of the date and time when and, if this is not the office of the district electoral officer, the place where the final count and the sorting of certification envelopes referred to in section 131 are to be conducted.~~

[\(2\)The final count must be conducted, as applicable,](#)

[\(a\)at the office of the chief electoral officer unless the chief electoral officer gives notice under subsection \(3\) that the final count is to be conducted at another location, or](#)

[\(b\)at the office of the district electoral officer unless the district electoral officer gives notice under subsection \(3\) that the final count is to be conducted at another location.](#)

[\(3\)The chief electoral officer or the district electoral officer, as applicable, must notify the candidates of the date and time and, if the place that the final count is to be conducted is not the office of the chief electoral officer or the district electoral officer, the place that the final count and the sorting of certification envelopes referred to in section 131 are to be conducted.](#)

## **Who conducts the final count**

~~**129** (1)The final count and the sorting of certification envelopes under section 131 must be conducted by the district electoral officer.~~

~~(2)The district electoral officer may be assisted in the final count and preparations by other election officials and for this purpose may delegate authority under this Division to those election officials, but on the final count must personally deal with any ballots or envelopes that are subject to an objection under section 124 as it applies to section 134 or 135.~~

[129 \(1\)The final count and the sorting of certification envelopes referred to in section 131 must be conducted by](#)

[\(a\)the chief electoral officer, or](#)

[\(b\)the district electoral officer.](#)

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(2)The chief electoral officer or the district electoral officer may, subject to subsection (3),

(a)be assisted in the final count and preparations by other election officials, and

(b)for the purpose of paragraph (a), delegate authority under this Division to those election officials.

(3)On the final count, the district electoral officer must personally deal with any ballots or envelopes that are subject to an objection under section 124 as that section applies to section 134 or 135.

### **Who must and may be present at the final count and preparations**

~~130 (1)At the final count and preparations under section 131,~~

~~(a)the district electoral officer and at least one other election official must be present,~~

~~(b)candidates are entitled to be present,~~

~~(c)each candidate is entitled to have one candidate representative present, and~~

~~(d)if ballots have been divided for the purpose of having different election officials counting them at the same time during the final count, each candidate is entitled to have one additional candidate representative present for each set of ballots that is being counted.~~

~~(2)Individuals other than election officials and those permitted to be present under subsection (1) may not be present during the final count or the preparations unless permitted by the district electoral officer.~~

130(1) Subject to subsection (2), at the final count and preparations referred to in section 131,

(a)the chief electoral officer, the district electoral officer or an election official to whom a delegation was made under section 129 (2) (b), as applicable, and at least one other election official must be present,

(b)candidates are entitled to be present,

(c)each candidate is entitled to have

(i)if no vote-counting equipment is used, one candidate representative present, and

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(ii)if vote-counting equipment is used, one candidate representative present for each electronic vote-counting machine for which the count is being separately conducted.

(d)if ballots have been divided for the purpose of having different election officials counting them at the same time during the final count, each candidate is entitled to have one additional candidate representative present for each set of ballots that is being counted, and

(e)each registered political party that designated a person under section 119 (2) (d) is entitled to have the person present.

(2)If, in the chief electoral officer's opinion, it is necessary to do so in the public interest, the chief electoral officer may limit the number of individuals permitted to be present under subsection (1).

(3)Individuals other than election officials and those permitted to be present under subsection (1) may not be present during the final count or the preparations unless permitted by the chief electoral officer or the district electoral officer, as applicable.

### **Certification envelope preparation for final count**

**131** The certification envelopes to be considered at the final count must be sorted into classes as specified by the chief electoral officer.

### **Proceedings on final count**

**132** (1)The final count must proceed as follows:

- (a)each class of certification envelopes referred to in section 131 must be considered under section 134;
- (b)after a class of certification envelopes is considered under section 134, a ballot account for the class must be prepared in accordance with section 133 (1);
- (c)for each class, the certification envelopes to be opened on the final count are to be dealt with in accordance with section 135;
- (d)after each class of certification envelopes is dealt with under section 135, the ballot account for the class is to be completed in accordance with section 133;
- (e)any recount under section 136 must be conducted in accordance with that section;

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(f) ~~the district electoral officer~~ [the chief electoral officer or the district electoral officer, as applicable](#), must prepare a summary of the ballot accounts prepared on the initial and the final counts;

(g) the results of the election are to be determined on the basis of the ballot accounts prepared on the initial and final counts.

(1.1) If the chief electoral officer specifies under section 79.01 that vote-counting equipment will be used during the final count, the chief electoral officer must make regulations prescribing additional requirements respecting how the final count of votes is to proceed, including the procedures that must be followed by an election official when transcribing a voter's candidate choice onto an ordinary ballot if

(a) the ballot is not readable by the vote-counting equipment, and

(b) the voter's intent is clear.

(2) ~~The district electoral officer~~ [The chief electoral officer or the district electoral officer, as applicable](#), may authorize certification envelopes of one class to be combined with certification envelopes of another class if the district electoral officer considers that this is necessary to maintain the secrecy of the ballot.

(3) If certification envelopes are combined under subsection (2), ~~the district electoral officer~~ [the chief electoral officer or the district electoral officer, as applicable](#), must prepare a ballot account for the combined certification envelopes in accordance with section 133 (1).

### **Ballot account for final count**

**133** (1) ~~The district electoral officer~~ [The chief electoral officer or the district electoral officer, as applicable](#), must prepare in duplicate a ballot account in the form specified by the chief electoral officer with the information specified by the chief electoral officer.

(2) After the ballots in a class of certification envelopes have been dealt with under section 135, ~~the district electoral officer~~ [the chief electoral officer or the district electoral officer, as applicable](#), must complete the ballot account with the following information:

(a) the number of votes accepted for each candidate;

(b) the number of ballots rejected;

~~(c) the number of secrecy envelopes that remain unopened or were resealed under section 135.~~

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(c)the number of secrecy enclosures that remain unopened, or that were placed into the certification envelope, or into which ballots were placed under section 135.

(3)After the information is recorded under subsection (2), the duplicate ballot accounts must be signed by ~~the district electoral officer~~the chief electoral officer or the district electoral officer, as applicable, and may be signed by any other individual present at the final count who wishes to do so.

(4)~~The district electoral officer~~The chief electoral officer or the district electoral officer, as applicable, must provide a signed copy of a ballot account or ballot accounts summary to each candidate or candidate representative present who requests it.

### **Consideration of certification envelopes**

**134** (1)A certification envelope must remain unopened and any ballot in it must not be considered on the final count if one or more of the following applies:

- (a)the envelope is not completed as required under this Act;
- (b)the individual identified on the envelope as using the envelope to vote is not the individual to whom the envelope was issued;
- (c)the individual identified on the envelope as using the envelope to vote is not entitled to vote in the election;
- (d)the individual identified on the envelope as using the envelope to vote appears to be voting more than once in the election.

(2)If a certification envelope is to remain unopened under subsection (1), the election official responsible must mark this on the envelope, together with the applicable reason.

(3)A candidate or candidate representative may object in accordance with section 124 to a decision on whether or not a certification envelope is to remain unopened under subsection (1) of this section and, for this purpose, a reference in section 124 to a ballot is to be read as a reference to a certification envelope.

### **Consideration of ballots from certification envelopes**

**135** (1)After the ballot account for a class of certification envelopes is prepared, the certification envelopes other than those referred to in section 134 must be opened one at a time and dealt with as follows:

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(a) if a certification envelope contains more than one ~~secrecy envelope~~[secrecy enclosure](#) and 2 or more of those ~~secrecy envelopes~~[secrecy enclosures](#) contain a ballot,

- (i) the ~~secrecy envelopes~~[secrecy enclosures](#) must be marked as being required to remain unopened under this provision and must be resealed in the certification envelope,
- (ii) the certification envelope must be marked as having been dealt with under this provision, and
- (iii) the certification envelope must not be reopened and the ~~secrecy envelopes~~[secrecy enclosures](#) must remain unopened and any ballots in them must not be considered on the final count;

(a.1) if a certification envelope contains more than one ~~secrecy envelope~~[secrecy enclosure](#) and only one of those ~~secrecy envelopes~~[secrecy enclosures](#) contains a ballot, the ~~secrecy envelope~~[secrecy enclosure](#) with the ballot is to be removed from its certification envelope for opening under subsection (2);

(b) if a certification envelope contains a ballot but no ~~secrecy envelope~~[secrecy enclosure](#), the election official responsible must place the ballot in the ballot box to be used for the final count, with care to conceal any marking on the ballot from other individuals present;

(c) if a ~~secrecy envelope~~[secrecy enclosure](#) is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified, the election official responsible must open ~~the envelope~~[the enclosure](#), remove the ballot and place it in the ballot box to be used for the final count, with care to conceal any marking on ~~the envelope~~[the enclosure](#) and ballot from other individuals present;

(d) if not otherwise dealt with under this subsection, a ~~secrecy envelope~~[secrecy enclosure](#) is to be removed from its certification envelope for opening under subsection (2).

(2) The remaining ~~secrecy envelopes~~[secrecy enclosures](#) referred to in subsection

(1) (d) are to be opened one at a time and dealt with as follows:

(a) if a ~~secrecy envelope~~[secrecy enclosure](#) contains more than one ballot,

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(i) in the case in which only one ballot is marked, the marked ballot must be placed in the ballot box to be used for the final count, and

(ii) in the case in which more than one of the ballots are marked,

(A) the ballots ~~must be resealed in~~ [must be placed in the secrecy envelope](#) ~~secrecy enclosure~~,

(B) the ~~secrecy envelope~~ [secrecy enclosure](#) must be marked as having been dealt with under this provision, and

(C) the ~~secrecy envelope~~ [secrecy enclosure](#) must not be reopened and the ballots in it must not be considered on the final count;

(b) if a ~~secrecy envelope~~ [secrecy enclosure](#) contains only one ballot, the ballot must be placed in the ballot box to be used for the final count;

(c) after all ballots to be considered have been placed in the ballot box, the contents of the ballot box must be mixed to ensure secrecy of the ballot.

(3) After the ballot box has been prepared in accordance with subsections (1) and (2), the final count of the ballots in the ballot box is to be completed

(a) in the case where no vote-counting equipment is used, by

(i) considering the ballots one at a time in accordance with sections 122, 123 and 124, and

(ii) completing the ballot account in accordance with section 133 (2), and

(b) in the case where vote-counting equipment is used, by

(i) counting the votes using the vote-counting equipment in accordance with the regulations under section 132 (1.1), and

(ii) completing the ballot account in accordance with section 133 (2).

### **Recount by district electoral officer of ballots considered in initial count**

**136** (0.1) The chief electoral officer must make regulations respecting the conduct of recounts by ~~the district electoral officer~~ [the chief electoral officer or the district electoral officer, as applicable](#), under this section.



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(1)As part of the final count, ~~the district electoral officer~~[the chief electoral officer or the district electoral officer, as applicable](#).

(a)may recount some or all of the ballots that were considered as part of the initial count, and

(b)if requested in writing within 3 days after final voting day by a candidate or the official agent of a candidate, and the request is made on

(i)one or more of the bases set out in section 139 (2), or

~~(ii)on the basis that the difference between the votes received by the candidate declared elected and the candidate with the next highest number of votes is 100 votes or fewer,~~

[\(ii\)the basis that the preliminary election results reported under section 125 show a difference of 100 votes or fewer between the number of votes for the candidate with the highest number of votes and the number of votes for the candidate with the next highest number of votes,](#)

must recount some or all of the ballots that were considered as part of the initial count.

(2)A recount under this section must be conducted in accordance with the regulations under subsection (0.1), with the ballots from each ballot box considered separately.

(3)At the conclusion of a recount under this section, ~~the district electoral officer~~[the chief electoral officer or the district electoral officer, as applicable](#), must prepare a ballot account for the recount and attach it to the ballot account from the initial count for the ballot box to which it applies.

## **Declaration of official election results**

**137** (1)At the conclusion of the final count, the district electoral officer must report the following to the chief electoral officer:

(a)the results of the final count, as determined under section 132;

(b)the election of the candidate who received the most votes;

(c)if no candidate can be declared elected because there is an equality of votes for 2 or more candidates, or if the difference between the votes received by the candidate declared elected and the candidate with the

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next highest number of votes is less than 1/500 of the total ballots considered, that the results of the election are subject to a required judicial recount under section 139 (5).

(1.1)Based on the reports under subsection (1), the chief electoral officer must declare the official election results.

(2)The results and election as declared under subsection (1.1) are final subject only to a judicial recount under Division 3 of this Part or a declaration under Part 8.

### **Preparation of election materials for delivery to chief electoral officer**

**138** (0.1)The chief electoral officer must establish procedures for the packaging of ballots, unopened or resealed certification envelopes and ~~secrecy envelopes~~[secrecy enclosures](#) and all other election materials.

(1)After the final count, ~~the district electoral officer~~[the district electoral officer or the election officials who assisted the chief electoral officer in the final count and preparation, as applicable](#), must package election materials in accordance with the procedures established under subsection (0.1).

(2)Unless otherwise directed by a court, ~~the district electoral officer~~[the district electoral officer or the election officials who assisted the chief electoral officer in the final count and preparation, as applicable](#), must retain the election materials until the time for bringing an application for judicial recount has ended or the results of the judicial recount are determined, as applicable.

(3)At the end of the time referred to in subsection (2), ~~the district electoral officer~~[the district electoral officer or the election officials who assisted the chief electoral officer in the final count and preparation, as applicable](#), must

- (a)deliver the election materials to the chief electoral officer in accordance with the directions of the chief electoral officer, and
- (b)if any voting administration tools are used, deal with the voting administration tools in accordance with the directions of the chief electoral officer.

## **Division 3 — Judicial Recount**

### **Application for judicial recount by Supreme Court**

**139** (1)An application may be made to the Supreme Court in accordance with this section for a judicial recount of some or all of the votes on ballots for an election.

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(2) Except as provided in subsection (5), an application may only be made on one or more of the following bases:

- (a) that votes were not correctly accepted or ballots were not correctly rejected as required by the rules of section 123;
- (b) that unopened or resealed ~~certification or secrecy envelopes~~[certification envelopes or secrecy enclosures](#) contain ballots that should be considered;
- (c) that a ballot account does not accurately record the number of votes for a candidate;
- (d) that the final count under Division 2 of this Part did not correctly calculate the total number of votes for a candidate;
- (e) that the results of the quality assurance process, established by regulations under section 120.02, indicate that the vote-counting equipment did not process ballots accurately in accordance with section 123.

(3) The time period during which an application may be made is limited to the period between the declaration of official election results under section 137 and 6 days after that declaration.

(4) The application may only be made by

- (a) a voter for the electoral district for which the election was held,
- (b) a candidate in the election or a candidate representative of a candidate in the election, or
- (c) the district electoral officer.

(5) An application must be made by the district electoral officer if, at the end of the final count under Division 2 of this Part,

- (a) a candidate cannot be declared elected because there is an equality of votes for 2 or more candidates, or
- (b) the difference between the votes received by the candidate declared elected and the candidate with the next highest number of votes is less than 1/500 of the total ballots considered.

#### **Notice of time and place for recount**

**140** (1) Within 72 hours after an application for judicial recount has been filed, the court registry must notify the individual making the application of the date, time and place at which the judicial recount is to be conducted.

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- (2) The date set under subsection (1) for the judicial recount must be
- (a) no earlier than the date that is 7 days after the declaration of the official election results under section 137, and
  - (b) no later than the date that is 15 days after the declaration of the official election results under section 137.

(3) A recount may be conducted by the court in chambers, at the office of the district electoral officer or at any other place specified by the court.

(4) The individual making the application must notify affected individuals as follows:

- (a) the individual must immediately notify the district electoral officer and the candidates in the election that an application for judicial recount has been made;
- (b) within 24 hours of filing the petition commencing the application, the individual must serve copies of the petition and its accompanying affidavit on the affected individuals;
- (c) within 24 hours of being notified by the court registry under subsection (1), the individual must serve notice of the date, time and place of the judicial recount on the affected individuals.

(5) The individual making the application and the individuals required to be notified under subsection (4) are the parties to the judicial recount.

### **Individuals who may be present at a judicial recount**

**141** (1) The following individuals and their legal counsel are entitled to be present at a judicial recount:

- (a) the individual who made the application for the recount;
- (b) the district electoral officer and one other election official designated by the district electoral officer;
- (c) the candidates in the election;
- (d) for each candidate who is present at the judicial recount, one agent, and for each candidate who is not present, 2 agents;
- (e) the chief electoral officer and an agent of the chief electoral officer.

(2) Individuals other than those referred to in subsection (1) may be present only if permitted by the court.

(3) The district electoral officer must bring or arrange for the following to be delivered to the judicial recount:

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- (a) all ballot accounts used for the determination of official election results under section 132;
- (b) the summary of ballot accounts prepared under section 132;
- (c) the ballot boxes containing the ballots and envelopes for which the recount is requested.

### **Judicial recount procedure**

- 142** (1) A judicial recount must be conducted in accordance with this section.
- (2) Before beginning any consideration of the ballots or envelopes for which the recount was requested, if the court determines on the basis of the summary of ballot accounts prepared under section 132 that the results of a recount, if it were conducted, would not materially affect the results of the election, the court may declare that the results of the election are those declared under section 137 and take no further action under this section.
- (3) If consented to by the individual who made the application for the recount, the district electoral officer and the candidates present at the recount, the court may limit the ballots and envelopes to be considered on the recount from those for which the recount was requested.
- (4) In its discretion, the court may consider other ballots and open other envelopes in addition to those for which the recount was requested, and for this purpose may require the district electoral officer to bring other ballot boxes.
- (5) In conducting a recount, the court must
- (a) consider the ballots
    - (i) at the discretion of the court, in accordance with the procedures for counting votes with vote-counting equipment or in accordance with the procedures for counting votes without vote-counting equipment, and
    - (ii) in accordance with section 123,
  - (a.1) consider the envelopes in accordance with sections 134 and 135,
  - (b) confirm or change the ballot accounts in accordance with the consideration, and
  - (c) at the completion of the recount, declare the results of the election as determined in the judicial recount.
- (6) The court may appoint individuals to assist in the recount.

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(7) Unless otherwise directed by the court, until a judicial recount is completed the ballot boxes brought for the recount must remain in the custody of the court and, during a recess or adjournment of a judicial recount and after the completion of the judicial recount, the ballot boxes must be resealed in accordance with section 95.

(8) No costs may be awarded on a judicial recount unless, in the opinion of the court, a party to the judicial recount engaged in vexatious conduct or made unfounded allegations or objections.

### **Results of judicial recount**

**143** If no appeal of the results of a judicial recount is commenced under section 144 within the time permitted by that section, the Supreme Court judge who conducted the recount must issue to the district electoral officer a certificate of the results of the election.

### **Appeal of judicial recount**

**144** (1) A candidate in the election may appeal the decision of the Supreme Court under section 142 to the Court of Appeal in accordance with this section.

(2) An appeal must be commenced by filing a notice of appeal with the Court of Appeal within 2 days after the results of the judicial recount are declared under section 142 (5) (c).

(3) Within the period referred to in subsection (2), the individual bringing the appeal must give written notice of the appeal to the parties to the judicial recount and to the judge who conducted the judicial recount.

(4) The time set for the hearing of the appeal must be no later than 10 days after the registrar receives the notice of appeal.

(5) Once an appeal is commenced, the registrar of the Court of Appeal must obtain an appointment from the court for a time for hearing the appeal within the time limit set by subsection (4).

(6) In sufficient time to permit the appeal to be heard at the time set under subsection (5), the ballots or envelopes that are the subject of the appeal must be forwarded to the registrar of the Court of Appeal and the Supreme Court judge who conducted the recount must provide the Court of Appeal with a certificate of the decision on the recount.

(7) Each candidate is entitled to a copy of the certificate under subsection (6).

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### **Procedure on appeal of judicial recount**

- 145** (1)The individuals entitled to be present at an appeal of a judicial recount are the same as those entitled to be present at the judicial recount, and other individuals may only be present if permitted by the Court of Appeal.
- (2)On the hearing of the appeal, the Court of Appeal must recount the ballots that are the subject of the appeal in accordance with section 142.
- (3)At the conclusion of the appeal, the Court of Appeal must declare the results of the election in accordance with its recount and must issue to the district electoral officer a certificate of those results.

## **Division 4 — Final Proceedings**

### **Return of the writ of election**

- 146** (1)If no application for a judicial recount is made, at the end of the period for making such an application, the district electoral officer must complete the writ of election in accordance with the results of the election as declared under section 137.
- (2)If an application for a judicial recount is made, on receipt of the certificate of the results of the judicial recount under section 143 or the appeal under section 145 (3), the district electoral officer must complete the writ of election in accordance with the results as certified.
- (3)If no candidate can be declared elected because 2 or more candidates have the same number of votes, the writ of election must indicate that no member was elected for the electoral district and that the office of the member is vacant.
- (4)The district electoral officer must send the completed writ of election to the chief electoral officer in the manner directed by the chief electoral officer.

### **Report of results of election by chief electoral officer**

- 147** (1)As soon as possible after the date set for the return of the writs of election for a general election, the chief electoral officer must prepare a certified report of the individuals elected to serve as members of the Legislative Assembly and must deliver this to the Clerk of the Legislative Assembly.
- (2)For an election not reported under subsection (1), as soon as possible after the return of the writ for the election, the chief electoral officer must prepare a

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certified report of the individual elected to serve as member of the Legislative Assembly and must deliver this to the Speaker of the Legislative Assembly.

### **By-election if tie vote**

**148** (1) This section applies if the chief electoral officer is unable to report a member elected for an electoral district because 2 or more candidates had the same number of votes.

(2) As soon as possible after receiving the writ of election from the district electoral officer, the chief electoral officer must present a report to the Speaker that the office of the member is vacant, in which case a warrant for a by-election is to be issued in accordance with the *Constitution Act*.

### **Retention of election materials**

**149** (1) The ballots, unopened or resealed ~~certification and secrecy envelopes~~[certification envelopes, secrecy enclosures](#), ballot accounts, voting books and lists of voters used in conducting an election, and other materials specific to the election, must be retained by the chief electoral officer

(a) for one year after final voting day for that election, or

(b) if an application to the Supreme Court has been made under Part 8, until such later time as that application is finally determined.

(2) During the retention period under subsection (1), the ~~ballots accounts~~[ballot accounts](#) must be available for public inspection in the office of the chief electoral officer during its regular office hours.

(3) At the end of the retention period under subsection (1), the ballots and the unopened or resealed ~~certification and secrecy envelopes~~[certification envelopes and secrecy enclosures](#) must be destroyed unless otherwise ordered by a court.

## **Part 8 — Invalid Elections**

### **Application to court**

**150** (1) The right of an elected candidate to take office or the validity of an election may not be challenged except by an application under this section.

(2) An application may be made in accordance with this section to the Supreme Court for a declaration regarding the right of an individual to take office or the validity of an election.



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(3)The time limit for making an application is as follows:

- (a)if the application is on the basis that section 255, 256, 257 or 258 was contravened, 3 months after the date of the contravention or 30 days after the return of the writ for the election, whichever is later;
- (b)in other cases, 30 days after the return of the writ for the election.

(4)An application may be made only by a candidate in the election, the chief electoral officer or a voter for the electoral district for which the election was held.

(5)An application may be made only on one or more of the following bases:

- (a)that a candidate declared elected was not qualified to hold office at the time he or she was elected;
- (b)that an election should be declared invalid because it was not conducted in accordance with this Act or a regulation under this Act;
- (c)that an election should be declared invalid because section 255, 256, 257 or 258 was contravened.

(6)As a restriction on subsection (5) (b), an application may not be made on any basis for which an application for judicial recount may be or may have been made.

(7)The individual making the application must serve the petition on the chief electoral officer, the district electoral officer and the individuals who were candidates in the election.

(8)The individuals referred to in subsection (7) are entitled to be parties to the application.

(9)If a candidate affected by an application files a written statement renouncing all claim to the office to which the candidate was elected, the court may permit the petition for the application to be withdrawn unless it is based on an allegation that the candidate who has renounced the office contravened section 255 or 256.

(10)If the application is based on a claim that section 255, 256 or 258 was contravened, the evidence regarding that claim must be given orally by witnesses rather than by affidavit.

### **Power of the court on an application**

**151** (1)On the hearing of an application, the court may do any of the following:

- (a)declare that an elected candidate is qualified to take and hold office;
- (b)declare that an elected candidate is not qualified to hold office and that the office is vacant;
- (c)declare that an election is confirmed as valid;

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(d) declare that an election is invalid and that the office is vacant.

(2) The court must not declare an election invalid by reason only of an irregularity or a contravention of this Act or a regulation under this Act if the court is satisfied that

(a) the election was conducted in good faith and in accordance with the principles of this Act, and

(b) the irregularity or contravention did not materially affect the result of the election.

(3) The court may confirm the election of a candidate in relation to which the court finds there was a contravention of section 255, 256, 257 or 258 if the court is satisfied that

(a) the candidate did not contravene the applicable section, and

(b) the contravention did not materially affect the result of the election.

### **Costs of an application**

**152** (1) If the court declares that a candidate is not qualified to hold office or that an election is invalid, the costs, within the meaning of the Supreme Court Civil Rules, of the individual who made the application under section 150 must be paid promptly by the chief electoral officer.

(2) The court may order that costs to be paid under subsection (1) may be recovered from any other person as directed by the court in the same manner as a judgment of the Supreme Court.

(3) Except as provided in subsection (1), the costs of an application are in the discretion of the court.

### **Report to the Legislative Assembly**

**153** (1) As soon as possible after the final determination of an application under this Part, the chief electoral officer must present to the Speaker a report respecting the application and the decision of the court.

(2) The Speaker must lay a report under subsection (1) before the Legislative Assembly as soon as possible.

## **Part 9 — Registration of Political Parties and Constituency Associations**

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## **Division 1 — Registration**

### **Benefits of registration**

- 154** (1) A political party must be registered in order to
- (a) be identified on a ballot,
  - (b) issue tax receipts, or
  - (c) incur election expenses.
- (2) A constituency association must be registered in order to
- (a) issue tax receipts, or
  - (b) incur election expenses.
- (3) If the registration of a political party or constituency association is suspended under this Act,
- (a) during the period of the suspension the organization must not do anything otherwise authorized by subsection (1) or (2), and
  - (b) despite subsection (1), after the suspension is ended, the organization must not issue tax receipts in relation to political contributions received by the organization during the period of the suspension.
- (4) A political party or constituency association that is not registered, or an individual or organization acting on behalf of such an organization, must not do anything authorized by subsection (1) or (2) for a registered organization.

### **Registration of a political party**

- 155** (1) For the purposes of this Act, a political party is an organization that has as a primary purpose the fielding of candidates for election to the Legislative Assembly.
- (2) In order to be registered, a political party must
- (a) file with the chief electoral officer a completed application in accordance with this section,
  - (b) have a financial agent appointed in accordance with section 176,
  - (c) have an auditor appointed in accordance with section 179, and
  - (d) not be prohibited under section 156 or 174 from registering.
- (3) An application for registration must be signed by 2 principal officers of the political party and must include the following:
- (a) the full name of the political party;

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- (b) the usual name of the political party, if this is different from the full name, and any abbreviations, acronyms or other names used by the political party;
- (c) the name, abbreviation or acronym by which the political party proposes to be identified on ballot papers;
- (d) the name of the leader of the political party;
- (e) the address of the place or places where records of the political party are maintained;
- (f) the address to which and the name of the person to whom communications to the political party may be addressed;
- (g) the names and mailing addresses of the principal officers of the political party;
- (h) the name and address of the auditor of the political party and a copy of the appointment and consent of the auditor under section 179;
- (i) the name and address of the financial agent of the political party and a copy of the appointment and consent of that individual under section 176;
- (j) the names and addresses of the savings institutions to be used by the political party as referred to in section 177 (2) (b) and the account numbers;
- (k) the names of the signing officers of the political party responsible for each account used by the political party as referred to in section 177 (2) (b);
- (l) a statement of the assets and liabilities of the political party as of a date not earlier than 90 days before the date the application is submitted to the chief electoral officer;
- (m) a signed statement, of the financial agent of the political party, verifying the accuracy of the statement submitted under paragraph (l);
- (n) a signed statement of a principal officer of the organization that it has as a primary purpose the fielding of candidates for election to the Legislative Assembly and any additional evidence necessary to satisfy the chief electoral officer of this;
- (o) any other information required to be included by regulation.

(4) The chief electoral officer may require an application for registration under this section to be in a form specified by the chief electoral officer.

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### **Prohibitions regarding political party names and other identifications**

**156** (1) A political party must not be registered if any of the forms of identification referred to in section 155 (3) (a) to (c)

(a) includes the word "independent" or "non-affiliated" or, in the opinion of the chief electoral officer, could otherwise reasonably indicate that a candidate representing the party is not affiliated with a party, or

(b) includes any matter that is prohibited by section 86 (1) from being included on a ballot.

(2) A political party must not be registered if, in the opinion of the chief electoral officer, any of the forms of identification referred to in section 155 (3) (a) to (c) is likely to be confused with such a form of identification for another political party

(a) that is currently registered,

(b) that has an earlier application for registration pending before the chief electoral officer, or

(c) that was registered at any time during the previous 10 years.

(3) [Repealed 2019-42-79.]

(3.1) Despite subsection (2), the chief electoral officer may register a political party in a circumstance where any of the forms of identification referred to in section 155 (3) (c) are the same or similar to such forms of identification for another political party if both of the following apply:

(a) the other political party has been deregistered for at least the previous 4 years;

(b) the name of the other political party has not appeared on a ballot paper at any time in the past 10 years.

### **Registration of a constituency association**

**157** (1) For the purposes of this Act, a constituency association is an organization that is formed for an electoral district

(a) as the local organization of a registered political party or a political party that is currently applying for registration, or

(b) as a local organization to support an individual who is an independent member of the Legislative Assembly for the electoral district.

(2) In order to be registered, a constituency association must

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- (a) file with the chief electoral officer a completed application in accordance with this section,
- (b) have a financial agent appointed in accordance with section 176,
- (c) have an auditor appointed in accordance with section 179, and
- (d) not be prohibited under section 174 from registering.

(3) An application for registration must be signed by 2 principal officers of the constituency association and must include the following:

- (a) the full name of the constituency association;
- (b) as applicable, the name of the registered political party of which the constituency association is the local organization or the independent member of the Legislative Assembly that it is formed to support;
- (c) the address of the place or places where records of the constituency association are maintained;
- (d) the address to which and the name of the person to whom communications to the constituency association may be addressed;
- (e) the names and mailing addresses of the principal officers of the constituency association;
- (f) the name and address of the auditor of the constituency association and a copy of the appointment and consent of the auditor under section 179;
- (g) the name and address of the financial agent of the constituency association and a copy of the appointment and consent of that individual under section 176;
- (h) the names and addresses of the savings institutions to be used by the constituency association as referred to in section 177 (2) (b) and the account numbers;
- (i) the names of the signing officers of the constituency association responsible for each account used by the constituency association as referred to in section 177 (2) (b);
- (j) as applicable,
  - (i) a statement signed by a principal officer of the registered political party that the constituency association is the local organization of the political party, or

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(ii) a statement signed by the independent member of the Legislative Assembly supported by the constituency association that the member endorses the application;

(k) a statement of the assets and liabilities of the constituency association as of a date not earlier than 90 days before the date the application is submitted to the chief electoral officer;

(l) a signed statement, of the financial agent of the constituency association, verifying the accuracy of the statement of the assets and liabilities of the constituency association submitted under paragraph (k);

(m) any other information required to be included by regulation.

(4) If an application under this section is made in conjunction with an application for registration for a political party, the constituency association must not be registered until after the political party is registered and, for the purposes of the time limits under section 158 (2), the application of the constituency association is deemed to have been received on the date the political party is registered.

(5) A registered political party or independent member of the Legislative Assembly may not have more than one registered constituency association for an electoral district, but a registered constituency association may have one or more branches within the electoral district.

(6) As an exception to subsection (5), if an enactment has been made establishing new electoral districts but the enactment does not come into force until a future time,

(a) a constituency association of a registered political party may be registered for a future electoral district even if this means that the political party has registered constituency associations for both the existing and future electoral districts, and

(b) a constituency association may be registered for a future electoral district to support the election of an individual who is an independent member of the Legislative Assembly for an existing electoral district as the member for the future electoral district, even if this means that the member is supported by registered constituency associations for both the existing and future electoral districts, so long as at least some part of the existing electoral district is the same as at least some part of the future electoral district.

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(7)The chief electoral officer may require an application for registration under this section to be in a form specified by the chief electoral officer.

### **Processing of applications for registration**

**158** (1)The chief electoral officer must review each application for registration that is received to determine whether the political party or constituency association meets the requirements for registration.

(2)The determination under subsection (1) must be completed as follows:

(a)within 30 days after the application is received, unless paragraph

(b) or (c) applies;

(b)if an election is called after the application is received but before the determination is completed, within 30 days after final voting day for the election;

(c)if the application is received after an election is called but before 30 days after final voting day for the election, the determination must not be completed until after final voting day but must be completed within 60 days after final voting day.

(3)If the applicant organization meets the requirements for registration, the chief electoral officer must

(a)register the organization in a register maintained by the chief electoral officer for this purpose,

(b)notify the political party or constituency association of the date on which it was registered under paragraph (a), and

(c)have notice of the registration published in the Gazette.

(4)The chief electoral officer

(a)may require the applicant organization to provide any additional information or evidence the chief electoral officer considers necessary to make the determination under subsection (1), and

(b)has the absolute discretion to determine if a political party or constituency association applying for registration is the same as one that was previously registered or is new.

(5)If the applicant organization does not meet the requirements for registration, the chief electoral officer must notify the organization in writing of the reasons for this.



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(6) An organization whose application does not meet the requirements for registration may amend its application but, if the requirements for registration are not met within 30 days of its receipt of a notice under subsection (5), the application ceases to be effective.

### **Changes in registration information**

**159** (1) If there is any change in the information referred to in section 155 (3) for a registered political party or section 157 (3) for a registered constituency association, the organization must file with the chief electoral officer notice of the change within 60 days after it occurs.

(2) Notice under subsection (1) must be in writing and must be made as follows:

(a) in the case of a registered political party, the notice must be signed by 2 principal officers of the party;

(b) in the case of a registered constituency association, the notice must be signed

(i) by 2 principal officers of the constituency association, and

(ii) as applicable, by a principal officer of the registered political party of which it is the local organization or by the independent member of the Legislative Assembly that it supports.

(3) On being satisfied that a notice under subsection (2) is authorized by the organization for which it is made, the chief electoral officer must amend the register to reflect the change.

(4) On request by the chief electoral officer, a registered political party or registered constituency association must provide any information or evidence the chief electoral officer considers necessary to confirm that the information referred to in subsection (1) currently filed with the chief electoral officer is correct.

(5) The chief electoral officer may suspend the registration of a political party or constituency association if the political party or constituency association does not file notice of a change in accordance with subsection (1), and the suspension continues until the notice is filed in accordance with subsection (2).

### **Changes in political party name or form of identification**

**160** (1) As a limit on the authority of a registered political party to change a form of identification referred to in section 155 (3) (a) to (c), the political party may make the change but only after receiving the approval of the chief electoral officer.

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(2) For the purposes of subsection (1), the political party must apply to the chief electoral officer as provided in section 159 (2) and sections 156 and 158 apply.

### **Authority of principal officers**

**161** Where this Act requires or authorizes an action by a principal officer of a registered political party or registered constituency association, the only individuals authorized to take that action are individuals who are

- (a) in fact principal officers of the organization, and
- (b) identified as such in the current documents filed by the organization under this Part with the chief electoral officer or identified in documents of the organization being filed at that time under section 159.

### **Registers and other information to be open to the public**

**162** (1) Subject to subsection (2), the registers under this Part and the information filed under this Act with the chief electoral officer by a political party or constituency association since the general election before the previous general election must be available for public inspection at the office of the chief electoral officer during its regular office hours.

(2) The information available for public inspection under subsection (1) must not include the following:

- (a) account numbers required under section 155 (3) (j) or 157 (3) (h), as applicable;
- (b) the address of a contributor.

## **Division 2 — Deregistration and Suspension**

### **How an organization may be deregistered**

**163** A political party or constituency association may be deregistered as follows:

- (a) by voluntary deregistration under section 164;
- (b) in the case of a constituency association, by deregistration under section 165 on the request of its registered political party or independent member of the Legislative Assembly;
- (c) in the case of a constituency association, by automatic deregistration under section 166;

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- (d) in the case of a political party, by automatic deregistration under section 168 for failure to field candidates;
- (e) by deregistration under Division 7 of Part 10 for failure to comply with that Part.

### **Voluntary deregistration**

**164** (1) A registered political party or registered constituency association may apply to the chief electoral officer for deregistration in accordance with this section.

(2) As an exception, an organization may not apply for deregistration under this section if it is subject to deregistration or suspension because

- (a) it has not filed reports, or its candidates have not filed reports, in accordance with Part 10,
- (b) it has election expenses greater than the amount permitted by Part 10, or
- (c) it has not yet paid an applicable penalty under section 218 in relation to election expenses.

(3) An application for deregistration must be in writing and must be made as follows:

- (a) in the case of a registered political party, the application must be signed by 2 principal officers of the party;
- (b) in the case of a registered constituency association, the application must be signed
  - (i) by 2 principal officers of the constituency association, and
  - (ii) as applicable, by a principal officer of the registered political party of which it is the local organization or by the independent member of the Legislative Assembly that it supports.

(4) On being satisfied that an application for deregistration is authorized by the organization for which it is made, the chief electoral officer must deregister the organization.

(5) As a limit on subsection (4), if a political party applying to be deregistered is represented by a candidate in an election in progress, the chief electoral officer must not deregister the political party until after final voting day for the election.

### **Deregistration of constituency association on request of its political party or MLA**

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**165** (1)The registered political party of which a registered constituency association is its local organization, or the independent member of the Legislative Assembly supported by a registered constituency association, may apply to the chief electoral officer for deregistration of the constituency association in accordance with this section.

(2)As an exception, a political party or independent member may not apply for deregistration under this section if the constituency association is subject to deregistration because it has not filed reports in accordance with Part 10.

(3)The political party or independent member must notify the constituency association before applying for deregistration under this section.

(4)An application for deregistration must be in writing and must be made as follows:

(a)in the case of an application by a registered political party, the application must be signed by 2 principal officers of the party;

(b)in the case of an application by an independent member, the application must be signed by the member.

(5)On being satisfied that an application for deregistration is authorized by the registered political party or independent member for which it is made, the chief electoral officer must deregister the constituency association.

### **Automatic deregistration of constituency associations**

**166** (1)If a political party is deregistered, the chief electoral officer must deregister all its registered constituency associations, effective the date on which the political party is deregistered.

(2)If an electoral district is disestablished, the chief electoral officer must deregister all constituency associations for the electoral district.

(3)The chief electoral officer must deregister the constituency association of an independent member of the Legislative Assembly if the individual ceases to be a member of the Legislative Assembly or becomes a representative of a political party.

(4)After a general election is called, a registered constituency association in an electoral district for an individual who was an independent member of the Legislative Assembly at the time the election was called is entitled to remain registered until

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- (a) the end of the nomination period, if the individual is not at that time an independent candidate in the electoral district election, or
- (b) the date for the return of the writ for the electoral district election, if the individual is an independent candidate in that election but is not re-elected.

(5) The chief electoral officer must deregister a constituency association referred to in subsection (4) after the applicable time under that subsection.

### **Automatic suspension of constituency associations**

**167** If the registration of a political party is suspended, registration of all its registered constituency associations is suspended, effective the date on which the political party is suspended.

### **Automatic deregistration of political party for failure to run candidates**

**168** (1) The chief electoral officer must deregister a political party following a general election if, for that general election and the immediately preceding general election, it was not represented by at least 2 candidates in one of the general elections.

(2) As an exception to subsection (1), a political party that would otherwise be deregistered under that subsection is entitled to remain registered if a candidate representing it in the current general election is elected.

(3) If, at the end of the nomination period for a general election, a political party may be subject to deregistration under this section following the election, the chief electoral officer must notify the political party of this.

(4) Deregistration under this section is effective on the date of the return of the last of the writs for the general election.

### **Notice of deregistration or suspension**

**169** (1) The chief electoral officer must specify and record in the register the effective date of the deregistration or suspension of a political party or constituency association.

(2) The chief electoral officer must give notice of a deregistration or suspension, including the effective date and the reasons for the deregistration or suspension,

- (a) to the deregistered or suspended organization, and

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(b) in the case of a constituency association, to the applicable registered political party or independent member of the Legislative Assembly.

(3) The chief electoral officer must also have notice referred to in subsection (2) published in the Gazette.

### **Division 3 — Effect of Deregistration**

#### **Financial reports required on deregistration**

**170** (1) An organization that is deregistered must file within 6 months of deregistration the following financial reports with the chief electoral officer:

(a) a financial report prepared in accordance with section 207 for the period from the date of the last report under that section up to and including the last day the organization was registered;

(b) a report of the financial activity of the organization between the end of the period referred to in paragraph (a) and the date, as applicable, on which the funds of the organization are transferred under section 171 or on which the organization reports to the chief electoral officer that there are no funds to be transferred;

(c) any other financial report the chief electoral officer requires the organization to file.

(2) Sections 212 and 213 apply to a report under subsection (1) of this section.

(3) The reports required under subsection (1) (a) and (b) must be audited, except in the case of

(a) a report for a constituency association that is required because an electoral district is disestablished, or

(b) an organization that has

(i) incurred \$5 000 or less in expenses, and

(ii) received \$5 000 or less in political contributions

during the period from the date of the last report filed under section 207 up to and including the last day the organization was registered.

(3.1) In addition to the requirements under subsection (3), the chief electoral officer may require any other report under subsection (1) to be audited.

(4) Section 214 applies for the purposes of an audit under subsection (3) of this section.

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### **Assets of deregistered organization to be held in trust**

**171** (1) A political party or constituency association that is deregistered must within 6 months of deregistration

- (a) transfer to the chief electoral officer all the funds of the organization that are not required to pay its outstanding debts, and
- (b) order its financial affairs as expeditiously as possible for the purpose of complying with paragraph (a).

(2) Funds received under subsection (1), including accumulated interest, must be held in trust by the chief electoral officer to be dealt with in accordance with this Division.

### **Disposition of assets of a political party**

**172** Funds of a deregistered political party must be dealt with as follows:

- (a) if the political party reregisters within 3 years of the date of its deregistration, the chief electoral officer must pay the funds to the registered political party;
- (b) if the funds are not paid out under paragraph (a), the chief electoral officer must pay them to the consolidated revenue fund.

### **Disposition of assets of a constituency association**

**173** (1) Funds of a deregistered constituency association for a registered political party must be dealt with as follows:

- (a) if the constituency association reregisters within 3 years of the date of its deregistration, the chief electoral officer must pay the funds to the registered constituency association;
- (b) if at the end of the period referred to in paragraph (a) the constituency association has not reregistered but its political party remains registered, the chief electoral officer must pay the funds to the registered political party;
- (c) if the funds are not paid out otherwise under this subsection, the chief electoral officer must pay them to the consolidated revenue fund.

(2) Funds of a deregistered constituency association for a political party that has been deregistered must be dealt with as follows:

- (a) if its political party reregisters within 3 years after deregistration and the constituency association reregisters within one year after that

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reregistration, the chief electoral officer must pay the funds to the registered constituency association;

(b)if at the end of the one year period referred to in paragraph (a) the constituency association has not reregistered but its political party is reregistered, the chief electoral officer must pay the funds to the registered political party;

(c)if the funds are not paid out otherwise under this subsection, the chief electoral officer must pay them to the consolidated revenue fund.

(3)Funds of a deregistered constituency association for an independent member of the Legislative Assembly must be dealt with as follows:

(a)if, before the funds are paid out under paragraph (b), the individual who is or was the independent member is an independent candidate in an election for any electoral district, the chief electoral officer must pay the funds to the financial agent of the candidate for use in the election;

(b)if the funds are not paid out under paragraph (a) and the constituency association reregisters within 3 years of the date of its deregistration, the chief electoral officer must pay the funds to the registered constituency association;

(c)if the member or former member dies before the end of the period referred to in paragraph (b) and the funds are not paid out under paragraph (a), the chief electoral officer must pay the funds to the consolidated revenue fund;

(d)if the funds are not paid out otherwise under this subsection, the chief electoral officer must pay the funds to the consolidated revenue fund.

(4)As an exception to section 171, when an electoral district is disestablished and a constituency association is deregistered as a result, the funds of the constituency association not required to pay its outstanding debts must be paid as follows:

(a)in the case of a constituency association for a registered political party, the chief electoral officer must pay the funds, at the option of the political party,

(i)to the political party, or

(ii)to a constituency association of the political party registered under section 157 (6) (a) for a new electoral district;



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(b) in the case of a constituency association for an individual who was an independent member of the Legislative Assembly for the electoral district at the time it was disestablished, the chief electoral officer must pay the funds, at the option of the individual,

(i) in accordance with subsection (3), or

(ii) to a constituency association registered under section 157

(6) (b) for the individual for a new electoral district.

## **Reregistration**

**174** (1) Unless deregistered under section 164 or 165, a political party or constituency association that has been deregistered may not apply to be reregistered until whichever of the following applies:

(a) in the case an organization that is deregistered under section 227, 2 years after the date on which the requirements referred to in sections 170 and 171 are met;

(b) in other cases, one year after the date on which the requirements referred to in sections 170 and 171 are met.

(2) In order to reregister, a political party or constituency association that has been deregistered must

(a) satisfy the chief electoral officer that it is the same organization that was previously registered,

(b) fulfill any unfulfilled requirements for the organization established under this Act including, without limiting this, filing reports and paying penalties and fines, unless the organization has been granted relief from the requirements under section 225, and

(c) file with the chief electoral officer a report in accordance with the directions of the chief electoral officer of political contributions received by the organization since it was deregistered.

(3) The chief electoral officer may require an organization that is applying for reregistration to file a report on its financial activities since it was deregistered.

## **Part 10 — Election Financing**

### **Division 1 — Financial Officers**

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### **Requirement for financial agent**

**175** (1)The following must have a financial agent:

- (a)a registered political party;
- (b)a registered constituency association;
- (c)a candidate;
- (d)a leadership contestant;
- (e)a nomination contestant.

(2)For the purposes of subsection (1),

- (a)a political party or constituency association must appoint an individual as financial agent in accordance with section 176, and
- (b)a candidate, leadership contestant or nomination contestant may appoint an individual as a financial agent in accordance with section 176, but if no financial agent is appointed, the candidate, leadership contestant or nomination contestant is that person's own financial agent.

(3)An organization or individual may not have more than one financial agent at the same time.

(4)If the appointment of a financial agent of a registered political party or registered constituency association ends for any reason, the organization must appoint a new financial agent within 60 days.

(5)[Repealed 2019-42-80.]

### **Appointment of financial agent**

**176** (1)The following are disqualified from acting as financial agent:

- (a)an election official, a voter registration official or an individual who is otherwise a member of the staff of the chief electoral officer;
- (b)an individual who does not have full capacity to enter into contracts;
- (c)an individual who is a member of the same firm as the auditor for the appointing organization or individual, or who is a member of the firm which is that auditor;
- (d)an individual who, at any time within the previous 7 years, has been convicted of an offence under this Act or the [Recall and Initiative Act](#);
- (e)an individual who, at any time within the previous 7 years, failed to file a report that was required to be filed under this Act or the [Recall and Initiative Act](#) in the individual's capacity as a financial agent;

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(f)an individual who, at any time within the previous 7 years, failed to file a report that was required to be filed under this Act or the *Recall and Initiative Act*.

(2)The appointment of a financial agent must be made in writing and must

(a)include the name, mailing address and telephone number of the individual appointed and the effective date of the appointment,

(b)be signed, as applicable, by a principal officer of the appointing organization or by the appointing individual, and

(c)be accompanied by a signed consent of the individual appointed to act as financial agent.

(3)As soon as possible after an appointment is made under this section, the appointing organization or individual must deliver a copy of the appointment and of the financial agent's consent to act

(a)to the district electoral officer, in the case of a candidate nominated under section 56, or

(b)to the chief electoral officer in other cases.

(4)If a candidate, leadership contestant or nomination contestant ceases to have an appointed financial agent, the individual must deliver, in accordance with subsection (3), a statement that the individual is acting as the individual's own financial agent.

(5)For certainty, an individual may be the financial agent of more than one organization or individual.

### **Obligations of financial agent**

**177** (1)A financial agent must administer in accordance with this Act the finances of the organization or individual for whom the financial agent is acting.

(2)Without limiting subsection (1), a financial agent must do the following:

(a)ensure that all political contributions, income, election expenses, contestant expenses, loans and other expenditures of the organization or individual for whom the financial agent is acting are properly recorded to allow compliance with the reporting requirements of this Act and the *Income Tax Act*;

(b)ensure that all money received by or on behalf of the organization or individual for whom the financial agent is acting is deposited in an account in a savings institution and that all expenditures of the

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organization or individual are paid from an account in a savings institution;

(c)ensure that all records required to be kept for the purposes of this Part by the financial agent or the organization or individual for whom the financial agent is acting are maintained in British Columbia;

(d)ensure that all financial records and receipts of the organization or individual for whom the financial agent is acting are retained for at least 5 years, or a longer period specified by the chief electoral officer, from the date of filing of any report under this Act required in relation to them;

(e)make every reasonable effort to ensure that every expenditure greater than \$25, or a higher amount established by regulation, that is incurred by the organization or individual for whom the financial agent is acting is documented by a statement setting out the particulars of the expenditure.

(2.1)For the purposes of subsection (2) (b), a financial agent must ensure that a separate account is established for each organization and each individual for whom the financial agent is acting.

(3)A financial agent is not personally liable for any liability of the organization or individual for whom the financial agent is acting unless the liability is personally guaranteed by the financial agent.

### **Deputy financial agents**

**178** (1)A financial agent may appoint one or more individuals as deputy financial agents for the purposes of issuing tax receipts and filing reports under Parts 9 and 10.

(2)Section 176 applies to the appointment of a deputy financial agent.

(3)For the purposes of this Part, the authority of a deputy financial agent as a deputy is limited to

(a)the issuing of income tax receipts and the receiving of political contributions for which these tax receipts are issued, and

(b)if the financial agent is absent or incapable of filing reports under Parts 9 and 10, the filing of those reports.

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(4) A deputy financial agent has the same authority as a financial agent to exercise the powers and perform the duties referred to in subsection (3), and the same responsibilities as a financial agent in relation to them.

### **Appointment of auditor**

**179** (1) A registered political party, registered constituency association or candidate must have an auditor appointed in accordance with this section.

(2) If the appointment of an auditor ends for any reason, the organization or candidate must appoint a new auditor within 60 days.

(3) In order to be appointed, an auditor must be authorized to be the auditor of a company under sections 205 and 206 of the *Business Corporations Act*.

(4) The following are disqualified from being appointed as an auditor:

(a) an individual who is disqualified under section 176 (1) from being a financial agent;

(b) an individual who is the financial agent of the organization or individual to be audited;

(c) a firm of which a member is the financial agent of the organization or individual to be audited, or an individual who is a member of the same firm as that financial agent.

(5) The appointment of an auditor must be made in writing and must

(a) include the name, mailing address and telephone number of the auditor appointed and the effective date of the appointment,

(b) be signed, as applicable, by a principal officer of the appointing organization or by the appointing individual, and

(c) be accompanied by a signed consent of the auditor.

(6) As soon as possible after an appointment is made under this section, the appointing organization or individual must deliver a copy of the appointment and of the auditor's consent to act

(a) to the district electoral officer, in the case of a candidate nominated under section 56, or

(b) to the chief electoral officer in other cases.

(7) For certainty, an auditor may be appointed as such for more than one organization or individual.

## **Division 2 — Definition and Valuation of Political Contributions and Expenses**

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### **Political contributions generally**

**180** (1) Subject to this Division, a political contribution is an amount of money or the value of any property or services provided without compensation by way of donation, advance, deposit, discount or otherwise to any of the following:

- (a) a political party;
- (b) a constituency association;
- (c) a candidate, in relation to that individual's candidacy;
- (d) a leadership contestant, in relation to that individual's seeking of the leadership;
- (e) a nomination contestant, in relation to that individual's seeking of the nomination.

(2) If property or services are

- (a) provided to an organization or individual as referred to in subsection (1) (a) to (e) at less than market value, or
- (b) acquired from an organization or individual as referred to in subsection (1) (a) to (e) at greater than market value,

the difference between the market value of the property or services at the time provided and the amount charged is a political contribution.

(3) Without limiting subsection (1), fees paid for conferences and conventions of a political party, including leadership conventions, and membership fees for a political party or constituency association are political contributions.

(4) The amount of any money, but not the value of any property or services, provided by an individual who is, intends to become or was a candidate, nomination contestant or leadership contestant in relation to that role is a political contribution.

(5) The value of the following is not a political contribution:

- (a) services provided by a volunteer, being an individual who
  - (i) voluntarily performs the services, and
  - (ii) receives no compensation, directly or indirectly, in relation to the services or the time spent providing the services;
  - (iii) and (iv) [Repealed 2002-60-2.]
- (b) property of a volunteer if it is provided or used in relation to the services of the individual as a volunteer;

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(c)property or services provided by an election official, a voter registration official or any other member of the staff of the chief electoral officer in that official capacity;

(d)publishing without charge news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program;

(e)broadcasting time provided, without charge, as part of a bona fide public affairs program;

(f)producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the election.

(6)The following are not political contributions, but must be reported in accordance with Division 6 of this Part:

(a)a transfer of money or other property from, or the provision of services by, a registered political party to

(i)a candidate representing the political party,

(ii)a registered constituency association for the political party,

(iii)a leadership contestant, in relation to that individual seeking the leadership of that party, or

(iv)a nomination contestant, in relation to that individual seeking nomination as a candidate representing that party;

(b)a transfer of money or other property from, or the provision of services by, a registered constituency association to

(i)its registered political party,

(ii)a candidate who represents its political party or who is the independent member supported by the constituency association, or

(iii)another registered constituency association of the same registered political party;

(c)a transfer of money or other property from, or the provision of services by, a candidate to

(i)the registered political party represented by the candidate,

(ii)a registered constituency association for the political party represented by the candidate,

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- (iii) a registered constituency association that supports the candidate as an independent member, or
- (iv) another candidate of the same registered political party;
- (c.1) a transfer of money or other property from, or the provision of services by, a leadership contestant to the registered political party for which the leadership is sought;
- (c.2) a transfer of money or other property from, or the provision of services by, a nomination contestant to
  - (i) the registered political party for which the nomination is sought,
  - (ii) a candidate representing the registered political party, or
  - (iii) the registered constituency association;
- (d) the transfer of a surplus under section 210.01 (2) (a);
- (d.1) the transfer of a surplus under section 211.02 (a) or (b);
- (e) a transfer from the chief electoral officer under Division 3 of Part 9.

## **Loans and guarantees**

- 181** (1) A permissible loan, or a guarantee for a permissible loan, to an organization or individual as referred to in section 180 (1) (a) to (e) is not a political contribution.
- (2) A permissible loan, or a guarantee for a permissible loan, to an organization or individual as referred to in section 180 (1) (a) to (e) must be made only by a savings institution.
- (3) An organization or individual as referred to in section 180 (1) (a) to (e) must not accept a loan other than a permissible loan.
- (4) A savings institution must not make to an organization or individual as referred to in section 180 (1) (a) to (e) a loan other than a permissible loan.
- (5) An organization or individual as referred to in section 180 (1) (a) to (e) must not accept a guarantee for a permissible loan unless the guarantee is provided with non-preferential treatment.
- (6) A savings institution must not make or accept a guarantee for a permissible loan to an organization or individual as referred to in section 180 (1) (a) to (e) unless the guarantee is provided with non-preferential treatment.
- (7) Despite subsection (1) of this section, a permissible loan to an organization or individual as referred to in section 180 (1) (a) to (e) is a political contribution if a



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savings institution does not make commercially reasonable efforts to collect or enforce the loan.

## **Debts**

**181.01** (1) In this section, "**debt**" means a debt, other than a debt arising from a permissible loan, that is owed as follows:

- (a) a debt owed by a political party or constituency association;
- (b) a debt owed by a candidate in relation to an election expense;
- (c) a debt owed by a nomination contestant or leadership contestant in relation to a contestant expense.

(2) A debt is a political contribution if

- (a) the debt remains unpaid 6 months after becoming due and payable, and
- (b) the creditor does not make commercially reasonable efforts to collect or recover the debt.

(3) For certainty, nothing in this section affects the rights of a creditor in relation to a debt that becomes a political contribution under this section.

## **Political contributions through fundraising functions**

**182** (1) Except as provided in this section or if received as anonymous contributions under section 186 (1) (f), funds raised by a fundraising function for an organization or individual as referred to in section 180 (1) (a) to (e) are not political contributions.

(2) A person other than an eligible individual must not pay a charge per individual for a fundraising function.

(2.1) If a charge per individual for a fundraising function is greater than \$50, the payment of that charge is a political contribution.

(2.2) If an eligible individual pays for more than one charge per individual for a fundraising function, the payment of those charges is a political contribution by the eligible individual.

(3) If the amount paid for property or services offered for sale at a fundraising function is greater than their market value, the difference between the amount paid and the market value at the time it is agreed to be paid is a political contribution.

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(4)The value of property or services, or both, donated by an individual for sale at a fundraising function is a political contribution unless the property or services or both, as applicable,

(a)are used for sale at the fundraising function, and

(b)have a total value that is not greater than \$250 or a higher amount established by regulation.

(5)Despite subsections (2.1) and (2.2), for the purposes of section 4.722 of the *Income Tax Act*, the amount, if any, by which the charge per individual for a fundraising function exceeds the reasonably estimated cost of the function apportioned on a per individual basis is the political contribution in respect of that charge.

## **Election expenses**

**183** (1)Subject to this Division, an election expense is the value of property or services used during a campaign period by or on behalf of a candidate, registered constituency association or registered political party

(a)to promote or oppose, directly or indirectly, the election of a candidate, or

(b)to promote or oppose, directly or indirectly, a registered political party.

(2)For certainty, an election expense includes such an expense incurred by an individual who becomes a candidate before that individual in fact became a candidate under Part 5.

(3)A deficit incurred in holding a fundraising function during a campaign period is an election expense.

(4)The following election expenses incurred by a candidate, if they are reasonable, are personal election expenses of the candidate:

(a)payments for care of a child or other family member for whom the candidate is normally directly responsible;

(b)the cost of travelling to, within or from the electoral district;

(c)the cost of lodging, meals and incidental charges while travelling as referred to in paragraph (b);

(d)the cost of renting a temporary residence if it is necessary for the election;

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(e) election expenses incurred as a result of any disability of the candidate, including the cost of any individual required to assist the candidate in performing the functions necessary for seeking election;

(f) any other election expenses specified by regulation.

(5) If, during a campaign period, a candidate for a registered political party incurs nomination contestant expenses that in total exceed 10% of the candidate's election expenses limit under section 199, the excess is deemed to be election expenses of the candidate.

(6) For the purposes of subsection (5), the personal contestant expenses of the candidate are not to be included as contestant expenses.

(7) Election expenses incurred by the leader of a registered political party, other than those election expenses directly related to that individual as a candidate in an electoral district, are election expenses of the registered political party.

(8) The value of the following is not an election expense:

(a) services and property referred to in section 180 (5);

(b) services provided by a candidate in relation to that individual's candidacy and goods produced by a candidate in relation to that individual's candidacy from the property of the candidate;

(c) goods produced by an individual as a volunteer from the property of the individual.

## **Contestant expenses**

**184** (1) A contestant expense in relation to a leadership contestant is the value of property or services used by or on behalf of the leadership contestant to promote or oppose, directly or indirectly, the selection of a leadership contestant as leader of a registered political party.

(2) A contestant expense in relation to a nomination contestant is the value of property or services used by or on behalf of the nomination contestant to promote or oppose, directly or indirectly, the selection of a nomination contestant as the candidate to represent a registered political party.

(2.1) For certainty, a contestant expense includes such an expense incurred by an individual who becomes a leadership contestant or nomination contestant before that individual in fact became a contestant.

(3) A deficit incurred in holding a fundraising function for or on behalf of a nomination contestant or a leadership contestant is a contestant expense.

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(4) The following contestant expenses incurred by a nomination or leadership contestant, if they are reasonable, are personal contestant expenses of the contestant:

- (a) payments for care of a child or other family member for whom the contestant is normally directly responsible;
- (b) the cost of travelling to, within or from the electoral district in the case of a nomination contestant, and within British Columbia in the case of a leadership contestant;
- (c) the cost of lodging, meals and incidental charges while travelling as referred to in paragraph (b);
- (d) the cost of renting a temporary residence if it is necessary for seeking the nomination or leadership;
- (e) contestant expenses incurred as a result of any disability of the contestant, including the cost of any individual required to assist the contestant in performing the functions necessary for seeking the nomination or leadership;
- (f) any other contestant expenses specified by regulation.

(5) Except as provided in section 183 (5), a nomination contestant expense is not an election expense.

(6) The value of the following is not a contestant expense:

- (a) services and property referred to in section 180 (5);
- (b) services provided by a contestant and goods produced by a contestant from the property of the contestant;
- (c) goods produced by an individual as a volunteer from the property of the individual.

### **General valuation rules**

**185** (1) The rules in this section apply for the purpose of determining the value of a political contribution, election expense or contestant expense unless otherwise expressly provided.

(2) The value of any property or services is

- (a) the price paid for the property or services, or
- (b) the market value of the property or services, if no price is paid or if the price paid is lower than the market value.

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(3) If the property is a capital asset, the value of the property is the market value of using the property.

(4) For the purposes of this Part, the value of free advertising space in a periodical publication and free broadcasting time provided to a candidate in an election, if the space or time is also made available on an equitable basis to all other candidates in the election, is to be considered nil.

## **Division 2.1 — Specified Fundraising Functions**

### **Specified fundraising function in private residence**

**185.01** (1) A person may not hold a specified fundraising function that has a charge per individual of greater than \$100 in or on premises that are used as a private residence.

(2) A major political party, a candidate who is a representative of a major political party, a leadership contestant for a major political party, a nomination contestant for a major political party or a constituency association that is the local organization for a major political party must not accept a political contribution raised at a specified fundraising function described in subsection (1).

### **Information respecting specified fundraising function**

**185.02** (1) No later than 7 days before the date of a specified fundraising function, the organization or individual who plans to hold the specified fundraising function must provide to the chief electoral officer, and to the financial agent of the political party, candidate, leadership contestant, nomination contestant or constituency association on whose behalf the specified fundraising function will be held, the following information:

- (a) the name of every member of the Executive Council, parliamentary secretary or leader of the political party who is scheduled to attend the specified fundraising function;
- (b) the amount of the charge per individual for the specified fundraising function;
- (c) the date and time of the specified fundraising function;
- (d) if the specified fundraising function is held

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(i) in or on premises that are used as a private residence, the address of the premises and the name of the person who usually uses the premises as a private residence, and

(ii) in or on premises other than premises that are used as a private residence, the usual name of the premises;

(e) the usual name of the political party, candidate, leadership contestant, nomination contestant or constituency association that is holding the specified fundraising event or on whose behalf the specified fundraising event is being held.

(1.1) No later than 30 days after the date of the specified fundraising function, the individual or organization who held the fundraising function must provide the following information to the financial agent of the political party, candidate, leadership contestant, nomination contestant or constituency association on whose behalf the specified fundraising function was held:

(a) the name of every member of the Executive Council, parliamentary secretary or leader of the political party who attended the specified fundraising function;

(b) the number of charges per individual received for the specified fundraising function;

(c) the amount of political contributions raised at the specified fundraising function.

(2) No later than 60 days after the date of the specified fundraising function, the financial agent of the political party, candidate, leadership contestant, nomination contestant or constituency association on whose behalf the specified fundraising function was held must provide to the chief electoral officer the information set out in subsection (1.1) (a) to (c).

(3) The individual or organization that provides the information to the chief electoral officer under subsection (1) must, if the individual or organization becomes aware that the information has changed or is not accurate, provide to the chief electoral officer updated information as soon as possible.

(3.1) The individual or organization that provides the information to a financial agent under subsection (1.1) must, if the individual or organization becomes aware that the information has changed or is not accurate, provide to the financial agent updated information as soon as possible, and the financial agent must provide the

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updated information to the chief electoral officer within 30 days of receiving the information from the individual or organization.

(4)The chief electoral officer must

(a)publish, as soon as practicable, on an Elections BC authorized internet site the information received under subsections (1), (2), (3) and (3.1), other than the information described in subsection (1) (d) (i), and

(b)ensure the information continues to be published on an Elections BC authorized internet site until one year after final voting day for the next general election.

### **Division 3 — Making and Accepting Political Contributions**

#### **Restrictions on making political contributions**

**186** (0.1)A person must not make a political contribution unless the person is an eligible individual.

(1)An eligible individual must not do any of the following:

(a)make a political contribution to an organization or individual required to have a financial agent except by making it to the financial agent or an individual authorized in writing by the financial agent;

(b)make a political contribution without disclosing to the individual required to record the contribution under section 190 the information that the individual is required to record;

(c)make a political contribution of money in an amount greater than \$100, or a higher amount established by regulation, except by means of

(i)a cheque with the name of the contributor legibly shown on it and drawn on an account in the contributor's name maintained in a savings institution,

(ii)a money order with the name of the contributor legibly shown on it and signed by the contributor,

(iii)a credit card in the name of the contributor, or

(iv)an electronic transfer of funds from an account in the contributor's name maintained in a savings institution;

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(d) make a political contribution with the money, other property or services of another;

(e) make a political contribution indirectly by giving money, other property or services to an individual or organization

(i) for that individual or organization to make as a political contribution, or

(ii) as consideration for that individual or organization making a political contribution;

(f) make an anonymous political contribution unless the contribution

(i) is provided in response to a general solicitation for funds at a function held on behalf of or in relation to the affairs of the organization or individual to whom the contribution is provided, and

(ii) has a value of less than \$50 or a higher amount established by regulation.

(2) As exceptions to subsection (1) (d) and (e),

(a) an eligible individual may make a political contribution indirectly by providing compensation to an individual who provides services that are a political contribution, in which case the eligible individual providing the compensation is the contributor for the purposes of this Act, and

(b) an individual may make a political contribution with the money of another individual, if that other individual is an eligible individual, but must disclose to the individual required to record the contribution under section 190 the full name and address of the eligible individual whose money is being used.

(3) and (4) [Repealed 2017-20-7.]

### **Political contribution limits**

**186.01** (1) An eligible individual must not make political contributions that have a total value greater than the applicable amount under subsection (2), (3) or (5).

(2) For 2018,

(a) the applicable amount to any one registered political party, the candidates of that political party, the constituency associations of that



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political party and the nomination contestants of that political party is \$1 200,

(b)the applicable amount to an independent candidate and the constituency association that supports the independent candidate is \$1 200,

(c)the applicable amount to an independent candidate who is not supported by a constituency association is \$1 200, and

(d)the applicable amount to each leadership contestant, in relation to that individual's seeking of the leadership, is \$1 200.

(3)For 2019 and each following year, the chief electoral officer must establish the applicable amount for the year as soon as possible after each January 1 of that year by

(a)determining the ratio between the consumer price index at January 1, 2018 and the consumer price index at January 1 of the year to which the limit applies, and

(b)applying the ratio to adjust the amount that is to apply for that year.

(4)The applicable amount to each leadership contestant, in relation to that individual's seeking of the leadership, is the amount established under subsection (2) (d) and adjusted under subsection (3) for the calendar year in which a registered political party announces a leadership contest.

(5)In relation to a political party that is not registered,

(a)for 2020, the applicable amount to any one political party that is not registered, the candidates of that political party, the constituency associations of that political party and the nomination contestants of that political party is the amount established under subsection (2) (a) and adjusted under subsection (3), and

(b)for 2021 and each following year, the chief electoral officer must establish the applicable amount for the year as soon as possible after each January 1 of that year by

(i)determining the ratio between the consumer price index at January 1, 2018 and the consumer price index at January 1 of the year to which the limit applies, and

(ii)applying the ratio to adjust the amount that is to apply for that year.

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### **Political contributions not to be included as political contributions subject to limit**

**186.02** (1) The following political contributions are not to be included as political contributions for the purpose of determining whether an eligible individual has complied with an applicable political contribution limit under section 186.01:

(a) in relation to leadership conventions of a political party, fees of \$350 or less paid to attend each leadership convention of the political party;

(b) in relation to conventions of a political party, other than leadership conventions, fees of \$350 or less in total per calendar year paid to attend the conventions of the political party;

(c) the amount of any money provided by an individual, who is, intends to become or was a candidate, for personal election expenses of the individual;

(d) the amount of any money provided by an individual, who is, intends to become or was a leadership contestant or nomination contestant, for personal contestant expenses of the individual.

(2) The fee amounts described in subsection (1) apply for 2018.

(3) For 2019 and each following year, the fee amounts described in subsection

(1) (a) and (b) increase by \$10 each January 1.

### **Testamentary instruments**

**186.03** (1) In this section, "**testamentary instrument**" has the same meaning as in the *Wills, Estates and Succession Act*.

(2) An eligible individual may make a political contribution in a testamentary instrument if the political contribution

(a) is made in one calendar year only, and

(b) does not exceed the contribution limits set in section 186.01, taking into account any political contribution the individual made before his or her death.

(3) If an eligible individual provides in a testamentary instrument for a political contribution that would cause the individual to exceed an applicable political contribution limit under section 186.01, the testamentary instrument must be read as if the contribution is for the highest amount that would not cause the individual to exceed those limits.

### **Restrictions on accepting political contributions**

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**187** (1) An organization or individual required to have a financial agent must not accept political contributions except through the financial agent or an individual authorized in writing by the financial agent.

(1.01) A financial agent or an individual authorized under subsection (1) must not accept a political contribution from a person other than an eligible individual.

(1.1) For certainty, a financial agent or an individual authorized under subsection (1) must not accept a political contribution from a political party or electoral district association that is registered under the *Canada Elections Act*.

(2) A financial agent or an individual authorized under subsection (1) must not accept a political contribution that the financial agent or authorized individual has reason to believe is made in contravention of this Act.

(3) If an individual authorized under subsection (1) becomes aware that a political contribution may have been made in contravention of the Act, the individual must immediately inform the financial agent.

### **Limits on anonymous contributions**

**188** (1) A registered political party or registered constituency association must not accept in any calendar year more than \$10 000, or a higher amount established by regulation, in permitted anonymous contributions under section 186 (1) (f).

(2) A candidate, leadership contestant or nomination contestant must not, in relation to any one election or contest, accept more than \$3 000, or a higher amount established by regulation, in permitted anonymous contributions under section 186 (1) (f).

(3) An organization referred to in subsection (1) or an individual referred to in subsection (2), or an organization or individual acting on behalf of any of these, must not accept an anonymous political contribution if this will exceed the applicable limit under this section.

### **Prohibited contributions must be returned**

**189** (1) If a financial agent becomes aware that a political contribution was made or accepted in contravention of this Act, the financial agent must return to the contributor

(a) the political contribution, or

(b) an amount equal to the value of the political contribution,

within 30 days after the financial agent becomes aware of the contravention.

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(2) If a financial agent is not able to comply with subsection (1), as soon as practicable the financial agent must instead pay the amount referred to in that subsection to the chief electoral officer for payment to the consolidated revenue fund.

(3) A financial agent must use best efforts to obtain the contributor's copy of any tax receipt issued for a political contribution referred to in subsection (1), and, if the tax receipt is obtained, the financial agent must

(a) clearly mark the tax receipt as void, and

(b) retain the tax receipt for at least 5 years, or a longer period specified by the chief electoral officer, from the date the receipt was obtained.

(4) If a financial agent is unable to destroy the copy of the tax receipt referred to in subsection (3), the financial agent must notify the Commissioner of Income Tax under the *Income Tax Act*.

(5) If an account maintained by a financial agent of a candidate, leadership contestant or nomination contestant contains insufficient funds to make a payment required under subsection (1) or (2), the individual for whom the financial agent is appointed must provide the necessary funds to meet the deficiency.

### **Financial agent must record each political contribution**

**190** (1) For the purposes of complying with the reporting requirements of Division 6 of this Part, a financial agent must record the following for each political contribution made to the organization or individual for whom the financial agent is acting:

(a) the value of the contribution;

(b) the date the contribution was received;

(c) the full name and address of the contributor;

(d) and (e) [Repealed 2017-20-10.]

(f) in the case of a contribution referred to in section 186 (2) (b), the full name and address of the individual whose money was used to make the contribution;

(g) whether the contribution is

(i) a charge per individual greater than \$250 for a fundraising function, or

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(ii) a political contribution described in section 182 (3) or (4) that is for a fundraising function and has a value greater than \$250;

(h) in the case of a contribution described in paragraph (g), the date of the fundraising function;

(i) if applicable, the amount of the contribution that is used to pay fees to attend a convention of a political party, including a leadership convention, and the date of the convention;

(j) in the case of a contribution referred to in section 186.02 (1) (c), the amount used to pay for personal election expenses;

(k) in the case of a contribution referred to in section 186.02 (1) (d), the amount used to pay for personal contestant expenses.

(2) [Repealed 2017-20-10.]

(3) As an exception in the case of anonymous contributions permitted under section 186 (1) (f), the financial agent must record the following:

(a) a description of the function at which the contributions were collected;

(b) the date of the function;

(c) the number of people in attendance at the function;

(d) the total amount of anonymous contributions accepted.

(4) At the time a permissible loan, or a guarantee for a permissible loan, is received, the financial agent must record the following:

(a) the name of the savings institution making the loan or the guarantee;

(b) the amount of the loan;

(c) the rate of interest charged for the loan;

(d) the prime rate of the principal banker to the government at the time the rate of interest for the loan is fixed;

(e) the date the loan is due.

(4.1) If applicable, the financial agent must record the following:

(a) if there has been a default on a permissible loan, the date of the default;

(b) if there has been a call on a guarantee for a permissible loan, the date of the call;

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(c) if there has been non-compliance with the terms and conditions of a guarantee for a permissible loan, the date of the non-compliance.

(5) For a fundraising function held by or on behalf of an organization or individual, the financial agent must record the following:

(a) a description of the function;

(b) the date of the function;

(c) the cost, the gross income and the net income or loss arising from the function.

(6) For a specified fundraising function held by or on behalf of an organization or individual, the financial agent must record the following:

(a) the name of every member of the Executive Council, parliamentary secretary or leader of the political party who attended the specified fundraising function;

(b) the amount of the charge per individual for the specified fundraising function;

(c) if the specified fundraising function is held

(i) in or on premises that are used as a private residence, the address of the premises and the name of the person who usually uses the premises as a private residence, and

(ii) in or on premises other than premises that are used as a private residence, the usual name of the premises.

### **Records must be provided to political party**

**191** For the purposes of reporting by a registered political party as required by section 207 (4), a copy of all information required to be recorded under section 190 (1) for a candidate, nomination contestant or registered constituency association of the political party must be provided to the financial agent of the political party as follows:

(a) in the case of a candidate representing the political party, the financial agent of the candidate must provide the information within 60 days after final voting day for an election;

(a.1) in the case of a nomination contestant for the political party, the financial agent of the nomination contestant must provide the information within 60 days after the nomination contest has concluded;

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(b)in the case of a constituency association for the political party, the financial agent of the constituency association must provide the information for each year by February 15 of the following year.

### **Income tax receipts for political contributions**

**192** (1)A financial agent or deputy financial agent must not issue tax receipts except in accordance with this Act and section 4.722 of the *Income Tax Act*.

(2)Before income tax receipts are issued in respect of a registered political party, registered constituency association or candidate, the financial agent of the organization or individual must receive from the chief electoral officer an identity number that must be included on all income tax receipts issued for the organization or individual.

(3)The financial agent of a candidate for a registered political party must provide to the financial agent of the political party a copy of each tax receipt issued for a political contribution to the candidate.

## **Division 4 — Incurring Election and Contestant Expenses**

### **Restrictions on who may incur election and contestant expenses**

**193** (1)An organization or individual who is not authorized by this section must not incur an election expense or a contestant expense.

(2)A registered political party must not incur an election expense or a contestant expense except through its financial agent or an individual authorized in writing by the financial agent.

(2.1)A registered constituency association must not incur an election expense except through its financial agent or an individual authorized in writing by the financial agent.

(3)A candidate must not incur an election expense except through the candidate's financial agent or an individual authorized in writing by the financial agent.

(3.1)A leadership contestant must not incur a contestant expense except through the leadership contestant's financial agent or an individual authorized in writing by the financial agent.

(3.2)A nomination contestant must not incur a contestant expense except through the nomination contestant's financial agent or an individual authorized in writing by the financial agent.

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- (4) An individual must not pay an election expense or a contestant expense unless
- (a) the payment is either
    - (i) made out of the property of the organization or individual for whom it is incurred, or
    - (ii) reimbursed from the property described in subparagraph (i) on the production of receipts, and
  - (b) the individual paying the expense is the financial agent or an individual authorized in writing by the financial agent.
- (5) As an exception, subsections (3) and (4) (b) do not apply to personal election expenses and personal contestant expenses.
- (6) If a registered political party incurs a contestant expense on behalf of a leadership contestant,
- (a) the financial agent of the registered political party must deliver, within 60 days after a leader is selected for that registered political party, to the financial agent of the leadership contestant a report of that contestant expense, and
  - (b) the contestant expense must be included in the contestant expenses of the leadership contestant.
- (7) If a registered political party incurs a contestant expense on behalf of a nomination contestant,
- (a) the financial agent of the registered political party must deliver, within 60 days after the nomination contest has concluded, to the financial agent of the nomination contestant a report of that contestant expense, and
  - (b) the contestant expense must be included in the contestant expenses of the nomination contestant.

### **Restrictions on who may incur expenses equivalent to election expenses**

- 194** (1) Except as permitted under subsection (2) or (3), an individual or organization must not incur, directly or indirectly, an expense that would be an election expense if it were incurred on behalf of a candidate, registered political party or registered constituency association.
- (2) An individual may incur an expense referred to in subsection (1) if both the following requirements are met:
- (a) the expense must be incurred for the purpose of



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(i)gaining support for views held by the individual on an issue of public policy, or

(ii)advancing the aims of an organization, other than a political party or an organization of a partisan political character, of which the individual is a member and on whose behalf the expense is incurred;

(b)the expense must be incurred in good faith and not for any purpose related to the provisions of this Act limiting the value of election expenses that may be incurred by a candidate or registered political party.

(3)An organization may incur an expense referred to in subsection (1) if all the following requirements are met:

(a)the organization must not be a political party or an organization of a partisan political character;

(b)the expense must be incurred for the purpose of

(i)gaining support for views held by the organization on an issue of public policy,

(ii)advancing the aims of the organization, or

(iii)advancing the aims of another organization, other than a political party or an organization of a partisan political character, of which the organization is a member and on whose behalf the expense is incurred;

(c)the expense must be incurred in good faith and not for any purpose related to the provisions of this Act limiting the value of election expenses that may be incurred by a candidate or registered political party.

### **Time limit for demanding payment of election expenses**

**195** (1)The creditor of an election expense is not entitled to be paid unless a claim for the amount owing is submitted to the appropriate financial agent within 60 days after final voting day.

(2)As an exception to subsection (1), if the creditor in respect of an election expense dies within the 60 day period referred to in that subsection before having made a claim, the time limit for making the claim is extended to 30 days after the

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date the personal representative of the creditor is authorized to administer the estate of the creditor.

## **Division 5 — Election Expenses Limits**

### **Election expenses in excess of limits prohibited**

**196** (1)A registered political party, registered constituency association or candidate must not incur an election expense if this will result in the election expenses of the organization or individual exceeding the applicable election expenses limit.

(2)A registered political party, a registered constituency association or a candidate must not incur an election expense in cooperation with an organization or individual if this will result in an organization or individual subject to an election expenses limit exceeding that limit.

### **Repealed**

**197** [Repealed 2008-41-50.]

### **Election expenses limit for registered political parties**

**198** (1)Subject to subsection (4), the total value of election expenses incurred by a registered political party

(a)during the campaign period for a general election that is conducted in accordance with section 23 (2) or (3) of the *Constitution Act* must not exceed the amount calculated by multiplying

(i)\$1.16, and

(ii)the total number of registered voters on the Provincial List of Voters, maintained under section 45, on the day the election is called, and

(b)during the campaign period for a general election that is not conducted in accordance with section 23 (2) or (3) of the *Constitution Act* and that is longer than 28 days must not exceed the amount determined under paragraph (a) plus the additional amount determined in accordance with subsection (1.01).

(1.01)The additional amount for the purposes of subsection (1) (b) of this section is determined in accordance with the following formula:

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$$\left( \frac{A}{28} \times AD \right)$$

additional amount =

2

where

A = the amount determined under subsection (1) (a) of this section;

AD = the number of additional days the campaign period extends beyond 28 days.

(1.1) In respect of a general election, a registered political party not represented by a candidate in the election must also comply with the expense limits set by section 235.1 (1) for campaign period election advertising.

(2) [Repealed 2015-25-12.]

(3) In respect of a by-election, the total value of election expenses incurred by a registered political party during the campaign period must not exceed \$58 000.

(3.1) In respect of a by-election, a registered political party not represented by a candidate in the election must also comply with the expense limits set by section 235.1 (2) for campaign period election advertising.

(4) If a campaign period in an electoral district is extended under section 65 (2) as a result of the death of a candidate, the election expenses limit under subsection (1) or (3) is increased by \$58 000 in respect of the electoral district.

### **Election expenses limit for candidates**

**199** (1) Subject to subsection (3), the total value of election expenses incurred by a candidate

(a) during the campaign period for a general election that is conducted in accordance with section 23 (2) or (3) of the *Constitution Act* must not exceed \$58 000, and

(b) during the campaign period for a general election that is not conducted in accordance with section 23 (2) or (3) of the *Constitution Act* and that is longer than 28 days must not exceed the amount

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determined under paragraph (a) plus the additional amount determined in accordance with subsection (1.1).

(1.1) The additional amount for the purposes of subsection (1) (b) of this section is determined in accordance with the following formula:

$$\text{additional amount} = \left( \frac{A}{28} \times AD \right)$$

2

where

A = the amount determined under subsection (1) (a) of this section;

AD = the number of additional days the campaign period extends beyond 28 days.

(1.2) In respect of a by-election, the total value of election expenses incurred by a candidate during the campaign period must not exceed \$58 000.

(2) [Repealed 2015-25-13.]

(3) If a campaign period is extended under section 65 (2) as a result of the death of a candidate, the election expenses limit under subsection (1)

(a) applies to a candidate who is nominated after the date the new election proceedings are started, and

(b) is \$116 000 for a candidate who was nominated before the new election proceedings were started.

### **Constituency association expenses on behalf of candidate**

**200** (1) A registered constituency association must not incur an election expense unless both of the following requirements are met:

(a) the election expense must be incurred, as applicable, on behalf of the individual who is selected to be nominated as the candidate for its registered political party or on behalf of the independent member it is supporting;

(b) the election expense must be incurred during the campaign period.

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(2) Within 60 days after final voting day, the financial agent of a constituency association that incurs election expenses under this section must deliver to the financial agent of the candidate a report of those election expenses.

(3) An election expense incurred by a constituency association under this section must be included in the election expenses of the candidate on whose behalf it was incurred.

### **Political party expenses on behalf of candidate**

**201** (1) If a registered political party incurs an election expense for the primary purpose of promoting the election of a particular candidate, the election expense is deemed to be an election expense incurred on behalf of the candidate.

(2) Subsection (1) does not apply to an election expense incurred for the primary purpose of promoting the election of the leader of a registered political party.

(3) Within 60 days after final voting day, the financial agent of a registered political party that incurs an election expense to which subsection (1) applies must deliver to the financial agent of the candidate a report of that election expense.

(4) An election expense to which subsection (1) applies must be included in the election expenses of the candidate on whose behalf it is deemed to have been incurred.

### **New limits if by-election cancelled by general election**

**202** If a by-election is cancelled because a general election is called, any election expenses incurred for the by-election are not to be included in calculating the limits under this Division on election expenses for the election conducted as part of the general election.

### **Expenses not to be included as election expenses subject to limit**

**203** (1) The following expenses are not to be included as election expenses for the purpose of determining whether an organization or individual has complied with an election expenses limit:

- (a) the nomination deposit of a candidate;
- (b) personal election expenses of a candidate;
- (c) legal or accounting services provided to comply with this Act;
- (d) services provided by a financial agent or auditor in that capacity;

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- (e) the cost of any communication that a registered political party or a registered constituency association sends exclusively to its members;
- (f) subject to section 183 (3), expenses incurred in holding a fundraising function;
- (g) expenses incurred exclusively for the day-to-day administration of a registered political party or a registered constituency association;
- (h) interest on a loan for election expenses to a candidate, registered constituency association or registered political party;
- (h.1) the cost of any communication, other than a communication in relation to a fundraising function, transmitted to the public by any means for the primary purpose of raising funds for the organization or individual by whom or on whose behalf the communication was transmitted;
- (i) expenses prescribed for the purposes of this section by regulation.

(2) For certainty, an election expense that is not included for the purpose of determining whether there has been compliance with a limit under this Division remains an election expense and is subject to all other provisions of this Act.

### **Limits and adjustment to reflect changes in consumer price index**

**204** (1) [Repealed 2008-41-53.]

(2) In respect of each general election that is called after January 1, 2018, the chief electoral officer must establish as soon as possible after the election is called the applicable election expense limit amounts for the election by

- (a) determining the ratio between the consumer price index at January 1, 2018 and the consumer price index at the time the election is called, and
- (b) applying the ratio to adjust the amounts under sections 198 (1), 198 (1.01), 198 (4), 199 (1), 199 (1.1) and 199 (3).

(2.1) In respect of each by-election that is called after January 1, 2018, the chief electoral officer must establish as soon as possible after the election is called the applicable election expense limit amounts for the election by

- (a) determining the ratio between the consumer price index at January 1, 2018 and the consumer price index at the time the election is called, and

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(b)applying the ratio to adjust the amounts under sections 198 (3) and (4) and 199 (1.2) and (3).  
(3) and (4)[Repealed 2017-20-13.]

## **Repealed**

**205** [Repealed 2019-42-95.]

## **Division 6 — Reporting**

### **Reporting of information regarding political contributions**

**206** (1)Where this Act requires that political contributions be disclosed in a report, the report must include the following:

- (a)for each contributor who, during the period covered by the report, made one or more political contributions that in total have a value of more than \$250, or a higher amount established by regulation, the information required to be recorded under section 190 (1);
- (b)for anonymous contributions, the information required to be recorded under section 190 (3);
- (c)for contributions not referred to in paragraph (a) or (b), the aggregate value of the political contributions received and the total number of contributors from whom they were received.

(2)On request by the chief electoral officer, a contributor must file with the chief electoral officer a solemn declaration that the contributor has not contravened this Part.

### **Annual financial reports by registered political parties and constituency associations**

**207** (1)The fiscal year of a registered political party or registered constituency association must be the calendar year.

(2)By March 31 in each year, the financial agent must file with the chief electoral officer, on behalf of the appointing organization, a financial report respecting the previous calendar year.

(3)An annual financial report under subsection (2) must be in the form specified by the chief electoral officer and must include the following information:

- (a)the political contributions the organization accepted during the year;

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(b)the total amount of all tax receipts issued for contributions received during the year;

(c)the assets, liabilities and surplus or deficit of the organization at the end of the year;

(d)any transfers of money or other property or the provision of services, as referred to in section 180 (6), made or received by the organization during the year;

(e)for fundraising functions held by or on behalf of the organization during the year, the information recorded under section 190 (5);

(f)any income received and any expenditures made or incurred by the organization during the year, if these are not otherwise disclosed in the report;

(g)any loans or guarantees received by the organization during the year and any conditions attached to them, including

(i)the date the loan is due, and

(ii)for permissible loans, the information recorded under section 190 (4) and (4.1);

(h)any permissible loans received before the year for which the report is made if there is an outstanding balance, indicating for each the information recorded under section 190 (4) and (4.1);

(i)any political contributions received during the year by the organization but returned or otherwise dealt with in accordance with section 189;

(j)any other information required to be included by regulation.

(3.1)An annual financial report under subsection (2) must also include the information described under subsection (3) in relation to an organization primarily controlled by the registered political party or ~~registered constituency organization~~[registered constituency association](#).

(4)In addition to the requirements of subsection (3), a report for a registered political party must include the political contributions made by contributors who, during the period covered by the report, made political contributions to one or more of

(a)the political party,

(b)a registered constituency association for the political party, and

(c)a candidate for the political party



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that, in total, have a value of more than the applicable amount under section 206 (1) (a).

(5) If applicable, income and expenditures must be reported by class as prescribed by regulation.

(6) The first report of an organization under this section must include the information referred to in subsections (3) and (4) for the period between the date of the statement of the assets and liabilities of the organization included in its application for registration and the end of the fiscal year for which the report is made.

### **Interim financial reports by registered political parties eligible for allowances**

**207.01** (1) Within 30 days after the end of an interim reporting period, the financial agent of a registered political party referred to in section 215.02 (1) must file with the chief electoral officer, on behalf of the political party, an interim financial report in accordance with this section.

(2) An interim financial report under subsection (1) must be in the form specified by the chief electoral officer and must include the following information:

- (a) the political contributions the registered political party accepted during the interim reporting period;
- (b) any transfers of money or other property or the provision of services, as referred to in section 180 (6), made or received by the registered political party during the interim reporting period;
- (c) any political contributions received during the interim reporting period by the registered political party but returned or otherwise dealt with in accordance with section 189;
- (d) any other information required to be included by regulation.

(3) An interim financial report under subsection (1) must also include the information described under subsection (2) in relation to an organization primarily controlled by the registered political party.

(4) For 2018, the interim reporting periods are the following:

- (a) January 1 to June 30;
- (b) July 1 to December 31.

(5) For 2019 and subsequent years, the interim reporting periods are the following:

- (a) January 1 to March 31;
- (b) April 1 to June 30;

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(c) July 1 to September 30;

(d) October 1 to December 31.

### **Personal expenses reports by candidates, leadership contestants and nomination contestants**

**208** (1) A candidate who is not acting as the candidate's own financial agent must, within 60 days after final voting day, provide to the financial agent a report of the candidate's personal election expenses and, if applicable, personal contestant expenses.

(2) A leadership contestant who is not acting as the leadership contestant's own financial agent must, within 60 days after a leader is selected for the political party, provide to the financial agent a report of the leadership contestant's personal contestant expenses.

(2.1) A nomination contestant who is not acting as the nomination contestant's own financial agent must, within 60 days after the nomination contest has concluded, provide to the financial agent a report of the nomination contestant's personal contestant expenses.

(3) A report under this section must set out the details of the personal election expenses or personal contestant expenses incurred by the individual for whom it is prepared and must be in the form specified by the chief electoral officer.

(4) If an individual required to provide a report under this section dies before the report is provided, the financial agent must make every reasonable effort to prepare the required financing report on behalf of the individual.

### **Election financing reports by candidates**

**209** (1) Within 90 days after final voting day for an election, the financial agent of a candidate must file with the chief electoral officer, on behalf of the candidate, an election financing report in accordance with this section.

(2) The election financing report must be in the form specified by the chief electoral officer and must include the following information:

(a) the election expenses incurred by the candidate, showing separately those election expenses that are not included for the purposes of determining whether the candidate exceeded the applicable election expenses limit and those election expenses for which the candidate makes a claim for reimbursement under section 215.04;

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(b)the political contributions accepted by the candidate in relation to that individual's candidacy;

(c)the total amount of all tax receipts issued for contributions received in relation to the individual's candidacy;

(d)any transfers of money or other property or the provision of services, as referred to in section 180 (6), made or received by the candidate;

(e)any loans or guarantees received by the candidate for election expenses and any conditions attached to them, including

(i)the date the loan is due, and

(ii)for permissible loans, the information recorded under section 190 (4) and (4.1);

(f) and (g)[Repealed 2019-42-98.]

(h)for fundraising functions held by or on behalf of the candidate, the information recorded under section 190 (5) and, if applicable, under section 190 (6);

(i)any income received and any expenditures made or incurred by the candidate in relation to the individual's candidacy or election, if these are not otherwise disclosed in the report;

(j)any surplus for the candidate as referred to in section 210.01, or any equivalent deficit, as at the day the report is prepared;

(k)any political contributions received by the candidate but returned or otherwise dealt with in accordance with section 189;

(l)any other information required by regulation.

(3)If applicable, election expenses must be reported by class as prescribed by regulation.

(4)If a by-election is cancelled because a general election is called, the financial agent of a candidate in the by-election must file a report under this section respecting the cancelled election but, as an exception to subsection (1) in the case of an individual who was a candidate in both elections, that report is not required to be filed until the time for filing the report in relation to the general election.

(5)For certainty, a report under this section is required even if the candidate is acclaimed, dies, withdraws from the election or is declared by a court to no longer be a candidate.

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(5.1) If a candidate is entitled to reimbursement for election expenses under section 215.04, the financial agent of the candidate must file, with the election financing report required under this section, a claim for reimbursement and financial records and receipts supporting the claim.

(6) A report under this section, or under section 212 in relation to a report under this section, must be available for public inspection at the office of the chief electoral officer during its regular office hours until one year after final voting day for the next general election and must not include the address of a contributor.

### **Election financing reports by registered political parties and constituency associations**

- 210** (1) Within 90 days after final voting day for an election, the financial agent of
- (a) a registered political party that was represented by a candidate in the election,
  - (a.1) a registered political party that sponsored campaign period election advertising,
  - (b) a registered constituency association that is the local organization for the electoral district of a registered political party referred to in paragraph (a), or
  - (c) a registered constituency association for an independent candidate in the election

must file with the chief electoral officer, on behalf of the organization, an election financing report in accordance with this section.

(2) The election financing report must be in the form specified by the chief electoral officer and must include the following information:

- (a) in the case of a report for a registered political party, the election expenses of the political party, showing separately those election expenses that are not included for the purposes of determining whether the political party exceeded the applicable election expenses limit and those election expenses for which the political party makes a claim for reimbursement under section 215.04;
- (b) the political contributions accepted by the organization between December 31 of the previous year and the end of the campaign period;

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(c) the total amount of all tax receipts issued for contributions received between December 31 of the previous year and the end of the campaign period;

(d) any transfers of money or other property or the provision of services, as referred to in section 180 (6), made or received by the organization between December 31 of the previous year and the end of the campaign period;

(e) any loans or guarantees received by the organization for election expenses and any conditions attached to them, including

(i) the date the loan is due, and

(ii) for permissible loans, the information recorded under section 190 (4) and (4.1);

(f) for fundraising functions held by or on behalf of the organization between December 31 of the previous year and the end of the campaign period, the information recorded under section 190 (5) and, if applicable, under section 190 (6);

(g) any political contributions received by the organization between December 31 of the previous year and the end of the campaign period, but returned or otherwise dealt with in accordance with section 189;

(h) any other information required by regulation.

(2.1) An election financing report must also include the information described under subsection (2) in relation to an organization primarily controlled by the registered political party or ~~registered constituency organization~~ [registered constituency association](#).

(3) If applicable, election expenses must be reported by class as prescribed by regulation.

(4) If a by-election is cancelled because a general election is called, a report under this section respecting the cancelled election must be filed but, as an exception to subsection (1) in the case of a political party or constituency association that is required to file reports for both elections, those reports are not required to be filed until the time for filing the report in relation to the general election.

(5) If a registered political party is entitled to reimbursement for election expenses under section 215.04, the financial agent of the political party must file, with the election financing report required under this section, a claim for reimbursement and financial records and receipts supporting the claim.

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### **Transfer of candidate's surplus election funds**

**210.01** (1) If, after the payment of a candidate's election expenses and any other reasonable expenses incidental to the candidacy, there is a balance remaining in an account referred to in section 177 (2) (b) for the candidate, the financial agent of the candidate must as soon as possible pay the balance as follows:

- (a) in the case of a candidate that represented a registered political party, the surplus must be paid
  - (i) to the registered constituency association for the registered political party in the electoral district, if there is one,
  - (ii) to the registered political party if there is no registered constituency association, or
  - (iii) to the chief electoral officer if the political party is no longer registered;
- (b) in the case of a candidate elected as an independent member of the Legislative Assembly, the surplus must be paid
  - (i) to the registered constituency association for the independent member, if there is one, or
  - (ii) to the chief electoral officer if there is no registered constituency association;
- (c) in the case of a candidate not referred to in paragraph (a) or (b), the surplus must be paid to the chief electoral officer.

(2) Funds received by the chief electoral officer under subsection (1), including accumulated interest, must be held in trust by the chief electoral officer to be dealt with as follows:

- (a) if the candidate in respect of whom the funds were paid is a candidate within the meaning of section 63 for any electoral district in the next general election or in a by-election called before that time, the chief electoral officer must pay the funds to the financial agent of the candidate for use in the election;
- (b) if the funds are not paid out under paragraph (a), the chief electoral officer must pay the funds to the consolidated revenue fund.

### **Leadership contestant financing reports**

**211** (1) Subject to subsection (6), within 90 days after a leader is selected for a registered political party, the financial agent of a leadership contestant must file

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with the chief electoral officer, on behalf of the leadership contestant, a financing report in accordance with this section.

(2) The financing report must be in the form specified by the chief electoral officer and must include the following information:

(a) the contestant expenses incurred by or on behalf of the leadership contestant;

(b) the political contributions accepted by the leadership contestant in relation to that individual's seeking of the leadership;

(c) any loans or guarantees received by the leadership contestant for contestant expenses and any conditions attached to them, including

(i) the date the loan is due, and

(ii) for permissible loans, the information recorded under section 190 (4) and (4.1);

(d) for fundraising functions held by or on behalf of the contestant, the information recorded under section 190 (5) and, if applicable, under section 190 (6);

(d.1) any transfers of money or other property made or received by, or provision of services by or to, a leadership contestant under section 180 (6);

(e) any political contributions received by the leadership contestant but returned or otherwise dealt with in accordance with section 189;

(f) any other information required to be included by regulation.

(3) If applicable, contestant expenses must be reported by class as prescribed by regulation.

(4) For certainty, a report under this section is required even if the leadership contestant dies or withdraws from the leadership contest.

(5) A report under this section, or under section 212 in relation to a report under this section, must be available for public inspection at the office of the chief electoral officer during its regular office hours until one year after final voting day for the next general election and must not include the address of a contributor.

(6) The financial agent of a leadership contestant who is acclaimed

(a) is not required to file a report under this section if all the following apply:

(i) no contestant expenses were incurred by or on behalf of the leadership contestant;

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(ii)no political contributions were received or accepted by the leadership contestant in relation to that individual's seeking of the leadership;

(iii)no loans or guarantees were received by the leadership contestant for contestant expenses;

(iv)no fundraising functions were held by or on behalf of the leadership contestant;

(v)no transfers of money or other property were made or received by, or services provided by or to, the leadership contestant under section 180 (6), and

(b)must file a signed statement with the chief electoral officer within 90 days of the acclamation that all of the circumstances in paragraph (a) of this subsection apply.

### **Nomination contestant financing reports**

**211.01** (1)Subject to subsection (6), within 90 days after the end of a nomination contest, the financial agent of a nomination contestant must file with the chief electoral officer, on behalf of the nomination contestant, a nomination contestant financing report in accordance with this section.

(2)The nomination contestant financing report must be in the form specified by the chief electoral officer and must include the following information:

(a)the contestant expenses incurred by or on behalf of the nomination contestant;

(b)if the nomination contestant incurred contestant expenses, or contestant expenses were incurred on behalf of the nomination contestant, during the campaign period, those contestant expenses shown separately from the expenses described in paragraph (a);

(c)any loans or guarantees received by the nomination contestant for contestant expenses and any conditions attached to them, including

(i)the date the loan is due, and

(ii)for permissible loans, the information recorded under section 190 (4) and (4.1);

(d)the political contributions accepted by the nomination contestant in relation to that individual seeking the nomination as a candidate representing a registered political party;



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(e)for fundraising functions held by or on behalf of the nomination contestant, the information recorded under section 190 (5) and, if applicable, under section 190 (6);

(f)any transfers of money or other property made or received by, or provision of services by or to, a nomination contestant under section 180 (6);

(g)any political contributions received by the nomination contestant but returned or otherwise dealt with in accordance with section 189;

(h)any other information required to be included by regulation.

(3)If applicable, contestant expenses must be reported by class as prescribed by regulation.

(4)For certainty, a report under this section is required even if the nomination contestant withdraws from the nomination contest, is acclaimed as a candidate or is appointed by the registered political party to represent the party as a candidate.

(5)A nomination contestant who is acclaimed or appointed

(a)is not required to file a report under this section if all the following apply:

(i)no nomination contestant expenses were incurred by or on behalf of the nomination contestant;

(ii)no political contributions were received or accepted by the nomination contestant in relation to that individual's seeking of the nomination;

(iii)no loans or guarantees were received by the nomination contestant for nomination contestant expenses;

(iv)no fundraising functions were held by or on behalf of the nomination contestant;

(v)no transfers of money or other property were made or received by, or services provided by or to, the nomination contestant under section 180 (6), and

(b)must file a signed statement with the chief electoral officer within 90 days of acclamation or appointment, as applicable, that all of the circumstances in paragraph (a) of this subsection apply.

(6)The financial agent of a nomination contestant may file with the chief electoral officer a nomination contestant financing report within 90 days after final voting day if the nomination contest ends

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- (a) within 30 days before the campaign period begins, or
- (b) during the campaign period.

### **Transfer of nomination contestant's surplus funds**

**211.02** If, after the payment of a nomination contestant's contestant expenses and any other reasonable expenses incidental to the nomination contest, there are funds remaining for the nomination contestant, the financial agent of the nomination contestant must as soon as possible deal with the surplus as follows:

- (a) in the case of a nomination contestant who is successful in seeking the nomination as a candidate representing a registered political party, the surplus must be paid to
  - (i) the nomination contestant as the candidate who is nominated to represent the registered political party,
  - (ii) the registered political party that the nomination contestant is representing as a candidate, or
  - (iii) the registered constituency association for the candidate;
- (b) in the case of a nomination contestant who is not successful in seeking the nomination as a candidate representing a registered political party, the surplus must be paid to
  - (i) the registered political party,
  - (ii) a candidate representing that registered political party, or
  - (iii) the registered constituency association.

### **Supplementary reports**

**212** (1) A supplementary report must be filed with the chief electoral officer within 30 days after the financial agent, or the individual or organization for whom a report was filed, becomes aware that

- (a) information disclosed in the report has changed, or
- (b) the report did not completely and accurately disclose the required information.

(2) A supplementary report under this section must be in the form specified by the chief electoral officer.

### **General requirements for reports**

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- 213** (1) A report under this Part must be prepared in accordance with the regulations, or, if no regulations apply, generally accepted accounting principles, and must be filed with
- (a) a signed declaration of the financial agent or other individual filing it as to its accuracy, and
  - (b) a report of the auditor prepared under section 214 if the value of the political contributions, election expenses or contestant expenses to be reported is equal to or greater than \$10 000 or a higher amount established by regulation.
- (2) As an exception to subsection (1) (b), a report of the auditor is not required for an interim financial report under section 207.01, a financing report under section 211.01 or a supplementary report under section 212.
- (3) After examining a report for which no report of the auditor is filed, the chief electoral officer may require such a report and may establish a time limit by which the financial agent must provide the report to the chief electoral officer.
- (4) The financial agent of a registered political party may file the required reports for its constituency associations, candidates, leadership contestants and nomination contestants.

### **Auditing of reports**

- 214** (1) For every report that is required to be audited under this Act, the auditor for the organization or individual must make a report to the financial agent.
- (2) Subject to any guidelines issued by the chief electoral officer, the auditor must
- (a) conduct an audit in accordance with generally accepted auditing standards, and
  - (b) perform such tests and other procedures as in the auditor's judgment are necessary to determine whether the report has been prepared in accordance with generally accepted accounting principles.
- (3) An auditor must make any additional reports the auditor considers necessary if
- (a) the auditor has not received all the information and explanations required from the financial agent or from the organization or individual on whose behalf the report has been prepared, or
  - (b) proper accounting records have not been kept by the financial agent.
- (4) The financial agent must give the auditor access at all reasonable times to the records of the financial agent and must provide the auditor with any information

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the auditor considers necessary to enable the auditor to give a report under this section.

## **Repealed**

**215** [Repealed 2019-42-105.]

## **Publication of reports on internet**

**215.01** The chief electoral officer may publish on an Elections BC authorized internet site

(a) a report that must be available for public inspection, under this Division, at the office of the chief electoral officer during its regular office hours, and

(b) a report under this Division that the chief electoral officer must publish.

## **Division 6.1 — Allowance and Reimbursement to Political Parties**

### **Annual allowance to political party**

**215.02** (1) Subject to subsection (4), the chief electoral officer must pay, in accordance with this section, an annual allowance to a registered political party whose candidates in the most recent general election received at least

(a) 2% of the total number of valid votes cast in all electoral districts, or

(b) 5% of the total number of valid votes cast in the electoral districts in which the political party endorsed candidates.

(2) The annual allowance is calculated

(a) in 2022 and 2023 by multiplying \$1.75 per vote received, and

(b) in 2024 and each following year by multiplying the applicable amount established under subsection (2.1) per vote received.

(2.1) The chief electoral officer must establish the applicable amount to be used in the calculation under subsection (2) (b) as soon as possible after each January 1, and no later than January 15, of that year by

(a) determining the ratio between the consumer price index as at January 1, 2023 and the consumer price index at January 1 of the year in which the allowance is paid, and

(b) applying the ratio to adjust the amount that is to apply for that year.

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(3)The chief electoral officer must pay the allowance in 2022 and each following year in 2 equal instalments on the following dates in each applicable year:

(a)January 15;

(b)July 15.

(4)An annual allowance is not payable to a registered political party if the political party

(a)failed to file a required report under this Part, or

(b)is suspended under Part 9 or this Part.

(5)If subsection (4) applies to a registered political party, the annual allowance is payable to a registered political party as soon as practicable after

(a)all reporting requirements under this Part have been met, and

(b)any suspension under that subsection is no longer in effect.

(6)Amounts to be paid by the chief electoral officer under this section must be paid out of the consolidated revenue fund.

## Repealed

**215.03** [Repealed 2021-31-2.]

## Reimbursement of election expenses

**215.04** (1)In this section, "**reimbursable election expense**" means an election expense for which a reimbursement under this section is payable.

(2)A reimbursement must not be paid under this section for the following:

(a)a nomination deposit;

(b)a deficit incurred in holding a fundraising function during a campaign period;

(c)an election expense for property in relation to which a reimbursement was previously paid under this section;

(d)an election expense or a class of election expenses prescribed for the purposes of this section by regulation.

(3)For the purposes of this section, the general valuation rules in section 185 do not apply and instead the following rules apply for the purpose of determining the value of reimbursable election expenses:

(a)the value of property, other than a capital asset, or services, is the lower of the following:

(i)the price paid for the property or services;

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(ii) the market value of the property or services;

(b) the value of property that is a capital asset, is the lower of the following:

(i) the price paid for the use of the property;

(ii) the market value of the use of the property;

(c) the value of free advertising space in a periodical publication and free broadcasting time provided to a candidate in an election, if the space or time is also made available on an equitable basis to all other candidates in the election, is to be considered nil.

(4) A reimbursement for reimbursable election expenses must be paid, in accordance with this section, to the financial agent of a candidate in the amount determined under subsection (6) (a) if

(a) the financial agent of the candidate has filed with the chief electoral officer

(i) an election financing report in accordance with section 209, and

(ii) a claim for reimbursement and financial records and receipts supporting the claim under section 209 (5.1), and

(b) the candidate in the most recent election in which the individual was a candidate received at least 10% of the total number of valid votes cast in the candidate's electoral district.

(5) A reimbursement for reimbursable election expenses must be paid, in accordance with this section, to the financial agent of a registered political party in the amount determined under subsection (6) (b) if

(a) the financial agent of the political party has filed with the chief electoral officer

(i) an election financing report in accordance with section 210, and

(ii) a claim for reimbursement and financial records and receipts supporting the claim under section 210 (5), and

(b) the political party

(i) in the most recent general election received at least 5% of the total number of valid votes cast in the election, or

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(ii) in a by-election received at least 10% of the total number of valid votes cast in the electoral district in which the political party endorsed a candidate.

(6) The amount of a reimbursement for

(a) a candidate is 50% of the reimbursable election expenses up to 50% of the election expenses limit set under section 199, and

(b) a registered political party is 50% of the reimbursable election expenses up to 50% of the election expenses limit set under section 198.

(7) The chief electoral officer must pay the reimbursement in 2 instalments as follows:

(a) an advance of 50% of the estimated reimbursement amount within 15 days of being satisfied that the reports required to be filed under sections 209 and 210 have been filed with sufficient information to warrant the advance;

(b) the remainder of the reimbursement as soon as practicable after the chief electoral officer is satisfied all reporting requirements under Part 9 and this Part have been met.

(8) If the reimbursement paid under subsection (7) exceeds the reimbursement amount that the candidate or political party is entitled to, the excess is an overpayment that may be recovered as a debt due to the government from the candidate or political party.

(9) Amounts to be paid by the chief electoral officer under this section must be paid out of the consolidated revenue fund.

### **Use of reimbursement**

**215.05** (1) The financial agent of a candidate must use a reimbursement paid under section 215.04 to fully satisfy any loan, debt or other financial obligation of the candidate in relation to the candidate's candidacy.

(2) If, after any required payment under subsection (1) of this section, there is a remainder of the reimbursement, the remainder must be treated in the same manner as a balance remaining in an account referred to in section 177 (2) (b) is treated under section 210.01.

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(3)The financial agent of a registered political party must use a reimbursement paid under section 215.04 to fully satisfy any loan, debt or other financial obligation of the political party.

## **Division 7 — Penalties for Failure to Comply**

### **Publication of failure to comply**

**216** (1)The chief electoral officer must have notice of the following published:

- (a)the name of any political party, constituency association, candidate, leadership contestant or nomination contestant for whom a report required under this Act is not filed within the applicable time limit established under Division 6 of this Part or by court order under section 225;
- (b)the name of any political party, constituency association, candidate, leadership contestant or nomination contestant for whom a report required under this Act is not filed before the end of the applicable late filing period under section 220;
- (c)the name of any candidate or political party that exceeds the applicable election expenses limit under Division 5 of this Part;
- (d)the name of any political party, constituency association, candidate, leadership contestant or nomination contestant in relation to whom there was a conviction under section 266 in relation to a report under this Act.

(1.1)The chief electoral officer may publish a notice under subsection (1) by doing one or both of the following:

- (a)having the notice published in the Gazette;
- (b)publishing the notice on an Elections BC authorized internet site.

(2)Publication under subsection (1) must take place as soon as possible after the chief electoral officer becomes aware of the applicable circumstances referred to in that subsection.

### **Candidate who incurs election expenses over limit**

**217** (1)Unless relief is granted by a court under section 219, a candidate whose election expenses exceed the applicable election expenses limit is subject to the following penalties:



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(a) in the case of a candidate who is declared elected as a member of the Legislative Assembly, at the applicable time under subsection (3) the member ceases to hold office and the seat of the member becomes vacant;

(b) in all cases, the candidate must pay to the chief electoral officer a penalty of double the amount by which the election expenses exceed the limit.

(2) The chief electoral officer must present a report to the Speaker respecting a member of the Legislative Assembly who may be subject to the penalty under subsection (1) (a) as soon as possible after the applicable report is filed for the candidate.

(3) A member referred to in subsection (1) (a) ceases to hold office and the seat of the member becomes vacant as follows:

(a) if no application under section 219 is made in respect of the member, at the end of the period for making such an application;

(b) if, on the final determination of an application under section 219, the court refuses to grant relief, at the time of that determination.

### **Political party that incurs election expenses over limit**

**218** (1) Unless relief is granted by a court under section 219, a registered political party whose election expenses exceed the applicable election expenses limit is subject to the following penalties:

(a) the chief electoral officer must suspend the registration of the political party for a period of 6 months from the date of the suspension as recorded under section 169;

(b) the registered political party must pay to the chief electoral officer a penalty of double the amount by which the election expenses exceed the limit.

(2) The chief electoral officer must give the registered political party notice of the period of a suspension under subsection (1) (a).

### **Court order for relief from election expenses limits**

**219** (1) A registered political party or candidate may apply to the Supreme Court in accordance with this section for relief from a penalty under this Division for failing to comply with an election expenses limit.

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(2) For certainty, a registered political party may apply under subsection (1) in relation to an obligation of a candidate who represented the political party.

(3) An application may only be made within 120 days after final voting day for the election or, if the failure to comply is disclosed by a supplementary report under section 212, within 30 days after the supplementary report is filed.

(4) The petition commencing an application must be served on the chief electoral officer within 7 days after it is filed and the chief electoral officer is a party to the application.

(5) On the hearing of an application, the court may do the following:

(a) grant relief from a penalty if the court considers that, in relation to the non-compliance, the financial agent and, if applicable, the candidate have acted in good faith;

(b) if relief is granted for a political party that has been suspended under section 218 (1) (a), order that the suspension be cancelled immediately or at a time or on conditions specified by the court;

(c) refuse to grant relief.

### **Late filing of required reports**

**220** (1) This section applies if a financial agent fails to file a report under Division 6 of this Part with the chief electoral officer within the time period established by that Division or by order of a court under section 225.

(2) In the case of a report for a registered political party or registered constituency association, in addition to publishing notice in accordance with section 216, the chief electoral officer must make a note of the failure in the applicable register.

(3) The chief electoral officer must give notice to the individual or organization for whom the report was to be filed that, if the report is not filed within the late filing period permitted by this section, the individual or organization will be subject to the penalties provided in this Division unless an extension is granted by a court under section 225.

(4) In the case of a report for a candidate, leadership contestant, nomination contestant or constituency association, the chief electoral officer must also give the notice under subsection (3) to the registered political party or independent member of the Legislative Assembly who may be affected by the failure.

(5) The report may be filed within the following applicable late filing period on payment to the chief electoral officer of the specified late filing fee:

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(a) in the case of an annual financial report for a registered political party or registered constituency association, on payment of a late filing fee of \$100, or a higher amount established by regulation, the report may be filed on or before June 30 of that year or a later date permitted by a court under section 225;

(a.1) in the case of an interim financial report for a registered political party, on payment of a late filing fee of \$100, or a higher amount established by regulation, the report may be filed within 30 days after the end of the time period for filing established by section 207.01 or before a later date permitted by a court under section 225;

(b) in the case of an election financing report for a candidate, registered political party or registered constituency association or a contestant financing report for a leadership contestant or nomination contestant, on payment of a late filing fee of \$500, or a higher amount established by regulation, the report may be filed within 30 days after the end of the time period for filing established by Division 6 of this Part or before a later date permitted by a court under section 225.

### **Monetary penalties for making or accepting prohibited loan or guarantee**

**220.01** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 181 (2), (3) or (5) by a person, the chief electoral officer must notify the person of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (1), the person must pay to the chief electoral officer a penalty of up to 100% of the amount of the loan, as determined by the chief electoral officer.

### **Monetary penalties for accepting political contributions from specified fundraising functions in private residences**

**220.02** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 185.01 (2) by a major political party, candidate, leadership contestant, nomination contestant or registered constituency association, the chief electoral officer must notify the political party, candidate, leadership contestant or constituency association of the non-compliance and the related penalty.

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(2) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (1) of this section, the major political party, candidate, leadership contestant, nomination contestant or registered constituency association must pay to the chief electoral officer a penalty in the amount of up to double the amount of the political contribution raised by the specified fundraising function, as determined by the chief electoral officer.

### **Monetary penalties for failure to provide information respecting specified fundraising functions**

**220.03** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 185.02 (1), (1.1), (2), (3) or (3.1) by a person, the chief electoral officer must notify the person of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (1) of this section, the person must pay to the chief electoral officer a penalty in the amount of up to \$10 000, as determined by the chief electoral officer.

### **Monetary penalties respecting prohibited political contributions**

**220.04** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 186 (0.1) or (1) (a), (b), (d) or (e) by a person, the chief electoral officer must notify the person of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (1) of this section, the person must pay to the chief electoral officer a penalty in the amount of up to double the amount of the political contribution, as determined by the chief electoral officer.

(3) Within 7 days of the chief electoral officer making a determination of non-compliance with section 186 (1) (c) or (f) by an eligible individual, the chief electoral officer must notify the eligible individual of the non-compliance and the related penalty.

(4) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (3) of this section, the eligible individual must pay to the chief electoral officer a penalty in the amount of up to double the amount that the political contribution,

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(a) in the case of non-compliance with section 186 (1) (c), exceeds the amount described in section 186 (1) (c), as determined by the chief electoral officer, or

(b) in the case of non-compliance with section 186 (1) (f), exceeds \$50, as determined by the chief electoral officer.

### **Monetary penalties for exceeding political contribution limits**

**220.05** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 186.01 (1) by an eligible individual, the chief electoral officer must notify the eligible individual of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (1) of this section, the eligible individual must pay to the chief electoral officer a penalty in the amount of up to double the amount that the political contribution exceeds the political contribution limit set in section 186.01, as determined by the chief electoral officer.

### **Monetary penalties respecting accepting political contributions**

**220.06** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 187 by an organization or individual required to have a financial agent, by a financial agent or by an individual authorized by the financial agent under section 187 (1), the chief electoral officer must notify the organization or individual required to have a financial agent, the financial agent or the individual authorized by the financial agent under section 187 (1) of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (1) of this section, the organization or individual required to have a financial agent, the financial agent or the individual authorized by the financial agent under section 187 (1) must pay to the chief electoral officer a penalty in the amount of up to double the amount of the political contribution, as determined by the chief electoral officer.

### **Monetary penalties respecting anonymous political contributions**

**220.07** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 188 by a registered political party, registered

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constituency association, candidate, leadership contestant, nomination contestant or organization or individual acting on behalf of any of these, the chief electoral officer must notify the political party, constituency association, candidate, leadership contestant, nomination contestant or organization or individual acting on behalf of any of these of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (1) of this section, the registered political party, registered constituency association, candidate, leadership contestant, nomination contestant or organization or individual acting on behalf of any of these must pay to the chief electoral officer a penalty in the amount of up to double the amount that the political contribution exceeds the anonymous contribution limit set in section 188, as determined by the chief electoral officer.

#### **Monetary penalties for failure to return political contributions**

**220.08** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 189 by a financial agent, the chief electoral officer must notify the financial agent of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 220.09, if the chief electoral officer gives notice under subsection (1) of this section, the financial agent must pay to the chief electoral officer a penalty in the amount of up to double the amount of the political contribution, as determined by the chief electoral officer.

#### **Monetary penalties for failure to file supplementary report**

**220.081** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 212 by a person, the chief electoral officer must notify the person of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 220.09 or 225, if the chief electoral officer gives notice under subsection (1) of this section, the person must pay to the chief electoral officer a penalty in the amount of up to \$10 000, as determined by the chief electoral officer.

#### **Court order relief respecting monetary penalties**

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- 220.09** (1) A person who is subject to a monetary penalty under sections 220.01 to 220.081 may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance with the applicable section.
- (2) For certainty, a political party may apply under subsection (1) in relation to a penalty imposed on any of its candidates, leadership contestants, constituency associations or nomination contestants.
- (3) An application may be made only within 30 days after the chief electoral officer, under the applicable section referred to in subsection (1), notifies the person of the non-compliance and related penalty.
- (4) The petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed and the chief electoral officer is a party to the application.
- (5) On the hearing of an application, the court may do the following:
- (a) grant relief from a penalty if the court considers that, in relation to the non-compliance, the person has acted in good faith;
  - (b) make any order the court considers appropriate to secure compliance with the applicable section to the extent the court considers reasonable in the circumstances;
  - (c) refuse to grant relief.

### **Publication of names**

- 220.10** (1) The chief electoral officer must
- (a) publish on an Elections BC authorized internet site
    - (i) the names of persons on whom the chief electoral officer has imposed a monetary penalty under sections 220.01 to 220.08,
    - (ii) the section under which the chief electoral officer has imposed the monetary penalty, and
    - (iii) the amount of the monetary penalty, and
  - (b) have notice of the information described in paragraph (a) published in the Gazette.
- (2) The information published under subsection (1) (a) must continue to be published on the Elections BC authorized internet site until one year after final voting day for the next general election.
- (3) Publication of the notice under subsection (1) (b) must take place as soon as possible after the chief electoral officer imposes the monetary penalty.

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### **Nomination contestant who fails to file contestant financing report**

**220.11** (1) Unless relief is granted by a court on an application under section 225 commenced before the end of the late filing period under section 220 (5), a nomination contestant for whom the nomination contestant financing report under section 211.01 is not filed with the chief electoral officer before the end of that period is subject to the following penalties:

(a) in the case of a nomination contestant who is a member of the Legislative Assembly, at the applicable time under subsection (4) of this section the member ceases to hold office and the seat of the member becomes vacant;

(b) in all cases, unless the individual complies with subsection (2) of this section, from the applicable time under subsection (4) of this section the individual is disqualified from being nominated, being elected or holding office as a member of the Legislative Assembly until after the next general election after the applicable time under subsection (4).

(2) An individual referred to in subsection (1) (b) is not disqualified under that subsection if, before the individual is nominated, the outstanding nomination contestant financing report is filed with the chief electoral officer and a late filing penalty of up to \$10 000 is paid to the chief electoral officer.

(3) The chief electoral officer must present a report to the Speaker respecting a member of the Legislative Assembly who may be subject to the penalty under subsection (1) (a) as soon as possible after the end of the late filing period referred to in subsection (1).

(4) The time at which a nomination contestant becomes subject to the penalty under subsection (1) of this section is as follows:

(a) if no application under section 225 is commenced in respect of the nomination contestant before the end of the late filing period under section 220 (5), at the end of that period;

(b) if, on the final determination of an application under section 225 commenced before the end of the late filing period under section 220 (5) the court refuses to grant relief from the penalty, at the time of that determination.

### **Candidate who fails to file election financing report**



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**221** (1) Unless relief is granted by a court on an application under section 225 commenced before the end of the late filing period under section 220 (5), a candidate for whom the election financing report under section 209 is not filed with the chief electoral officer before the end of that period is subject to the following penalties:

(a) in the case of a candidate who is declared elected as a member of the Legislative Assembly, at the applicable time under subsection (4) the member ceases to hold office and the seat of the member becomes vacant;

(b) in all cases, unless the individual complies with subsection (2), from the applicable time under subsection (4) the individual is disqualified from being nominated, being elected or holding office as a member of the Legislative Assembly until after the next general election after the applicable time under subsection (4).

(2) An individual referred to in subsection (1) (b) is not disqualified under that subsection if, before the individual is nominated, the outstanding election financing report is filed with the chief electoral officer and a late filing penalty of \$10 000 is paid to the chief electoral officer.

(3) The chief electoral officer must present a report to the Speaker respecting a member of the Legislative Assembly who may be subject to the penalty under subsection (1) (a) as soon as possible after the end of the late filing period referred to in subsection (1).

(4) The time at which a candidate becomes subject to the penalties under subsection (1) is as follows:

(a) if no application under section 225 is commenced in respect of the candidate before the end of the late filing period under section 220 (5), at the end of that period;

(b) if, on the final determination of an application under section 225 commenced before the end of the late filing period under section 220 (5) the court refuses to grant relief from the penalty, at the time of that determination.

### **Leadership contestant who fails to file contestant financing report**

**222** (1) Unless relief is granted by a court on an application under section 225 commenced before the end of the late filing period under section 220 (5), a

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leadership contestant for whom the contestant financing report under section 211 is not filed with the chief electoral officer before the end of that period is subject to the following penalties:

(a) in the case of a leadership contestant who is a member of the Legislative Assembly, at the applicable time under subsection (4) the member ceases to hold office and the seat of the member becomes vacant;

(b) in all cases, unless the individual complies with subsection (2), from the applicable time under subsection (4) the individual is disqualified from being nominated, being elected or holding office as a member of the Legislative Assembly until after the next general election after the applicable time under subsection (4).

(2) An individual referred to in subsection (1) (b) is not disqualified under that subsection if, before the individual is nominated, the outstanding contestant financing report is filed with the chief electoral officer and a late filing penalty of \$10 000 is paid to the chief electoral officer.

(3) The chief electoral officer must present a report to the Speaker respecting a member of the Legislative Assembly who may be subject to the penalty under subsection (1) (a) as soon as possible after the end of the late filing period referred to in subsection (1).

(4) The time at which a leadership contestant becomes subject to the penalties under subsection (1) is as follows:

(a) if no application under section 225 is commenced in respect of the leadership contestant before the end of the late filing period under section 220 (5), at the end of that period;

(b) if, on the final determination of an application under section 225 commenced before the end of the late filing period under section 220 (5) the court refuses to grant relief from the penalty, at the time of that determination.

### **Deregistration of political party or constituency association for failure to file financial reports**

**223** (1) Unless relief is granted by a court under section 225, the chief electoral officer must deregister a political party or constituency association if a report for

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the organization required under Division 6 of this Part is not filed with the chief electoral officer before the end of the late filing period under section 220 (5).

(2)As an exception to subsection (1), the chief electoral officer must suspend the registration of the organization pending the decision of the court if, by the end of the late filing period referred to in subsection (1), an application for relief under section 225 has been made but not decided.

(3)If on the final determination of an application under section 225 the court refuses to grant relief under that section from deregistration to an organization whose registration has been suspended, the chief electoral officer must deregister the organization.

### **Deregistration of political party for failure of candidates to file election financing reports**

**224** (1)The chief electoral officer must deregister a political party following a general election if election financing reports under section 209 are not filed by the end of the late filing period under section 220 (5) for 50% or 15, whichever is the lesser number, of the candidates representing the political party in the general election.

(2)If a court grants relief under section 225 to a candidate from the obligation to file an election financing report, for the purposes of subsection (1) of this section the candidate is deemed to have filed the report.

(3)As an exception to subsection (1), the chief electoral officer must suspend the registration of the political party pending the decisions of the court if, by the end of the late filing period referred to in that subsection, sufficient applications for relief under section 225 have been made but not decided that, if they were successful, would relieve the political party from deregistration under this section.

(4)If on the final determination of applications referred to in subsection (3) the court refuses to grant relief from the obligation to file, the chief electoral officer must deregister the political party.

### **Court order for relief from filing obligations**

**225** (1)A political party, constituency association, candidate, nomination contestant or leadership contestant may apply to the Supreme Court in accordance with this section for relief from an obligation to file a report under Division 6 of this Part.

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(2) For certainty, a political party may apply under subsection (1) in relation to an obligation of any of its constituency associations, candidates, nomination contestants or leadership contestants.

(3) An application may be made at any time before or after the end of the late filing period permitted for the report under section 220 (5).

(4) The petition commencing an application must be served on the chief electoral officer within 7 days after it is filed and the chief electoral officer is a party to the application.

(5) On the hearing of an application, the court may do the following:

(a) relieve the organization or individual from the obligation to file the report, or from specified obligations in relation to the report, if the court considers that, in relation to the non-compliance, the financial agent and, if applicable, the candidate or leadership contestant have acted in good faith;

(b) grant an extension of the time for filing the report without payment of a late filing fee under section 220 if

(i) the application is commenced before the end of the time for filing without penalty, and

(ii) the court considers that, in relation to the non-compliance, the financial agent and, if applicable, the candidate or leadership contestant have acted in good faith;

(c) grant an extension of the time for filing the report, subject to payment of the late filing fee under section 220, if the court considers that, in relation to the non-compliance, the financial agent and, if applicable, the candidate or leadership contestant have acted in good faith;

(d) make any order the court considers appropriate to secure compliance with Division 6 of this Part to the extent the court considers reasonable in the circumstances;

(e) if relief is granted for an organization that has been deregistered or suspended under section 223 or 224, order that the registration be reinstated, or the suspension be cancelled, immediately or at a time or on conditions specified by the court;

(f) refuse to grant an extension or other relief.

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### **False or misleading reports in relation to candidates and leadership contestants**

**226** (1) If a candidate or leadership contestant is convicted under section 266 (1) or (2) in relation to a report under this Part, the candidate or leadership contestant is subject to the following penalties:

- (a) in the case of an individual who is a member of the Legislative Assembly, at the applicable time under subsection (3) the member ceases to hold office and the seat of the member becomes vacant;
- (b) in all cases, from the applicable time under subsection (3) the individual is disqualified from being nominated, being elected or holding office as a member of the Legislative Assembly until after the next general election after the applicable time under subsection (3).

(2) The chief electoral officer must present a report to the Speaker respecting a member of the Legislative Assembly who may be subject to the penalty under subsection (1) (a) as soon as possible after the conviction to which it relates.

(3) A candidate or leadership contestant becomes subject to a penalty under subsection (1) as follows:

- (a) if no appeal of the conviction is made, at the end of the period for making such an appeal;
- (b) if the conviction is upheld on its final determination on appeal, at the time of that determination.

### **False or misleading reports in relation to political parties and constituency associations**

**227** (1) If a registered political party or a registered constituency association is convicted under section 266 (1) or (2) in relation to a report under this Part, the political party or constituency association is subject to the following penalties:

- (a) immediately on conviction, the chief electoral officer must suspend the registration of the organization until such time as the organization is deregistered or the conviction is overturned on the final determination of an appeal;
- (b) if no appeal of the conviction is made, at the end of the time for making an appeal the chief electoral officer must deregister the organization;
- (c) if the conviction is upheld on the final determination of an appeal, the chief electoral officer must deregister the organization.

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(2)A suspension under subsection (1) (a) may be cancelled, pending the final determination of an appeal of the conviction, by a court hearing the appeal.

## Part 10.1 — Election Communications

### Repealed

228 [Repealed 2017-20-29.]

### Canvassing in housing cooperative, strata and rental properties

228.01 (1)In this section:

**"authorized canvasser"** means an individual authorized in writing by a candidate to canvass voters and distribute candidate information on the candidate's behalf;

**"candidate information"** means printed information about

(a)a candidate, and

(b)if applicable, the registered political party represented by the candidate.

(2)The following individuals and organizations must not unreasonably restrict access to residential property by a candidate or an authorized canvasser for the purposes of canvassing voters and distributing candidate information:

(a)a housing cooperative or individual acting on behalf of a housing cooperative;

(b)a landlord or individual acting on behalf of a landlord;

(c)a strata corporation or individual acting on behalf of a strata corporation.

(3)While canvassing voters or distributing candidate information at a residential property, access to which is controlled by any of the individuals or organizations referred to in subsection (2), a candidate or authorized canvasser must produce government-issued photo identification and either proof of candidacy or a candidate's written authorization to canvass voters and distribute candidate information, as applicable, at the request of any of the following individuals:

(a)a resident of the property;

(b)an individual referred to in subsection (2) (a), (b) or (c).

(4)Subsection (2) applies from 9 a.m. to 9 p.m. during the campaign period.

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### **Tenant and strata election advertising**

**228.1** (1) A landlord or person acting on a landlord's behalf must not prohibit a tenant from displaying election advertising posters on the premises to which the tenant's tenancy agreement relates.

(2) A strata corporation or a person acting on behalf of a strata corporation must not prohibit the owner or tenant of a strata unit from displaying election advertising posters on the premises of the owner's or tenant's unit.

(3) Despite subsections (1) and (2), a landlord, a strata corporation or a person acting on behalf of a landlord or strata corporation may

(a) set reasonable conditions relating to the size or type of election advertising posters that may be displayed on the premises, and

(b) prohibit the display of election advertising posters in common areas of the building in which the premises are found.

### **Sponsorship of election advertising**

**229** (1) For the purposes of this Part and Part 11, the sponsor of election advertising is whichever of the following is applicable:

(a) the individual or organization who pays for the election advertising to be conducted;

(b) if the services of conducting the advertising are provided without charge as a contribution, the individual or organization to whom the services are provided as a contribution;

(c) if the individual or organization that is the sponsor within the meaning of paragraph (a) or (b) is acting on behalf of another individual or organization, the other individual or organization.

(2) Where this Part and Part 11 requires the inclusion of a mailing address or telephone number at which a sponsor can be contacted,

(a) any mailing address given must be within British Columbia,

(b) any telephone number given must be that of a place within British Columbia, and

(c) the sponsor must make available an individual to be responsible for answering questions from the public that are directed to the address or telephone number.

(3) Where this Part and Part 11 requires a sponsor to be identified, for a numbered corporation or an unincorporated organization the identification must include both

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- (a) the name of the organization, and
- (b) the name of an individual director or, if there are no individual directors, an individual who is a principal officer or a principal member of the organization.

(4) On request of the chief electoral officer,

- (a) an individual identified as a sponsor, or
- (b) an individual identified as a director, principal officer or principal member of an organization identified as a sponsor

must file with the chief electoral officer a solemn declaration that the identified sponsor is in fact the sponsor and that the sponsor has not contravened this Part and Part 11.

### **No indirect sponsorship of election advertising**

**230** An individual or organization must not sponsor election advertising with the property of any other individual or organization or indirectly through any other individual or organization.

### **Election advertising must identify sponsor**

**231** (1) Subject to subsection (2), an individual or organization must not sponsor, or publish, broadcast or transmit to the public, any election advertising unless the advertising

- (a) identifies the name of the sponsor or, in the case of a candidate, the name of the candidate's financial agent or the financial agent of the registered political party represented by the candidate,
- (b) if applicable, indicates that the sponsor is a registered third party sponsor under this Act,
- (c) indicates that it was authorized by the identified sponsor or financial agent, **and**

~~(d) gives a telephone number or mailing address at which the sponsor or financial agent may be contacted regarding the advertising.~~

(d) specifies a means of contacting the sponsor or financial agent, such as a telephone number, mailing address or email address, or other means prescribed by the chief electoral officer by regulation, and

(e) meets any form and content requirements established by the chief electoral officer by regulation.



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(2) Subsection (1) does not apply to any class of election advertising exempted under section 283.

(3) The chief electoral officer, or a person acting on the direction of the chief electoral officer, may

(a) remove and destroy, without notice to any person, or

(b) require a person to remove or discontinue, and destroy,

any election advertising that does not meet the requirements of subsection (1) and is not exempted under subsection (2).

### **Identification of sponsor — activities**

**231.01** (1) With respect to an activity described in section 1 (3) (a), the person canvassing a voter must provide to the voter the information described in section 231 (1) (a) to (c).

(2) With respect to an activity described in section 1 (3) (b), the material must include the information described in ~~section 231 (1) (a) to (d)~~ [section 231 \(1\) \(a\) to \(e\)](#).

(3) The chief electoral officer, or a person acting on the direction of the chief electoral officer, may require a person to discontinue any activity referred to in subsections (1) and (2) of this section that does not meet the requirements described in those subsections.

### **Monetary penalties for failure to identify sponsor**

**231.02** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 231 or 231.01 by a person, the chief electoral officer must notify the person of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under this section, if the chief electoral officer gives notice under subsection (1) of this section, the person must pay to the chief electoral officer a penalty in the amount of up to \$10 000, as determined by the chief electoral officer.

(3) A person who is subject to a monetary penalty under this section may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance.

(4) An application may be made only within 30 days after the chief electoral officer, under subsection (1), notifies the person of the non-compliance and the related penalty.

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(5)The petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed and the chief electoral officer is a party to the application.

(6)On the hearing of an application, the court may do the following:

- (a)grant relief from a penalty if the court considers that, in relation to the non-compliance, the person has acted in good faith;
- (b)make any order the court considers appropriate to secure compliance with section 231 or 231.01 to the extent the court considers reasonable in the circumstances;
- (c)refuse to grant relief.

### Notice to stop transmitting

231.03 (1) For the purposes of this section,

(a)in relation to an election, election advertising includes the transmission to the public, during a pre-campaign period or an election period, of advertising messages that would be considered campaign period election advertising if the advertising messages had been transmitted during a campaign period, and

(b)transmitting election advertising or other information to the public includes sponsoring or otherwise arranging for an individual or organization to transmit, by any means, the election advertising or information to the public.

(2)In the circumstances described in subsection (3), the chief electoral officer may give a written notice to an individual or organization requiring the individual or organization to take the measures necessary to

(a)stop the transmission of the election advertising or other information to the public, and

(b)remove, discontinue and, if applicable, destroy the election advertising or information.

(3)For the purposes of subsection (2), the circumstances are as follows:

(a)if the chief electoral officer has reason to believe that an individual or organization is, during a pre-campaign period or a campaign period, transmitting to the public by any means election advertising or other information that does not comply with section 234.1 or 234.3;

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[\(b\)if the chief electoral officer has reason to believe that an individual or organization is, during a pre-campaign period or an election period, transmitting to the public by any means election advertising or other information that does not comply with section 234.2, 234.4 or 234.5 or any other provision of this Act.](#)

[\(4\)The notice referred to in subsection \(2\) that is given in circumstances described in subsection \(3\) must](#)

[\(a\)describe the election advertising or other information that the chief electoral officer has reason to believe is not in compliance with this Act,](#)

[\(b\)identify the provisions of this Act that the chief electoral officer has reason to believe the election advertising or other information is not in compliance with,](#)

[\(c\)advise the recipient that a monetary penalty may be imposed by the chief electoral officer if the election advertising or other information continues to be transmitted to the public by the recipient,](#)

[\(d\)advise the recipient of the period set out in subsection \(5\) within which the recipient must comply with the notice, and](#)

[\(e\)advise the recipient of the ability to make a request under subsection \(6\) for an extension of the period set out in subsection \(5\).](#)

[\(5\)The recipient of a notice referred to in subsection \(2\) must comply with the notice as soon as reasonably possible but, in any event, no later than 24 hours after receiving the notice.](#)

[\(6\)The chief electoral officer may extend the period referred to in subsection \(5\) if the recipient of the notice referred to in subsection \(2\) makes a written request for an extension within 12 hours after receiving the notice.](#)

[\(7\)Within 7 days of the chief electoral officer making a determination of non-compliance with a notice given under subsection \(2\) by an individual or organization, the chief electoral officer must give written notice to the individual or organization of the non-compliance and the amount of the monetary penalty, calculated in accordance with subsection \(8\), payable to the chief electoral officer on receipt of the notice given under this subsection.](#)

[\(8\)Unless relief is granted under subsection \(15\), if the chief electoral officer gives notice to an individual or organization under subsection \(7\), the individual or organization must pay to the chief electoral officer a penalty in the amount of up to](#)

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[\\$50 000, as determined by the chief electoral officer, for each day that the individual or organization fails to comply with a notice given under subsection \(2\).](#)  
[\(9\)If, after receiving a notice under subsection \(7\), an individual or organization continues to fail to comply with the applicable notice given under subsection \(2\), the individual or organization is subject to additional monetary penalties calculated in accordance with subsection \(8\).](#)

[\(10\)If an individual or organization is subject to additional monetary penalties under subsection \(9\), the chief electoral officer must give written notice to the individual or organization of the amount that is payable to the chief electoral officer in respect of those additional monetary penalties.](#)

[\(11\)An individual or organization that is subject to a monetary penalty under this section may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance.](#)

[\(12\)An application may be made only within 30 days after the chief electoral officer, under subsection \(7\) or \(10\), notifies the individual or organization of the non-compliance and the related penalty.](#)

[\(13\)A petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed with the Supreme Court, and the chief electoral officer is a party to the application.](#)

[\(14\)If an application is made for relief from a monetary penalty imposed under this section, and additional monetary penalties have been imposed under this section in relation to the transmission of the same election advertising or other information by the same individual or organization, the court may extend the scope of the application to include all of the monetary penalties.](#)

[\(15\)On the hearing of an application, the court may do the following:](#)

[\(a\)grant relief from a penalty if the court considers that, in relation to the non-compliance, the individual or organization has acted in good faith;](#)

[\(b\)make any order the court considers appropriate to secure compliance with this section to the extent the court considers reasonable in the circumstances;](#)

[\(c\)refuse to grant relief.](#)

**Restriction on rates charged for campaign period election advertising**

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**232** An individual or organization must not charge a registered political party, registered constituency association or candidate a rate for campaign period election advertising in a periodical publication or on radio or television that exceeds the lowest rate charged by the individual or organization for equivalent advertising in the same medium during the same campaign period.

#### **Prohibition against certain campaign period election advertising on final voting day**

**233** (1) An individual or organization must not publish, broadcast or transmit to the public campaign period election advertising in an electoral district on final voting day before the close of all of the voting stations in the electoral district.

(2) An individual or organization must not sponsor or agree to sponsor in an electoral district campaign period election advertising that is or is to be published, broadcasted or transmitted to the public on final voting day before the close of all of the voting stations in the electoral district, whether the publication, broadcast or transmission is within British Columbia or outside British Columbia.

(3) Subject to section 234 (2) (a), subsections (1) and (2) do not apply in respect of any of the following:

(a) a notice of an event that the leader of a registered political party intends to attend or an invitation to meet or hear the leader of a registered political party;

(b) a message that was transmitted to the public on the internet before final voting day and that was not changed before the close of all of the voting stations in the electoral district;

(c) the distribution on final voting day of pamphlets or the posting of messages on signs, posters or banners;

(d) a message that was transmitted to the public on the internet for the sole purpose of encouraging voters to vote in the election.

#### **Prohibition against transmitting new poll results on final voting day**

**233.1** (1) [Repealed 2017-20-35.]

(2) An individual or organization must not publish, broadcast or transmit to the public, in an electoral district on final voting day before the close of all of the voting stations in the electoral district, the results of an election opinion survey that have not previously been made available to the public.

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### **Restriction on election campaigning near election offices and voting places**

**234** (1) During a campaign period, an individual or organization must not post, display or disseminate in or within 100 metres of the building where the office of the district electoral officer is located

- (a) campaign period election advertising, or
- (b) any material that identifies a candidate, registered political party or registered constituency association, unless this is done with the authorization of the district electoral officer.

(2) While advance voting or final voting is being conducted at a voting place, an individual or organization must not do any of the following in or within 100 metres of the building where the voting is being conducted:

- (a) post, display or disseminate
  - (i) campaign period election advertising, or
  - (ii) any material that identifies a candidate, registered political party or registered constituency association, unless this is done with the authorization of the district electoral officer;
- (b) canvass or solicit votes or otherwise attempt to influence how a voter votes;
- (c) carry, wear or supply a flag, badge or other thing indicating that the individual using it is a supporter of a particular candidate or registered political party;
- (d) post, display, disseminate or openly leave a representation of a ballot marked for a particular candidate or registered political party.

(3) If subsection (1) or (2) is being contravened by the posting or display of materials, the district electoral officer or another election official authorized by the district electoral officer may enter on the property where the materials are located and remove or cover or otherwise obscure them from view.

(4) While advance voting or final voting is being conducted at a voting place, an individual or organization must not publish, broadcast or transmit to the public campaign period election advertising by means of a public address system or loudspeaker that is within hearing distance of the voting place.

### **Transmission of false statement to affect election results**

**234.1** During a pre-campaign period or a campaign period, an individual or organization must not, with the intention of affecting the result of an election,

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transmit by any means a statement knowing that it is false, or having a reckless disregard as to whether it is false,

(a)that a candidate, a nomination contestant, the leader of a registered political party or a public figure associated with a candidate or a registered political party has committed or been charged with an offence, or has been required to pay an administrative monetary penalty, under an Act of Parliament, a regulation made under an Act of Parliament or an enactment of British Columbia or another province, or  
(b)that relates to the citizenship, place of birth, education, professional qualifications or membership, in a group or association, of a candidate, a nomination contestant, the leader of a registered political party or a public figure associated with a registered political party.

#### **Transmission of false statement about election official and voting administration tools**

234.2 During a pre-campaign period or an election period, an individual or organization must not, with the intention of undermining public confidence in the result or the administration of an election, transmit by any means a statement knowing that it is false, or having a reckless disregard as to whether it is false,

(a)that an election official has committed or been charged with an offence, or has been required to pay an administrative monetary penalty, under an Act of Parliament, a regulation made under an Act of Parliament or an enactment of British Columbia or another province,  
(b)that relates to the citizenship, place of birth, education, professional qualifications or membership, in a group or association, of an election official, or  
(c)that relates to an individual or organization that provides, to Elections BC, voting administration tools within the meaning of section 79.01 or services in relation to voting administration tools.

#### **Transmission of false election information**

234.3 During a pre-campaign period or a campaign period, an individual or organization must not, with the intention of affecting the results of an election, transmit by any means any material or information, regardless of its form, that provides false or misleading information about voter eligibility, voter registration

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[procedures or election proceedings, including voting options and voting opportunities available to the voter.](#)

### **Transmission of unauthorized material or information**

[234.4 \(1\) During a pre-campaign period or an election period, an individual or organization must not transmit by any means any material or information, regardless of its form, that purports to be transmitted by or under the authority of the chief electoral officer, an election official, a candidate, a nomination contestant, a registered political party or a registered constituency association if](#)

[\(a\) the individual or organization is not authorized by the chief electoral officer or that election official, candidate, nomination contestant, registered political party or registered constituency association to transmit the material or information, and](#)

[\(b\) the individual or organization intends to mislead the public that the material or information was transmitted by or under the authority of the chief electoral officer or that election official, candidate, nomination contestant, registered political party or registered constituency association.](#)

[\(2\) In determining whether an individual or organization has complied with subsection \(1\), consideration may be given to whether the material or information included the use of](#)

[\(a\) a name, logo, likeness of a logo, social media account identifier, user name or domain name that is distinctive and commonly associated with Elections BC, the chief electoral officer, an election official, a candidate, a nomination contestant, a registered political party or a registered constituency association,](#)

[\(b\) the name, voice, image, likeness, physical description or signature of the chief electoral officer, an election official, a candidate, a nomination contestant or a public figure who is associated with a candidate or a registered political party, or](#)

[\(c\) any other matter or thing prescribed by regulation.](#)

[\(3\) An individual or organization does not fail to comply with subsection \(1\) if the individual or organization establishes that the material or information was transmitted for the purpose of parody or satire.](#)



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## **Misrepresentation**

234.5 (1) An individual or an organization must not, in relation to an election, falsely purport to be

(a) a candidate or an individual authorized to act on behalf of a candidate,

(b) an individual authorized to act on behalf of a registered political party or a registered constituency association, or

(c) a registered political party or a registered constituency association.

(2) An individual or organization does not fail to comply with subsection (1) if the individual or organization establishes that the representation was for the purpose of parody or satire.

## **Penalties for certain false statements and misrepresentation**

234.6 (1) Within 7 days of the chief electoral officer making a determination of non-compliance with any of sections 234.1 to 234.5 by an individual or organization, the chief electoral officer must notify the individual or organization of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under this section, if the chief electoral officer gives notice under subsection (1), the individual or organization must pay to the chief electoral officer a penalty in the amount of up to \$20 000, as determined by the chief electoral officer.

(3) An individual or organization that is subject to a monetary penalty under this section may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance with the applicable section.

(4) An application under this section may be made only within 30 days after the chief electoral officer, under subsection (1), notifies the individual or organization of the non-compliance and the related penalty.

(5) The petition commencing an application under subsection (3) must be served on the chief electoral officer within 7 days after the petition is filed with the Supreme Court, and the chief electoral officer is a party to the application.

(6) On the hearing of an application, the court may do the following:

(a) grant relief from a penalty if the court considers that, in relation to the non-compliance, the individual or organization has acted in good faith;

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[\(b\)make any order the court considers appropriate to secure compliance with sections 234.1 to 234.5, as applicable, to the extent the court considers reasonable in the circumstances;](#)

[\(c\)refuse to grant relief.](#)

### **Publication of names in relation to monetary penalties**

**234.7 (1)**The chief electoral officer must

[\(a\)publish on an Elections BC authorized internet site](#)

[\(i\)the names of the individuals and organizations on whom the chief electoral officer has imposed a monetary penalty under section 231.02, 231.03 or 234.6,](#)

[\(ii\)the section under which the chief electoral officer has imposed the monetary penalty, and](#)

[\(iii\)the amount of the monetary penalty, and](#)

[\(b\)have notice of the information described in paragraph \(a\) published in the Gazette.](#)

[\(2\)The information published under subsection \(1\) \(a\) must continue to be published on the Elections BC authorized internet site until one year after final voting day for the next general election.](#)

[\(3\)Publication of the notice under subsection \(1\) \(b\) must take place as soon as possible after the chief electoral officer imposes the monetary penalty.](#)

### **Repealed**

235 [Repealed 2002-60-7.]

## **Part 11 — Third Party Advertising**

### **Division 1 — Sponsorship Contributions**

#### **Definition**

**235.01** In this Division, "**contribution**" means an amount of money or the value of any property or services provided without compensation by way of donation, advance, deposit, discount or otherwise provided to a third party sponsor.

#### **Sponsorship contributions**

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**235.02** (1) Subject to this section and sections 235.021 to 235.031, a sponsorship contribution is a contribution, in relation to which the contributor has provided a contributor confirmation and contributor consent, that is provided for the purpose of sponsoring election advertising.

(2) If property or services are

- (a) provided to a third party sponsor at less than market value, or
- (b) acquired from a third party sponsor at greater than market value,

the difference between the market value of the property or services at the time provided and the amount charged is a sponsorship contribution.

(3) The value of the following is not a sponsorship contribution:

- (a) services provided by a volunteer, being an individual who
  - (i) voluntarily performs the services, and
  - (ii) receives no compensation, directly or indirectly, in relation to the services or the time spent providing the services;
- (b) property of a volunteer if it is provided or used in relation to the services of the individual as a volunteer;
- (c) publishing without charge news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program;
- (d) broadcasting time provided, without charge, as part of a bona fide public affairs program;
- (e) producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the election.

### **Loans and guarantees to third party sponsors**

**235.021** (1) This section applies to third party sponsors that are required to file disclosure reports under section 244.

(2) A permissible loan, or a guarantee for a permissible loan, to a third party sponsor is not a sponsorship contribution.

(3) A permissible loan, or a guarantee for a permissible loan, to a third party sponsor must be made only by a savings institution.

(4) A third party sponsor must not accept a loan other than a permissible loan.

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(5)A savings institution must not make to a third party sponsor a loan other than a permissible loan.

(6)A third party sponsor must not accept a guarantee for a permissible loan unless the guarantee is provided with non-preferential treatment.

(7)A savings institution must not make or accept a guarantee for a permissible loan to a third party sponsor unless the guarantee is provided with non-preferential treatment.

(8)As an exception to subsection (2), a permissible loan to a third party sponsor is a sponsorship contribution if a savings institution does not make commercially reasonable efforts to collect or enforce the loan.

## **Debts**

**235.03** (1)In this section "**debt**" means a debt, other than a debt arising from a permissible loan, that is owed by a third party sponsor in relation to sponsoring election advertising.

(2)A debt is a sponsorship contribution if

(a)the debt remains unpaid 6 months after becoming due and payable,  
and

(b)the creditor does not make commercially reasonable efforts to  
collect or recover the debt.

(3)For certainty, nothing in this section affects the rights of a creditor in relation to a debt that becomes a sponsorship contribution under this section.

## **Sponsorship contributions through fundraising functions**

**235.031** (1)A charge per individual for a fundraising function is a sponsorship contribution if the third party sponsor obtains a contributor confirmation and contributor consent for that amount.

(2)If the amount paid for property or services offered for sale at a fundraising function is greater than the market value of the property or services, the difference between the amount paid and the market value at the time the amount is agreed to be paid is a sponsorship contribution if the third party sponsor obtains a contributor confirmation and contributor consent for that amount.

(3)The value of property or services, or both, donated by an individual for sale at a fundraising function is a sponsorship contribution if the third party sponsor

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obtains a contributor confirmation and contributor consent for that donation unless the property or services are used for sale at the fundraising function.

### **Making and using sponsorship contributions**

**235.04** (1)A person must not make a sponsorship contribution unless the person is an eligible individual.

(2)A third party sponsor must not use a contribution that is not a sponsorship contribution to sponsor election advertising.

(3)Before a third party sponsor may use a contribution to sponsor election advertising, the third party sponsor must obtain from the contributor the following in writing:

(a)a confirmation from the contributor that the contributor is an eligible individual;

(b)consent from the contributor that the third party sponsor may use all or part of the contribution to sponsor election advertising.

(4)If a contributor does not provide a contributor confirmation and contributor consent, the contribution is not a sponsorship contribution.

### **Contributor confirmation and consent in relation to sponsorship contributions**

**235.041** (1)A contributor may provide a contributor confirmation and contributor consent

(a)at the time the contributor makes a contribution, or

(b)after the date the contributor makes a contribution but before the earlier of the following:

(i)the date that is 24 months after the date the contributor made the contribution;

(ii)the date the third party sponsor uses the contribution.

(2)A third party sponsor

(a)may request the contributor to provide a contributor confirmation and contributor consent, and

(b)must, when making that request, advise the contributor whether the contributor has previously provided a contributor consent for one or more contributions in the applicable calendar year, and, if so, the amount of those contributions.

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(3) A third party sponsor who does not obtain a contributor confirmation and contributor consent must not use any part of the contribution to sponsor election advertising.

(4) A third party sponsor who obtains a contributor confirmation and contributor consent must, if the sponsor is required to open a sponsorship account under section 235.071 or 235.08, transfer to the sponsorship account all sponsorship contributions of money to which the confirmation and consent relate.

### **Sponsorship contribution limits**

**235.05** (1) An eligible individual must not, in a calendar year, make sponsorship contributions that have a total value greater than the applicable amount under subsection (4) or (5) to any one third party sponsor.

(2) A third party sponsor must not accept

(a) from an eligible individual, in a calendar year, sponsorship contributions that have a total value greater than the applicable amount under subsection (4) or (5), or

(b) a sponsorship contribution that the sponsor has reason to believe is made in contravention of this Act.

(3) If 2 or more third party sponsors sponsor election advertising in combination, the third party sponsors must not use sponsorship contributions from a single contributor that exceed the limit set in subsection (2) (a) for that sponsorship.

(4) For 2017 and 2018, the applicable amount for subsections (1) and (2) is \$1 200.

(5) For 2019 and each following year, the chief electoral officer must establish the applicable amount for subsections (1) and (2) for the year as soon as possible after each January 1 of that year by

(a) determining the ratio between the consumer price index at January 1, 2018 and the consumer price index at January 1 of the year to which the limit applies, and

(b) applying the ratio to adjust the amount that is to apply for that year.

### **Restrictions on sponsorship contributions**

**235.051** (1) An individual or organization must not make a sponsorship contribution indirectly by giving money, or providing property or services without compensation, to a person

(a) for that person to make a sponsorship contribution, or

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- (b) as consideration for that person making a sponsorship contribution.
- (2) An individual or organization must not make a sponsorship contribution with money, property or services of any other person.
- (3) As an exception to subsections (1) and (2), an individual may make a sponsorship contribution with money, property or services of another individual, if that other individual is an eligible individual, but must disclose to the registered third party sponsor required to record the contribution under section 241 (2) the full name and address of the eligible individual whose money, property or services are being used.

### **Limits on anonymous sponsorship contributions**

**235.06** (1) In respect of a general election, a third party sponsor must not use anonymous sponsorship contributions

- (a) such that the total value of the anonymous sponsorship contributions is greater than

- (i) \$250, or a higher amount established by regulation, in relation to a single electoral district, and

- (ii) \$5 000, or a higher amount established by regulation, overall, or

- (b) in combination with one or more third party sponsors such that the total value of the anonymous sponsorship contributions is greater than

- (i) \$250, or a higher amount established by regulation, in relation to a single electoral district, and

- (ii) \$5 000, or a higher amount established by regulation, overall.

(2) In respect of a by-election, a third party sponsor must not use anonymous sponsorship contributions

- (a) such that the total value of the anonymous sponsorship contributions is greater than \$250, or a higher amount established by regulation, or

- (b) in combination with one or more third party sponsors such that the total value of the anonymous sponsorship contributions is greater than \$250, or a higher amount established by regulation.

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(3) A third party sponsor must not use as an anonymous sponsorship contribution, an anonymous sponsorship contribution that has a value greater than \$25, or a higher amount established by regulation.

(4) Sections 235.04 (2) and (3) and 235.041 (3) do not apply to anonymous sponsorship contributions.

### **Prohibited sponsorship contributions must be returned**

**235.061** (1) If a third party sponsor becomes aware that a contribution was made or accepted as a sponsorship contribution in contravention of this Act, the third party sponsor must return to the contributor

- (a) the contribution, or
- (b) an amount equal to the value of the contribution

within 30 days after the third party sponsor becomes aware of the contravention.

(2) If a third party sponsor is not able to comply with subsection (1), the sponsor must not use the contribution to sponsor election advertising.

### **Sponsorship contributions over specified amount**

**235.07** An eligible individual must not make, and a third party sponsor must not accept, a sponsorship contribution of money in an amount greater than \$100, or a higher amount established by regulation, except by means of

- (a) a cheque with the name of the contributor legibly shown on it and drawn on an account in the contributor's name maintained in a savings institution,
- (b) a money order with the name of the contributor legibly shown on it and signed by the contributor,
- (c) a credit card in the name of the contributor, or
- (d) an electronic transfer of funds from an account in the contributor's name maintained in a savings institution.

### **Requirement for sponsorship account**

**235.071** (1) A third party sponsor who accepts a sponsorship contribution that brings the total value of the sponsorship contributions accepted by the third party sponsor to an amount greater than \$10 000 must, as soon as practicable, open a sponsorship account at a savings institution.

(2) A sponsorship account under this section



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(a) must be,

(i) in the case of a third party sponsor who is an individual, in the name of the individual, and

(ii) in the case of a third party sponsor that is an organization,

(A) in the name of the organization,

(B) in the name of one of the principal officers of the organization, or

(C) if there are no principal officers, in the name of one of the principal members of the organization,

(b) must be used exclusively for purposes of sponsoring election advertising by the sponsor, and

(c) must not receive deposits other than those required or permitted under this section.

(3) The third party sponsor must ensure that

(a) the only amounts deposited into a sponsorship account of the sponsor are amounts permitted to be deposited under this section, and

(b) a sponsorship account of the sponsor is not used for any purpose other than one permitted under this section.

(4) If a third party sponsor is required to open a sponsorship account under subsection (1), the sponsor must

(a) deposit every sponsorship contribution of money in the sponsorship account, and

(b) transfer to the sponsorship account, within 7 days of opening the sponsorship account, all sponsorship contributions of money that the sponsor has accepted, other than sponsorship contributions of money that the sponsor has used, before the date of opening the sponsorship account, to sponsor election advertising.

(5) In addition to purposes of sponsoring election advertising, a sponsorship account under this section may be used for the following purposes:

(a) transfers required under section 235.041 (4);

(b) making payments required under section 235.061;

(c) transfers permitted under section 235.08 (2);

(d) transfers out of, or withdrawals from, the sponsorship account if the money being transferred or withdrawn is not used to sponsor election advertising.

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(6) In addition to the required deposits under subsection (4), the following may be deposited into a sponsorship account of the sponsor:

- (a) assets, other than assets received by way of contribution;
- (b) an amount equal to the amount transferred or withdrawn under subsection (5) (d) if the money was not used to sponsor election advertising;
- (c) permissible loans;
- (d) interest on amounts on deposit in the sponsorship account;
- (e) dividends paid on the sponsorship account if the account is at a credit union.

(7) If a third party sponsor who is required to open a sponsorship account under subsection (1) is deregistered as a sponsor, the sponsor is not required to keep the sponsorship account open, but may do so.

(8) If an individual or organization that is required to open a sponsorship account under subsection (1) does not register as a sponsor, the individual or organization is not required to keep the sponsorship account open, but may do so.

### **Subsequent sponsorship account**

**235.08** (1) If, after closing a sponsorship account, a third party sponsor accepts a sponsorship contribution that brings the total value of the sponsorship contributions accepted by the sponsor from the date of the closure of the sponsorship account to an amount greater than \$10 000, the sponsor must open a new sponsorship account at a savings institution and section 235.071 (2) to (8) applies.

(2) The third party sponsor may transfer into the sponsorship account required under subsection (1) an amount equal to an amount up to the balance that remained in the previous sponsorship account when it was closed.

## **Division 2 — Third Party Advertising Limits**

### **Value of election advertising**

**235.081** In this Division and Division 4, the value of election advertising is

- (a) the price paid for preparing and conducting the election advertising,
- or

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(b)the market value of preparing and conducting the election advertising, if no price is paid or if the price paid is lower than the market value.

### Third party advertising limits

**235.1** (1)An individual or organization other than a candidate, registered political party or registered constituency association must not sponsor, directly or indirectly, campaign period election advertising during the campaign period for a general election that is conducted in accordance with section 23 (2) or (3) of the *Constitution Act*

(a)such that the total value of that campaign period election advertising is greater than

(i)\$3 000 in relation to a single electoral district, and

(ii)\$150 000 overall, or

(b)in combination with one or more individuals or organizations, or both, such that the total value of that campaign period election advertising is greater than

(i)\$3 000 in relation to a single electoral district, and

(ii)\$150 000 overall.

(1.1)An individual or organization other than a candidate, registered political party or registered constituency association must not sponsor, directly or indirectly, campaign period election advertising during a campaign period for a general election that is not conducted in accordance with section 23 (2) or (3) of the *Constitution Act* and that is longer than 28 days such that the total value of that campaign period election advertising is higher than the amounts set out in subsection (1) plus the additional amount determined in accordance with subsection (1.2).

(1.2)The additional amount for the purposes of subsection (1.1) of this section is determined in accordance with the following formula:

$$\left( \frac{A}{28} \times AD \right)$$

additional amount –

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where

A = the applicable total value set out in subsection (1) of this section;

AD = the number of additional days the campaign period extends beyond 28 days.

(2) In respect of a by-election, an individual or organization other than a candidate, registered political party or registered constituency association must not sponsor, directly or indirectly, campaign period election advertising during the campaign period

(a) such that the total value of that campaign period election advertising is greater than \$3 000, or

(b) in combination with one or more individuals or organizations, or both, such that the total value of that campaign period election advertising is greater than \$3 000.

(3) Sections 204 and 270.01 apply to adjust the amounts under this section.

### **Penalties for exceeding advertising limit**

**235.2** (1) Unless relief is granted by a court under section 235.3, if a third party sponsor exceeds a campaign period election advertising limit, the third party sponsor

(a) is deregistered as a third party sponsor under Division 3 of this Part and is not entitled to be reregistered as a third party sponsor until after the next general election, and

(b) must pay to the chief electoral officer a penalty of 10 times the amount by which the value of the campaign period election advertising sponsored by the third party sponsor exceeds the limit.

(2) In the case of a third party sponsor that is an unincorporated organization, the members of the organization are jointly and severally liable to pay the penalty under subsection (1) (b).

(3) A penalty referred to in subsection (1) is effective as follows:

(a) if no application under section 235.3 is made in respect of the third party sponsor, at the end of the period for making such an application;

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(b)if, on the final determination of an application under section 235.3, the court refuses to grant relief from the penalty, at the time of that determination.

### **Court order for relief from advertising limit**

**235.3** (1)A third party sponsor may apply to the Supreme Court in accordance with this section for relief from penalties under section 235.2.

(2)An application may be made only within 120 days after final voting day for the election in relation to which the election advertising limit was exceeded.

(3)The petition commencing an application must be served on the chief electoral officer within 7 days after it is filed and the chief electoral officer is a party to the application.

(4)On the hearing of an application, the court may

(a)grant relief from a penalty if the court considers that, in relation to the non-compliance, the third party sponsor acted in good faith, or

(b)refuse to grant relief.

### **Repealed**

**236-238** [Repealed 2002-60-8.]

## **Division 3 — Registration of Sponsors**

### **Third party sponsors must be registered**

**239** (1)Subject to subsection (2), an individual or organization who is not registered under this Division must not sponsor election advertising.

(2)A candidate, registered political party or registered constituency association is not required to be registered under this Division.

~~(3)An individual or organization who is registered or required to be registered as a third party sponsor must be independent of registered political parties, registered constituency organizations, candidates, agents of candidates and financial agents, and must not sponsor election advertising on behalf of or together with any of these.~~

(3)An individual or organization that is registered or required to be registered as a third party sponsor must be independent of registered political parties, registered constituency associations, candidates, official agents, financial agents and deputy

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[financial agents and must not sponsor election advertising on behalf of or together with any of these.](#)

[\(4\)In determining whether an individual who applies for registration as a third party sponsor is independent in accordance with the requirements set out in subsection \(3\), the chief electoral officer may consider whether the individual is](#)

[\(a\)a candidate,](#)

[\(b\)an individual who resides with a candidate and who is the candidate's spouse, parent or child or a relative of the candidate or the candidate's spouse,](#)

[\(c\)an authorized canvasser within the meaning of section 228.01,](#)

[\(d\)an official agent, financial agent or deputy financial agent of a candidate, a registered political party or a registered constituency association,](#)

[\(e\)an individual who was the official agent, financial agent or deputy financial agent of a candidate, a registered political party or a registered constituency association during the 60 day period immediately before the day on which the campaign period began,](#)

[\(f\)a principal officer, principal member or employee of a registered political party or a registered constituency association,](#)

[\(g\)an individual who was a principal officer, principal member or employee of a registered political party or a registered constituency association during the 60 day period immediately before the day on which the campaign period began, or](#)

[\(h\)an individual, or a member of a class of individuals, prescribed by regulation.](#)

[\(5\)In determining whether an organization that applies for registration as a third party sponsor is independent in accordance with the requirements set out in subsection \(3\), the chief electoral officer may consider](#)

[\(a\)whether the organization has one or more principal officers or principal members in common with a registered political party or a registered constituency association,](#)

[\(b\)whether the organization has one or more principal officers or principal members who are employees, financial agents, deputy financial agents or official agents of a candidate, a registered political party or a registered constituency association,](#)

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(c)whether the organization has one or more principal officers or principal members who were employees, financial agents, deputy financial agents or official agents of a candidate, a registered political party or a registered constituency association during the 60 day period immediately before the day on which the campaign period began, or  
(d)any other matters prescribed by regulation.

(6)The chief electoral officer may require an applicant to provide any information or evidence that the chief electoral officer considers necessary to make a determination under subsection (4) or (5).

### **Registration with chief electoral officer**

**240** (1)An individual or organization who wishes to become a registered third party sponsor must file an application in accordance with this section with the chief electoral officer.

(2)An application must include the following information:

- (a)the full name of the applicant and, in the case of an applicant organization that has a different usual name, this usual name;
- (b)the full address of the applicant;
- (c)in the case of an applicant organization, the names of the principal officers of the organization or, if there are no principal officers, of the principal members of the organization;
- (d)an address at which notices and communications under this Act and other communications will be accepted as served on or otherwise delivered to the individual or organization;
- (e)a telephone number at which the applicant can be contacted;
- (f)any other information required by regulation to be included.

(3)An application must

- (a)be signed, as applicable, by the individual applicant or, in the case of an applicant organization, by 2 principal officers of the organization or, if there are no principal officers, by 2 principal members of the organization, and
- (b)be accompanied by a signed statement of an individual who signed the application under paragraph (a) that the applicant
  - (i)is not prohibited from being registered by section 247, ~~and~~

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~~(ii) does not intend to sponsor election advertising for any purpose related to circumventing the provisions of this Act limiting the value of election expenses that may be incurred by a candidate or registered political party.~~

(ii) undertakes not to sponsor election advertising on behalf of or together with registered political parties, registered constituency associations, candidates, official agents, financial agents or deputy financial agents,

(iii) undertakes not to sponsor election advertising for any purpose related to circumventing the provisions of this Act that limit the value of election expenses that may be incurred by a candidate or registered political party, and

(iv) undertakes not to act in collusion with a candidate or a registered political party, including by sharing information, in order to influence a third party sponsor with respect to the third party's election advertising.

(4) The chief electoral officer may require applications to be in a specified form.

(5) As soon as practicable after receiving an application, if satisfied that the requirements of this section are met by an applicant, the chief electoral officer must register the applicant as a registered third party sponsor in the register maintained by the chief electoral officer for this purpose.

(6) If there is any change in the information referred to in subsection (2) for a registered third party sponsor, the third party sponsor must file with the chief electoral officer written notice of the change within 30 days after it occurs.

(7) A notice or other communication that is required or authorized under this Act to be given to a third party sponsor is deemed to have been given if it is delivered to the applicable address filed under this section with the chief electoral officer.

(8) As soon as practicable after the registration of a third party sponsor, the chief electoral officer must advise the registered third party sponsor of the most recent adjusted amount established under section 235.05.

(9) Subject to subsection (10), the chief electoral officer may deregister any individual or organization that is registered as a registered third party sponsor under subsection (5) if the chief electoral officer determines that the individual or organization does not meet the independence requirements set out in section 239 (3).



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[\(10\)A third party sponsor that is deregistered during a pre-campaign period or campaign period must file an election advertising disclosure report in accordance with sections 244 and 245.](#)

### **Register of third party sponsors**

**240.01** The chief electoral officer must establish and maintain a register of all registered third party sponsors and must include in the register the information referred to in section 240 (2) and the date of the appointment of an auditor by the registered third party sponsor, if applicable.

### **Obligations of third party sponsor**

**241** (1)The identification of a registered third party sponsor referred to in section 231 must be a name filed by the third party sponsor under section 240 with the chief electoral officer.

(2)An individual or organization that is registered or required to be registered as a third party sponsor must maintain records of the following information:

(a)in respect of sponsorship contributions accepted by the third party sponsor,

(i)in the case of anonymous sponsorship contributions, the date on which the sponsorship contributions were accepted, the total amount accepted on each date and, if applicable, the event at which they were accepted, and

(ii)in the case of sponsorship contributions that are not anonymous sponsorship contributions, the information referred to in section 190 (1) (a) to (c) and (f) and the written contributor confirmations and contributor consents obtained under section 235.04;

(b)in respect of the amounts deposited into or paid from the third party sponsor's sponsorship account, if applicable,

(i)the total amount transferred under section 235.041 (4),

(ii)the amount and date of each payment under section 235.061,

(iii)the amount and date of each deposit made under section 235.071 (4) (a),

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(iv)the amount and date of each transfer made under section 235.071 (4) (b),

(v)the total amount transferred or withdrawn under section 235.071 (5) (d),

(vi)the amount and date of each deposit made under section 235.071 (6) (a) and (b), and

(vii)the total amount transferred under section 235.08 (2).

### **Voluntary deregistration**

**242** (1)A registered third party sponsor may apply to the chief electoral officer for deregistration in accordance with this section.

(2)As an exception, a third party sponsor may not apply for deregistration under this section if the third party sponsor is subject to deregistration under this Part or has not yet paid a penalty under this Part.

(3)An application for deregistration must be in writing and must be signed, as applicable,

(a)by the individual applicant, or

(b)in the case of an applicant organization, by 2 principal officers of the organization or, if there are no principal officers, by 2 principal members of the organization.

(4)On being satisfied that an application for deregistration is authorized by the third party sponsor, the chief electoral officer must deregister the third party sponsor.

(5)As a limit on subsection (4), if during a pre-campaign period a registered third party sponsor has sponsored pre-campaign period election advertising or if during a campaign period a registered third party sponsor has sponsored campaign period election advertising, the third party sponsor must not be deregistered until the election advertising disclosure report for the third party sponsor has been filed.

### **Reregistration**

**243** In order to be reregistered, an individual or organization must file any outstanding reports and pay any outstanding penalties under this Part.

## **Division 4 — Reporting by Third Party Sponsors**

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### **Disclosure reporting by third party sponsor**

**243.01** (1) In this section, "**receiving**", in relation to a sponsorship contribution of money, means the deposit of the money into an account in a savings institution.

(2) If a third party sponsor sponsors election advertising that has a total value greater than \$10 000, the third party sponsor must file with the chief electoral officer an initial disclosure report that includes the information referred to in subsection (3) within 14 days of the third party sponsor sponsoring the advertising message being transmitted to the public that brings the total value of the election advertising to an amount greater than \$10 000.

(3) The initial disclosure report must include the following information:

(a) the full name of each contributor who made one or more sponsorship contributions that, in total, have a value of more than \$250, or a higher amount established by regulation, since the most recent general election;

(b) the value of each sponsorship contribution made by the contributor described in paragraph (a) and the date on which it was made.

(3.1) A third party sponsor need not include in an initial disclosure report information about a contribution that was previously included in an election advertising disclosure report under section 244.

(4) If a third party sponsor must file a disclosure report under subsection (2), the third party sponsor must file with the chief electoral officer a subsequent disclosure report that includes the information referred to in subsection (5) within 14 days of the third party sponsor receiving a sponsorship contribution from a contributor who makes one or more sponsorship contributions that have a total value greater than the applicable amount under subsection (3) (a).

(5) A subsequent disclosure report must include the following information:

(a) the full name of each contributor who made one or more sponsorship contributions that bring the total value of contributions made by the contributor to more than \$250, or a higher amount established by regulation, in combination with contributions

(i) that were made since the last general election, and

(ii) that have not been reported in an election advertising disclosure report or in an initial disclosure report;

(b) the value of each sponsorship contribution made by the contributor described in paragraph (a) and the date on which it was made.

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(6)The third party sponsor must file subsequent disclosure reports under subsection (4) until final voting day.

### **Election advertising disclosure reports by third party sponsors**

**244** (1)If a third party sponsor sponsors election advertising that has a total value of greater than \$500, or a higher amount established by regulation, the third party sponsor must file with the chief electoral officer an election advertising disclosure report in accordance with this section and section 245.

(2)An election advertising disclosure report under subsection (1) must be filed within 90 days after final voting day for the election to which it relates.

(3)[Repealed 2017-20-50.]

(4)A third party sponsor must file a supplementary report with the chief electoral officer if any of the information required to be disclosed in an election advertising disclosure report changes or if the third party sponsor becomes aware that the report does not accurately and completely disclose that information.

(5)A supplementary report under subsection (4) must be filed within 30 days after the third party sponsor becomes aware of the circumstances requiring the report to be filed.

### **Contents of disclosure report**

**245** (1)An election advertising disclosure report under section 244 must be in the form specified by the chief electoral officer and must include the following information:

(a)the value of the election advertising sponsored by the third party sponsor, reported by class as required by regulation;

(b)the amount of the sponsorship contributions accepted, but not previously reported under section 244, by the third party sponsor, reported in accordance with subsections (2) to (4) of this section;

(c)any amount of the third party sponsor's assets, other than assets received by way of contributions reported under paragraph (b), that was used to pay for the election advertising sponsored by the third party sponsor;

(d)any other information required by regulation to be included.

(2)For the purposes of subsection (1) (b), amounts accepted from anonymous contributors must be reported separately.

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(3) If the records of the third party sponsor indicate that a contributor made one or more sponsorship contributions not previously reported under section 244 that, in total, have a value of more than \$250, or a higher amount established by regulation, the report must include the following:

- (a) the full name and address of the contributor;
- (b) the value of each sponsorship contribution and the date on which it was made.

(4) For anonymous sponsorship contributions, the report must include the dates on which the sponsorship contributions were received, the amounts received on each date and, if applicable, the events at which they were received.

(5) The report must be accompanied by a signed declaration of the individual third party sponsor or, in the case of an organization, by a principal officer of the organization or, if there are no principal officers, by a principal member of the organization, as to the accuracy of the report.

### **Requirement for audit**

**245.01** (1) A third party sponsor who sponsors election advertising with a total value equal to or greater than \$10 000 must appoint an auditor.

(2) Section 179 (2) to (5) applies to an appointment under subsection (1) of this section.

(3) As soon as possible after an appointment is made under this section, the third party sponsor must deliver to the chief electoral officer a copy of the appointment and the auditor's consent to act.

(4) The election advertising disclosure report of a third party sponsor who is required to appoint an auditor under subsection (1) must be audited.

(5) The third party sponsor must give the auditor access at all reasonable times to the records of the third party sponsor and must provide the auditor with any information the auditor considers necessary to enable the auditor to make a report under this section.

### **Late filing of reports**

**246** If a third party sponsor fails to file a report under section 244 with the chief electoral officer within the time period established by that section or by a court under section 248, on payment to the chief electoral officer of a late filing fee equivalent to the applicable amount under section 220 (5) (b), the report may be filed within 30 days

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after the end of the time period under section 244 or before a later date permitted by a court under section 248.

### **Failure to file reports**

**247** (1) Unless relief is granted by a court on an application under section 248 commenced before the end of the late filing period under section 246, if an election advertising disclosure report is not filed with the chief electoral officer before the end of that period, the third party sponsor

(a) is deregistered as a third party sponsor under Division 3 of this Part and is not entitled to be reregistered as a third party sponsor until after the next general election, and

(b) must pay to the chief electoral officer a penalty equivalent to the applicable amount under section 220 (5) (b) for each day after the last day on which it may be filed under section 246 up to the date on which it is in fact filed.

(2) In the case of a third party sponsor that is an unincorporated organization, the members of the organization are jointly and severally liable to pay the penalty under subsection (1) (b).

(3) The penalties referred to in subsection (1) are effective as follows:

(a) if no application under section 248 is made in respect of the third party sponsor, at the end of the period for making such an application;

(b) if, on the final determination of an application under section 248, the court refuses to grant relief from the penalty, at the time of that determination.

### **Court order for relief from filing obligations**

**248** (1) A third party sponsor subject to section 246 or 247 may apply to the Supreme Court in accordance with this section for relief from an obligation to file an election advertising disclosure report or from a penalty in relation to the filing of such a report.

(2) An application may be made only within 120 days after final voting day for the election in relation to which the report is required or, if the failure is disclosed in a supplementary report under section 244 (4), within 30 days after the supplementary report is filed.

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(3) Within 7 days after it is filed, the petition commencing an application must be served on the chief electoral officer.

(4) The applicant and the chief electoral officer are parties to the application.

(5) On the hearing of an application, the court may do the following:

(a) relieve the third party sponsor from the obligation to file the report, or from specified obligations in relation to the report, if the court considers that, in relation to the non-compliance, the third party sponsor acted in good faith;

(b) grant an extension of the time for filing the report without payment of a late filing fee under section 246 if

(i) the application is commenced before the end of the time for filing without penalty, and

(ii) the court considers that, in relation to the non-compliance, the third party sponsor acted in good faith;

(c) grant an extension of the time for filing the report, subject to payment of the late filing fee under section 246, if the court considers that, in relation to the non-compliance, the third party sponsor acted in good faith;

(d) make any order the court considers appropriate to secure compliance with this Act and the regulations to the extent the court considers reasonable in the circumstances;

(e) refuse to grant an extension or other relief.

### **Obligation to maintain records**

**249** An individual or organization who is or has been a third party sponsor of election advertising must

(a) ensure that the records required for the purposes of this Part are maintained in British Columbia, and

(b) retain these records for at least 5 years, or a longer period specified by the chief electoral officer, from the date of filing of a report required under this Division in relation to those records.

### **Information to be open to the public**

**250** (1) The information filed under this Part with the chief electoral officer since the general election before the previous general election must be available for

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public inspection at the office of the chief electoral officer during its regular office hours.

(2)The information available for public inspection under subsection (1) must not include the address of a contributor.

### **Publication of failure to comply**

**250.001** (1)The chief electoral officer must have notice of the following published:

(a)the name of any third party sponsor that exceeded the advertising limits in section 235.1;

(b)the name of any third party sponsor for whom a report required under this Act is not filed within the applicable time limit established under this Division or by court order under section 248;

(c)the name of any third party sponsor for whom a report required under this Act is not filed before the end of the applicable late filing period under section 246;

(d)the name of any third party sponsor in relation to whom there was a conviction under section 266 in relation to a report under this Act.

(2)The chief electoral officer may publish a notice under subsection (1) by doing one or both of the following:

(a)having the notice published in the Gazette;

(b)publishing the notice on an Elections BC authorized internet site.

(3)Publication under subsection (1) must take place as soon as possible after the chief electoral officer becomes aware of the applicable circumstances referred to in that subsection.

### **Division 4.1 - Independence of Third Party Sponsors**

#### **Prohibition against collusion**

**250.002** A third party sponsor must not, in respect of election advertising conducted by the third party sponsor,

(a) act in collusion with a candidate, a registered political party or a registered constituency association, including by sharing information,  
or



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[\(b\) act under the direction of, or in accordance with advice from, a candidate, a registered political party or a registered constituency association.](#)

## **Division 5 — Monetary Penalties for Third Party Sponsors**

### **Monetary penalties respecting making and using sponsorship contributions**

**250.01** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 235.04 by a person, the chief electoral officer must notify the person of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the person must pay to the chief electoral officer a penalty in the amount of up to double the sponsorship contribution, as determined by the chief electoral officer.

### **Monetary penalties respecting sponsorship contribution limits**

**250.02** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 235.05 by an eligible individual or a third party sponsor, the chief electoral officer must notify the eligible individual or third party sponsor of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the eligible individual or third party sponsor must pay to the chief electoral officer a penalty in the amount of up to double the amount that the sponsorship contribution exceeds the sponsorship contribution limit set in section 235.05, as determined by the chief electoral officer.

### **Monetary penalties respecting sponsorship contributions**

**250.03** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 235.051 by a person, the chief electoral officer must notify the person of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the person must pay to the chief electoral officer a penalty in the amount of up to double the sponsorship contribution, as determined by the chief electoral officer.

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### **Monetary penalties respecting anonymous sponsorship contributions**

**250.04** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 235.06 by a third party sponsor, the chief electoral officer must notify the third party sponsor of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the third party sponsor must pay to the chief electoral officer a penalty in the amount of up to double the amount that the sponsorship contribution exceeds the anonymous sponsorship contribution limit set in section 235.06, as determined by the chief electoral officer.

### **Monetary penalties respecting return of sponsorship contributions**

**250.05** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 235.061 by a third party sponsor, the chief electoral officer must notify the third party sponsor of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the third party sponsor must pay to the chief electoral officer a penalty in the amount of up to double the amount of the sponsorship contribution, as determined by the chief electoral officer.

### **Monetary penalties respecting sponsorship contributions over specific amount**

**250.06** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 235.07 by an eligible individual or third party sponsor, the chief electoral officer must notify the eligible individual or third party sponsor of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the eligible individual or third party sponsor must pay to the chief electoral officer a penalty in the amount of up to double the amount that the sponsorship contribution exceeds the amount described in section 235.07, as determined by the chief electoral officer.

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### **Monetary penalties for failing to register**

**250.07** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 239 by an individual or organization, the chief electoral officer must notify the individual or organization of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the individual or organization must pay to the chief electoral officer a penalty in the amount of up to \$10 000, as determined by the chief electoral officer.

### **Monetary penalties for collusion**

**250.071** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 250.002, the chief electoral officer must notify the third party sponsor of the non-compliance and the related penalty.

(2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the third party sponsor that is the recipient of the notice must pay to the chief electoral officer a penalty in the amount of up to \$20 000, as determined by the chief electoral officer.

### **Court order for relief respecting ~~sponsorship contributions~~ monetary penalties for third party sponsors**

**250.08** (1) A person who is subject to a monetary penalty under ~~sections 250.01 to 250.07~~ sections 250.01 to 250.071 may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance with the applicable section.

(2) An application may be made only within 30 days after the chief electoral officer, under the applicable section, notifies the person of the non-compliance and related penalty.

(3) The petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed and the chief electoral officer is a party to the application.

(4) On the hearing of an application, the court may do the following:

- (a) grant relief from a penalty if the court considers that, in relation to the non-compliance, the person has acted in good faith;

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(b) make any order the court considers appropriate to secure compliance with the applicable section to the extent the court considers reasonable in the circumstances;

(c) refuse to grant relief.

### **Publication of names**

**250.09** (1) The chief electoral officer must

(a) publish on an Elections BC authorized internet site

(i) the names of persons on whom the chief electoral officer has imposed a monetary penalty under ~~sections 250.01 to 250.07~~ [sections 250.01 to 250.071](#),

(ii) the section under which the chief electoral officer has imposed the monetary penalty, and

(iii) the amount of the monetary penalty, and

(b) have notice of the information described in paragraph (a) published in the Gazette.

(2) The information published under subsection (1) (a) must continue to be published on the Elections BC authorized internet site until one year after final voting day for the next general election.

(3) Publication of the notice under subsection (1) (b) must take place as soon as possible after the chief electoral officer imposes the monetary penalty.

## **Part 12 — Offences**

### **Penalties under this Part are in addition to any others**

**251** Any penalty under this Part is in addition to and not in place of any other penalty to which an individual or organization may be liable under this Act in respect of the same matter.

### **Prosecution of offences**

**252** (1) A prosecution for an offence under this Act may not be commenced without the approval of the chief electoral officer.

(1.1) If the chief electoral officer is satisfied that there are reasonable grounds to believe that an individual or organization has contravened this Act, the chief

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electoral officer may refer the matter to the Criminal Justice Branch of the Ministry of Attorney General for a determination of whether to approve prosecution.

(2)The time limit for laying an information respecting an offence under this Act is 2 years after the facts on which the information is based first came to the knowledge of the chief electoral officer.

(3)A document purporting to have been issued by the chief electoral officer, certifying the day on which the chief electoral officer became aware of the facts on which an information is based, is admissible without proof of the signature or official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified.

### **Prosecution of organizations and their directors and agents**

**253** (1)An act or thing done or omitted by an officer, director, employee or agent of an organization within the scope of the individual's authority to act on behalf of the organization is deemed to be an act or thing done or omitted by the organization.

(2)If an organization commits an offence under this Act, an officer, director, employee or agent of the organization who authorizes, permits or acquiesces in the offence commits the same offence, whether or not the organization is convicted of the offence.

(3)A prosecution for an offence under this Act may be brought against an unincorporated organization in the name of the organization and, for the purposes of the prosecution, the unincorporated organization is deemed to be a person.

### **Defence of due diligence**

**254** An individual or organization is not guilty of an offence under this Act if the individual or organization exercised due diligence to prevent the commission of the offence.

### **Vote buying**

**255** (1)An individual or organization must not pay, give, lend or procure inducement for any of the following purposes:

(a)to induce an individual to vote or refrain from voting;

(b)to induce an individual to vote or refrain from voting for or against a particular candidate or a candidate for a particular political party;

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(c) to reward an individual for having voted or refrained from voting as described in paragraph (a) or (b).

(2) An individual must not accept inducement

(a) to vote or refrain from voting,

(b) to vote or refrain from voting for or against a particular candidate or a candidate for a particular political party, or

(c) as a reward for having voted or refrained from voting as described in paragraph (a) or (b).

(3) An individual or organization must not advance, pay or otherwise provide inducement, or cause inducement to be provided, knowing or with the intent that it is to be used for any of the acts prohibited by this section.

(4) An individual or organization must not offer, agree or promise to do anything otherwise prohibited by this section.

(5) An individual or organization prohibited from doing something by this section must not do the prohibited act directly, indirectly or by another individual or organization on behalf of the individual or organization who is subject to the prohibition.

(6) During a campaign period, a candidate must not make a special contribution or special donation for any purpose, other than a political contribution, and an individual or organization must not solicit such a contribution or donation from a candidate.

(7) An individual or organization who contravenes this section commits an offence and is liable to one or more of the following penalties:

(a) a fine of not more than \$20 000;

(b) imprisonment for a term not longer than 2 years;

(c) a prohibition for a period of not longer than 7 years from holding office as a member of the Legislative Assembly;

(d) a prohibition for a period of not longer than 7 years from voting in an election for a member of the Legislative Assembly.

## **Intimidation**

**256** (1) An individual or organization must not intimidate an individual for any of the following purposes:

(a) to persuade or compel an individual to vote or refrain from voting;

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(b)to persuade or compel an individual to vote or refrain from voting for or against a particular candidate or a candidate for a particular political party;

(c)to punish an individual for having voted or refrained from voting as described in paragraph (a) or (b).

(2)An individual or organization must not, by abduction, duress or fraudulent means, do any of the following:

(a)impede, prevent or otherwise interfere with an individual's right to vote;

(b)compel, persuade or otherwise cause an individual to vote or refrain from voting;

(c)compel, persuade or otherwise cause an individual to vote or refrain from voting for a particular candidate or for a candidate of a particular political party.

(3)An individual or organization prohibited from doing something by this section must not do the prohibited act directly, indirectly or by another individual or organization on behalf of the individual or organization who is subject to the prohibition.

(4)An individual or organization who contravenes this section commits an offence and is liable to one or more of the penalties referred to in section 255 (7).

### **Corrupt voting**

257 (1)An individual who does any of the following commits an offence:

(a)votes in an election when not entitled to do so;

(b)contravenes section 89 regarding voting more than once in an election;

(c)contravenes section 105 (2) by applying for more than one mail-in voting package;

(d)contravenes section 109 (6) by failing to mark a ballot in accordance with the directions of the voter being assisted;

(e)obtains a ballot in the name of another individual, whether the name is of a living or dead individual or of a fictitious individual.

(2)An individual who commits an offence under subsection (1) is liable to one or more of the penalties referred to in section 255 (7).

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### **Subversion of election by an official**

**258** (1) An election official or voter registration official who contravenes this Act, a regulation under this Act or a direction of the chief electoral officer commits an offence if the official knew or ought to have known that the contravention would likely affect the results or validity of an election, whether or not it in fact has that effect.

(2) An individual or organization must not pay, give or lend inducement for the purpose of procuring a contravention of subsection (1).

(3) Section 255 (3) to (5) applies in relation to the prohibition under subsection (2) of this section.

(4) An individual or organization who contravenes subsection (2), or section 255 (3) to (5) as it applies under subsection (3) of this section, commits an offence.

(5) An individual or organization who commits an offence under this section is liable to one or more of the penalties referred to in section 255 (7).

### **Offences in relation to candidates**

**259** (1) An individual or organization who does any of the following commits an offence:

(a) purports to withdraw a candidate from an election without authority to do so;

(b) publishes or causes to be published a false statement that a candidate has withdrawn;

(c) contravenes section 67 respecting leave from employment for a candidate.

(2) An individual or organization who commits an offence under subsection (1) is liable to a fine of not more than \$10 000 or imprisonment for a term not longer than one year, or both.

### **Offences in relation to ballots and other election materials**

**260** (1) An individual or organization who does any of the following without authority under this Act commits an offence:

(a) supplies a ballot to an individual or organization;

(b) prints or reproduces a ballot or a paper that is capable of being used as a ballot;



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(c) takes a ballot out of a place where voting proceedings are being conducted;

(d) puts in a ballot box, or causes to be put in a ballot box, anything other than a ballot that an individual is authorized to deposit there;

(e) destroys, takes, opens or otherwise interferes with a ballot paper, ballot, certification envelope, ballot box or voting book.

(2) An individual or organization who commits an offence under subsection (1) is liable to a fine of not more than \$10 000 or imprisonment for a term not longer than one year, or both.

### **Offences in relation to voting and counting proceedings**

**261** (1) An individual or organization who does any of the following commits an offence:

(a) contravenes section 90 (2) regarding the secrecy of the ballot;

(b) is present at a place where voting or counting proceedings are being conducted without being authorized under this Act to be present;

(c) contravenes section 74 regarding granting employees time free from work during final voting;

(d) without authority takes down, covers up, mutilates, defaces or alters a notice or other document authorized or required under this Act to be posted;

(e) without authority destroys, removes, damages or interferes with a voting administration tool within the meaning of section 79.01 (1).

(2) An individual or organization who commits an offence under subsection (1) is liable to a fine of not more than \$10 000 or imprisonment for a term not longer than one year, or both.

### **Offences in relation to the registration of political parties and constituency associations**

**262** (1) An individual or organization who does any of the following commits an offence:

(a) uses, without authority, by purporting to be or be acting on behalf of the political party, any of the forms of identification of a registered political party filed with the chief electoral officer;

(b) fails to file information as required by section 159;

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(c) fails to file a report in accordance with section 170 following deregistration;

(d) contravenes section 171 (1) respecting the funds of a political party or constituency association that is deregistered.

(2) An individual or organization who commits an offence under subsection (1) is liable to a fine of not more than \$10 000 or imprisonment for a term not longer than one year, or both.

### **Offences in relation to election financing**

**263** (1) An individual or organization who does any of the following commits an offence:

(a) consents to be appointed as a financial agent or auditor under this Act when not entitled to be appointed to the position;

(b) contravenes section 177 respecting the obligations of a financial agent;

(c) issues tax receipts other than in accordance with this Act and the *Income Tax Act*;

(c.1) contravenes section 181 respecting loans and guarantees for loans;

(d) contravenes section 186, 186.01, 187 or 188 regarding making or accepting a political contribution;

(e) contravenes section 189 regarding prohibited political contributions;

(f) contravenes section 193 regarding incurring election expenses or contestant expenses, or section 194 regarding equivalent expenses;

(g) contravenes section 196 by incurring an election expense in excess of the applicable election expenses limit, unless relief from the penalty for spending in excess of that limit has been granted by the Supreme Court under section 219;

(h) contravenes section 200 regarding election expenses that may be incurred by a registered constituency association;

(i) contravenes section 210.01 (1) regarding the disposition of the surplus for a candidate.

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(2)An individual or organization who commits an offence under subsection (1) is liable to a fine of not more than \$10 000 or imprisonment for a term not longer than one year, or both.

### **Offences in relation to election advertising and other promotion**

**264** (1)An individual or organization who does any of the following commits an offence:

- (a)contravenes section 230 respecting a restriction on election advertising;
- (b)contravenes section 231 respecting identification of the sponsor of election advertising;
- (b.1)contravenes section 231.01 respecting identification of the sponsor of activities;
- (c)contravenes section 232 respecting a rate charged for campaign period election advertising;
- (d)contravenes section 233 or 233.1 respecting campaign period election advertising on final voting day and election opinion surveys;
- (e)contravenes section 234 respecting a restriction on activities near an election office or voting place;
- (f) and (g)[Repealed 2002-60-10.]
- (h)contravenes section 239 respecting the requirement to be registered as a third party sponsor;
- (i)fails to record information as required by section 241 (2);
- (j)contravenes section 235.021 respecting loans or guarantees;
- (k)contravenes section 235.04, 235.041, 235.05, 235.051, 235.06, 235.061, 235.07, 235.071 or 235.08 respecting sponsorship contributions;
- (l)contravenes section 245.01 respecting the requirement to appoint an auditor and respecting audits of election advertising disclosure reports.

(2)An individual or organization who commits an offence under subsection (1) is liable to a fine of not more than \$10 000 or imprisonment for a term not longer than one year, or both.

### **Offences in relation to election and other officials**

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- 265** (1) An individual who does any of the following commits an offence:
- (a) represents himself or herself as an election official if the individual is not an election official;
  - (b) represents himself or herself as a voter registration official if the individual is not a voter registration official;
  - (c) accepts appointment or acts as an election official when not qualified;
  - (d) contravenes section 18 (8) regarding the impartiality of a district electoral officer or deputy district electoral officer;
  - (e) impedes or obstructs an election official, a voter registration official or other individual in performing duties and exercising powers given to the individual under this Act.
- (2) An individual who commits an offence under subsection (1) is liable to a fine of not more than \$10 000 or imprisonment for a term not longer than one year, or both.

#### **Offences in relation to false or misleading information**

- 266** (1) An individual or organization who does any of the following commits an offence:
- (a) provides false or misleading information when required or authorized under this Act to provide information;
  - (b) makes a false or misleading statement or declaration when required under this Act to make a statement or declaration.
- (2) In the case of false or misleading information in a report under Part 10, the political party, constituency association, candidate or leadership contestant on whose behalf the report is filed commits an offence.
- (3) An individual or organization is not guilty of an offence under this section if, at the time the information was given or the statement or declaration was made, the individual or organization did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.
- (4) An individual or organization who commits an offence under this section is liable to a fine of not more than \$20 000 or imprisonment for a term not longer than 2 years, or both.

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### **Offences in relation to false statements and unauthorized material or information**

266.1 (1) An individual or organization that does any of the following commits an offence:

- (a) transmits a statement in contravention of section 234.1;
- (b) transmits a statement in contravention of section 234.2;
- (c) transmits material or information in contravention of section 234.3;
- (d) transmits material or information in contravention of section 234.4.

(2) An individual or organization that commits an offence under this section is liable to a fine of not more than \$20 000 or imprisonment for a term not longer than 2 years, or both.

### **Offences in relation to misrepresentation**

266.2 An individual or organization that contravenes section 234.5 commits an offence and is liable to a fine of not more than \$20 000 or imprisonment for a term not longer than 2 years, or both.

### **Offence in relation to use of information**

267 (1) An individual or organization who uses personal information referred to in section 275 except as authorized by that section commits an offence.

(2) An individual or organization who commits an offence under this section is liable to a fine of not more than \$20 000 or imprisonment for a term not longer than 2 years, or both.

## **Part 13 — General**

### **Declarations required under this Act**

268 (1) Where a solemn declaration is required under this Act, the declaration must be

- (a) made on oath or by solemn affirmation,
- (b) made before a commissioner for taking affidavits for British Columbia or an individual authorized under subsection (2) to take the oath or solemn affirmation, and
- (c) signed by the individual making the oath or solemn affirmation and by the individual before whom it is made.

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(2) An election official or voter registration official may take solemn declarations where these are required under this Act in relation to proceedings for which the individual is responsible.

(3) If applicable, a declaration or a signed statement required under this Act must be made in the form prescribed by regulation.

### **Exceptional assistance for signature or translation**

**269** (1) The provisions of this section are exceptions for allowing individuals to exercise their rights and fulfill their obligations under this Act in circumstances where they would otherwise be unable to do so.

(2) If an individual is required by this Act to sign a document and is unable to do so, the election or voter registration official responsible may either sign on behalf of the individual or have the individual make his or her mark and witness that mark.

(3) If an individual requires the assistance of a translator, the election official or voter registration official responsible must permit the individual to be assisted by a translator.

(4) Before acting as translator under subsection (3), an individual must make a solemn declaration that he or she is able to make the translation and will do so to the best of his or her abilities.

(5) For certainty, an individual may act as translator for more than one other individual.

(6) The obligation to provide a translator rests with the individual who is required to make the solemn declaration or provide the information and, if no translator is available to act, that individual must be considered to have refused to make the solemn declaration or provide the information.

### **Public notice requirements**

**270** (1) Where this Act requires notice to be given in accordance with this section,

(a) the notice must be published on the internet and in one or more newspapers circulating in the affected electoral district, and

(b) information respecting the notice must be published through other media circulating in the affected electoral district, including by television and radio,

such that publication is made throughout the electoral district, if this is possible.

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(2) If publication under subsection (1) is not possible, the notice must be given to the public by alternative means in accordance with the directions of the chief electoral officer.

(3) Notices to which this section applies may be combined as long as the requirements of all applicable sections are met.

### **Publication of adjusted amounts and additional amounts**

**270.01** (1) The chief electoral officer must

(a) publish on an Elections BC authorized internet site the adjusted amounts established under sections 186.01, 204 and 235.05 and the annual allowance calculated under section 215.02 (2),

(b) have notice of the adjusted amounts and the annual allowance under those sections published in the Gazette, and

(c) give notice of the adjusted amounts established under sections 186.01 and 204 to the candidates in the election, the registered political parties represented by those candidates and the registered constituency associations for the electoral district.

(1.1) The chief electoral officer must publish the adjusted amounts established under sections 204 and 235.1 (3) as soon as practicable after an election is called.

(2) For the purpose of making an adjustment under section 186.01, 204, 215.02 or 235.05, the chief electoral officer has the discretion to determine whether to use a consumer price index prepared by the director under the *Statistics Act* or published by Statistics Canada under the *Statistics Act* (Canada) and to determine which consumer price index is applicable for a particular time.

### **Filing documents with chief electoral officer**

**271** Where this Act requires or authorizes a document or other record to be filed with the chief electoral officer, this may be done by delivering the record

(a) to the office of the chief electoral officer during its regular office hours, or

(b) to the chief electoral officer or an agent of the chief electoral officer at another place and time authorized by the chief electoral officer.

### **Adjournment of election proceedings**

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**272** (1) Election proceedings may be adjourned by the election official responsible in accordance with this section if that official considers that the health or safety of individuals is at risk, or that the integrity of the proceedings is at risk.

(2) Election proceedings may be adjourned

(a) temporarily to another time on the same day or another time on the same day at another place specified by the election official responsible, or

(b) to a day, time and place to be set by the district electoral officer.

(3) The election official responsible must notify the district electoral officer as soon as possible of any adjournment and must follow any directions the district electoral officer considers appropriate in the circumstances.

(4) While proceedings are adjourned, the election official responsible must make all reasonable efforts to ensure that the election materials are secured and that the integrity of the election is not compromised.

(5) The election official responsible must give notice to individuals affected by an adjournment as directed by the district electoral officer or, in the absence of direction, in any manner the official considers appropriate.

(6) Proceedings that are recommenced after an adjournment must continue for such a period that the total time for the proceedings is the same regardless of the adjournment.

### **Keeping peace and order at election proceedings**

**273** (1) An election official must maintain peace and order so far as reasonably possible at the election proceedings for which the election official is responsible.

(2) For the purposes of this section, from the time an election is called until the declaration of the official results of the election under section 137, the district electoral officer, the deputy district electoral officer and all supervising election officials designated or assigned under section 88 are peace officers.

(3) For the purposes of this section, the election official responsible may do one or more of the following:

(a) restrict or regulate the number of individuals admitted at any time to the place where the proceedings are being conducted;

(b) order an individual to leave the place where the proceedings are being conducted if, in the opinion of the election official, the individual



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(i) is present at a place when not permitted to be present under this Act,

(ii) is disturbing the peace and order of the proceedings,

(iii) is interfering with the conduct of the proceedings, or

(iv) is contravening any provision of this Act or a regulation under this Act;

(c) require proof of identification from an individual who may be ordered to leave under paragraph (b);

(d) order the removal of an individual ordered to leave under paragraph (b) if the individual does not comply;

(e) require the assistance of peace officers or of individuals present at the place where the proceedings are being conducted.

(4) An individual ordered to leave under subsection (3) (b) must leave the place and the immediate vicinity of the place at which the election proceedings are being conducted and must not return while these election proceedings are being conducted unless permitted to do so by the election official responsible.

(5) The authority under subsection (3) must not be used to prevent a voter otherwise entitled to vote at the place from exercising the right to vote.

### **Proof that an individual has voted**

~~274 (1) The following is proof for the purposes of this Act that an individual has voted:~~

~~(a) the written declaration of an individual that the individual is entitled to vote under sections 96 (2) (d) (i), 98 (3) (a) (i) and 104 (3) (a) (i);~~

~~(b) the record of an election official that the individual made an oral declaration that the individual is entitled to vote under sections 96 (2) (d) (ii), 98 (3) (a) (ii) and 104 (3) (a) (ii).~~

~~(2) As an exception to subsection (1), for voting under section 106 the record of receipt in the voting book under section 107 (1) (a) is proof for the purposes of this Act that the individual to whom the mail-in voting package was provided has voted.~~

### **When has individual voted and proof that individual has voted**

274 (1) A voter has voted when

(a) the voter has deposited a ballot in a ballot box, or

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[\(b\) if the voter is voting using a mail-in voting package, the outer envelope included in the mail-in voting package provided to the voter is deposited](#)  
[\(i\) in the mail to be delivered to the address of the office printed on the outer envelope, or](#)  
[\(b\) at an authorized drop-off location.](#)

[\(2\) The following is proof for the purposes of this Act that an individual has voted:](#)

[\(a\) the record of an election official that the individual has been provided with a ballot;](#)

[\(b\) the receipt of an envelope as required by section 106 \(1\) \(g\) before the time set by section 75 \(3\) for the close of final voting.](#)

[\(3\) As an exception to subsection \(2\), for voting under section 106 the record of late receipt after the time set by section 75 \(3\) in the voting book under section 107 is proof for the purposes of this Act that the individual to whom the mail-in voting package was provided has voted.](#)

### **Access to and use of information in records**

**275** (1) If a record is available for public inspection in the office of an election official or voter registration official, subject to this section a member of the public may obtain a copy of the record on payment of the reasonable costs of reproduction.

(2) If a record available for public inspection as referred to in subsection (1) contains information that is and is identified as the residential address or telephone number of a specific individual, on request of that individual, the election official or voter registration official must obscure the information in the documents available for public inspection and, for these purposes, may make a copy rather than the original available for public inspection.

(3) Where this Act requires or authorizes the disclosure, public inspection or other use of or access to records containing personal information, the personal information may only be used as follows:

(a) for the purposes of this Act;

(b) to enable members of the Legislative Assembly to communicate with voters;

(c) for other provincial, municipal or federal electoral purposes, subject to any restrictions or requirements established by regulation;

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(d) to identify individuals to be called to serve as jurors under the *Jury Act*;

(e) for purposes authorized by the *Freedom of Information and Protection of Privacy Act*;

(f) for other purposes specified by regulation, subject to any restrictions or requirements that may be established by regulation.

(3.1) Despite any other provision of this Act or any other Act, information obtained by the chief electoral officer as National Register of Electors information may be used only for purposes permitted by the *Canada Elections Act*.

(3.2) Despite subsection (3) of this section, personal information contained in the lists referred to in sections 51 (2) (b) and 51.01 may only be used for the purposes of this Act.

(3.3) For certainty, personal information contained in a record referred to in this section must not be used for commercial purposes.

(4) An election official or voter registration official may require an individual who wishes to inspect or obtain a copy of a record referred to in this section to

(a) satisfy the official that any purpose for which personal information is to be used is permitted by this section, and

(b) provide a signed statement that the individual, and any individual or organization on whose behalf the first individual is inspecting or obtaining the record, will not use personal information included in the record except for a purpose permitted under this Act.

(4.1) Subject to subsection (4.2) of this section,

(a) in the case of a registered political party that wishes to obtain a list referred to in section 51 (2) (a) or (b), the director, principal officer or principal member of the registered political party on whose behalf the list is requested must file with the chief electoral officer a privacy policy acceptable to the chief electoral officer,

(b) in the case of a candidate, candidate representative or registered political party that wishes to obtain information under section 51.01, the candidate, the official agent of the candidate or the registered political party on whose behalf the information is requested must file with the chief electoral officer a privacy policy acceptable to the chief electoral officer, and

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(c) in all other cases, an individual who wishes to obtain a copy of a record referred to in this section must file with the chief electoral officer a privacy policy acceptable to the chief electoral officer.

(4.2) If a privacy policy has been previously filed under subsection (4.1), the chief electoral officer may waive a requirement under that subsection.

(4.3) In this section:

**"personal information"** means personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*;

**"privacy policy"** means a policy that sets out reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal in respect of personal information contained in a record referred to in this section.

(5) Before the end of each retention period under section 149, the chief electoral officer must notify the minister responsible for the *Information Management Act* of the date the retention period expires.

(6) The minister responsible for the *Information Management Act* may require that records under the control of the chief electoral officer, other than records required by this Act to be destroyed, be archived

(a) in the digital archives established by the *Information Management Act*, or

(b) in the museum archives of government established by the *Museum Act*.

(6.1) [Repealed 2015-27-35.]

(7) To the extent of any inconsistency or conflict with the *Freedom of Information and Protection of Privacy Act*, this Act applies despite that Act.

## **Enforcement of penalties**

**276** (1) The chief electoral officer

(a) must conduct periodic investigations of the financial affairs of registered political parties, registered constituency associations, candidates, leadership contestants and registered third party sponsors for the purpose of ensuring compliance with this Act and the regulations under this Act,

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(b) may conduct audits of the accounts of individuals and organizations referred to in paragraph (a), and

(c) may conduct investigations of any matter that might constitute a contravention of this Act or a regulation under this Act.

(2) For the purposes of this section, the chief electoral officer or a representative of the chief electoral officer may inspect and make copies of the records of

(a) a registered political party or a political party that was registered at any time during the past 5 years,

(b) a registered constituency association or a constituency association that was registered at any time during the past 5 years,

(c) an individual who is or was a candidate or leadership contestant at any time during the past 5 years, or

(d) an individual or organization that was required to file an election advertising disclosure report at any time during the past 5 years.

(3) In relation to the authority under subsection (2), the chief electoral officer or a representative of the chief electoral officer may enter at any reasonable time the premises where the records of the individual or organization are kept.

(4) An individual or organization occupying premises referred to in subsection (3) must

(a) produce and permit copies or extracts to be made of all records required by the chief electoral officer or the representative, and

(b) provide all information that the chief electoral officer or representative may reasonably require.

(5) The authority under subsection (3) must not be used to enter a dwelling house except with the consent of the occupant or the authority of a warrant under subsection (6).

(6) On being satisfied on evidence on oath or affirmation that there are reasonable and probable grounds to believe that there are in a place records or other things relevant to matters referred to in this section, a justice may issue an order authorizing the chief electoral officer, a representative of the chief electoral officer or a peace officer to enter the place and search for and seize any records or other things relevant to the matter in accordance with the warrant.

### **Notice to advertiser to produce information**

**276.01** (1) In this section, "advertiser" means the following:

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(a) an individual or organization that has, during the past 5 years, transmitted ~~an election advertising message~~ [election advertising](#) to the public by any means;

(b) an individual or organization that has, during the past 5 years, arranged for another individual or organization to transmit ~~an election advertising message~~ [election advertising](#) to the public by any means;

(c) an individual or organization in a class of individuals or organizations prescribed by regulation.

(2) The chief electoral officer may give a written notice to an advertiser to produce information described in subsection (3), as specified in the notice, if both of the following apply:

(a) the chief electoral officer has reason to believe that section 229, 230, 231, 231.01, 233, 235.1 or 239 has been contravened;

(b) the information is reasonably required by the chief electoral officer to carry out the chief electoral officer's duties under section 12 (1) (d).

(3) A notice under subsection (2) may require that the advertiser provide to the chief electoral officer the following information in relation to ~~an election advertising message~~ [election advertising](#) that has been transmitted to the public:

(a) if known by the advertiser, the name of the individual or organization that sponsored ~~the election advertising message~~ [the election advertising](#);

(b) the name of the individual or organization with which the advertiser agreed to

(i) transmit ~~the election advertising message~~ [the election advertising](#), or

(ii) arrange for another individual or organization to transmit ~~the election advertising message~~ [the election advertising](#);

(c) the date the election advertising was ordered or requested;

(d) if there were payments under the agreement referred to in paragraph (b), the amounts and dates of the payments;

(e) the dates on which ~~the election advertising message~~ [the election advertising](#) was transmitted;

(f) the actual or intended geographic distribution or geographic availability of ~~the advertising message~~ [the election advertising](#);

(g) any other information prescribed by regulation.

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(4) Subject to subsection (5), an advertiser who has custody or control of information requested by a notice under this section must disclose the information to the chief electoral officer

(a) within 24 hours after receiving the notice if the notice is given during a campaign period, and

(b) within 7 days after receiving the notice if the notice is given outside of a campaign period.

(5) The chief electoral officer may extend the time period in subsection (4) if an advertiser who receives a notice under this section makes a written request

(a) within 24 hours after receiving the notice if the notice is given during a campaign period, and

(b) within 7 days after receiving the notice if the notice is given outside of a campaign period.

(6) Within 7 days of the chief electoral officer making a determination of non-compliance with this section by an advertiser, the chief electoral officer must notify the advertiser of the non-compliance and related penalty.

(7) Unless relief is granted by a court on an application under subsection (8), if the chief electoral officer gives notice under subsection (6), the advertiser must pay to the chief electoral officer a penalty in the amount of up to \$20 000, as determined by the chief electoral officer.

(8) An advertiser who is subject to a monetary penalty under this section may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance.

(9) An application under subsection (8) may only be made within 30 days after the chief electoral officer notifies the advertiser, under subsection (6), of the non-compliance and related penalty.

(10) The petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed, and the chief electoral officer is a party to the application.

(11) On the hearing of an application, the court may do the following:

(a) grant relief from a penalty if the court considers that, in relation to the non-compliance, the advertiser has acted in good faith;

(b) make any order the court considers appropriate to secure compliance with this section to the extent the court considers reasonable in the circumstances;

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(c) refuse to grant relief.

### **Order to produce information or records required by chief electoral officer**

**276.02** (1) On application of the chief electoral officer, the Supreme Court may make an order requiring a person to disclose to the chief electoral officer information or records in the custody or control of the person if the court is satisfied that the information or records are reasonably required by the chief electoral officer in order to carry out the chief electoral officer's duties under section 12 (1) (d).

(2) The chief electoral officer may apply for an order under subsection (1) before, at the time of or subsequent to the following:

(a) making a determination that an individual or organization has failed to comply with a provision of this Act for which a monetary penalty may be imposed;

(b) referring a matter to the Criminal Justice Branch of the Ministry of Attorney General under section 252.

(3) A court may make an order under this section without notice to any person.

(4) Unless the court orders otherwise, an application for an order under this section must be heard in private.

### **Additional powers of chief electoral officer to require information**

**276.03** (1) For the purposes of administering compliance with this Act and the regulations, the chief electoral officer has the following powers in addition to all others provided under this Act:

(a) to require the following to file a supplementary report under section 212:

(i) a candidate or the financial agent of a candidate;

(ii) a registered political party or the financial agent of a registered political party;

(iii) a registered constituency association or the financial agent of a registered constituency association;

(iv) a leadership contestant or the financial agent of a leadership contestant;

(v) a nomination contestant or the financial agent of a nomination contestant;



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(b)to require a third party sponsor to file a supplementary report under section 244;

(c)to require an individual or organization referred to in paragraph (a) or (b) to provide further information respecting compliance with this Act and the regulations under this Act.

(2)Within 7 days of the chief electoral officer making a determination of non-compliance with subsection (1) by an individual or organization, the chief electoral officer must notify the individual or organization of the non-compliance and related penalty.

(3)Unless relief is granted by a court on an application under subsection (7), if the chief electoral officer gives notice under subsection (2), the individual or organization must pay to the chief electoral officer a penalty in the amount of up to \$10 000, as determined by the chief electoral officer.

(4)An individual or organization that is subject to a monetary penalty under subsection (3) may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance.

(5)An application under subsection (4) may only be made within 30 days after the chief electoral officer notifies the individual or organization, under subsection (2), of the non-compliance and related penalty.

(6)The petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed, and the chief electoral officer is a party to the application.

(7)On the hearing of an application, the court may do the following:

(a)grant relief from a penalty if the court considers that, in relation to the non-compliance, the individual or organization has acted in good faith;

(b)make any order the court considers appropriate to secure compliance with this section to the extent the court considers reasonable in the circumstances;

(c)refuse to grant relief.

### **Complaints regarding contraventions of this Act**

**277** (1)If the chief electoral officer receives a complaint alleging that this Act or a regulation under this Act has been contravened, the chief electoral officer must consider whether to investigate the matter.

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(2)The chief electoral officer must refuse to investigate a complaint that in the view of the chief electoral officer appears to be frivolous, vexatious or obviously unfounded.

(3)If a complaint is made in writing and the chief electoral officer decides not to conduct an investigation, the chief electoral officer must notify the complainant in writing of the reasons for the decision.

### **Enforcement of election expenses penalties**

**278** (1)In relation to a penalty under any of the following sections, the chief electoral officer may issue and file with the Supreme Court a certificate specifying the name of the individual or organization, as applicable, and the amount owed under that section by the individual or organization:

- (a)217 (1) (b);
- (b)218 (1) (b);
- (c)220.01 (2);
- (d)220.02 (2);
- (e)220.03 (2);
- (f)220.04 (2) or (4);
- (g)220.05 (2);
- (h)220.06 (2);
- (i)220.07 (2);
- (j)220.08 (2);
- (j.1)220.081 (2);
- (k)235.2 (1) (b);
- (l)247;
- (m)250.01 (2);
- (n)250.02 (2);
- (o)250.03 (2);
- (p)250.04 (2);
- (q)250.05 (2);
- (r)250.06 (2);
- (s)250.07 (2);
- (t)276.01 (7);
- (u)276.03 (3).

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(2)A certificate filed under subsection (1) has the same effect and is enforceable in the same manner as a judgment of the Supreme Court in favour of the government for the recovery of a debt in the amount specified in the certificate.

### **Enforcement of Act by court injunction**

**279** (1)On application of the chief electoral officer, the Supreme Court may grant an injunction as follows:

(a)the court may grant an injunction restraining an individual or organization from contravening this Act if the court is satisfied that

there are reasonable grounds to believe that the individual or organization has contravened or is likely to contravene this Act;

(b)the court may grant an injunction requiring an individual or organization to comply with this Act if the court is satisfied that there are reasonable grounds to believe that the individual or organization has not complied or is likely not to comply with this Act.

(2)An order under subsection (1) may be made without notice to others if it is necessary to do so in order to protect the public interest.

(3)A contravention of this Act may be restrained under subsection (1) whether or not a penalty or other remedy has been provided by this Act.

### **Emergencies and other extraordinary circumstances**

**280** (1)The chief electoral officer may, by specific or general order, make exceptions to this Act and the regulations under this Act in accordance with the purposes of this Act if, in the opinion of the chief electoral officer, this is necessary because of an emergency, a mistake or extraordinary circumstances in relation to proceedings under this Act.

(2)Without limiting subsection (1), the chief electoral officer may make orders extending a time period or establishing a new date in place of one set under this Act and giving any other direction the chief electoral officer considers appropriate in relation to this.

(3)If an order is made under this section, the report of the chief electoral officer under section 13 must include a report on the order and the circumstances under which it was made.

### **Test of new election procedures in a by-election**

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**281** (1)The chief electoral officer may test new election procedures in a by-election, if this is agreed to by the leaders of the registered political parties entitled to be represented on the Election Advisory Committee.

(2)The agreement must describe the election procedures to be used, refer to the provisions of this Act that those election procedures replace and be signed by each of the leaders.

(3)To the extent of any conflict between an agreement under this section and this Act or a regulation under this Act, the agreement prevails and has the force of law.

### **Plebiscites on matters of public concern**

**282** (1)The Lieutenant Governor in Council may direct the chief electoral officer to conduct a plebiscite to determine the opinion of the voters in all or part of British Columbia on a matter of public concern specified by the Lieutenant Governor in Council.

(2)For the purposes of a plebiscite under subsection (1), the Lieutenant Governor in Council may make regulations governing the procedure for the plebiscite.

(3)To the extent that the procedure for a plebiscite is not established under subsection (2), the plebiscite is to be conducted in accordance with the regulations of the chief electoral officer.

### **Regulations of the chief electoral officer**

**283** (1)Subject to section 16 (2) (e), the chief electoral officer may make regulations as follows:

(a)establishing procedures to be followed by the Election Advisory Committee;

(b)prescribing forms for the purposes of this Act and information that may be included or requested on them;

(b.01)for the purposes of the definition of "ballot printer" in section 1, prescribing any other electronic system;

(b.02)for the purposes of the definition of "vote-counting equipment" in section 1, prescribing any other equipment;

(b.1)for the purposes of section 1 (2) (a) (ii) and (b) (ii), prescribing anything else;

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(c) prescribing information that must be included in an application for registration as a voter, an application for updating voter information or an application for inclusion in the list of future voters;

(d) [Repealed 2002-60-12.]

(e) prescribing identifying information that may be used for the purposes of section 35 (1) (d) in an application for registration as a voter;

(f) specifying a form or other document under another enactment for the purposes of section 38;

(g) respecting types of documents that are authorized for the purpose of section 41 (3);

(g.1) prescribing information for the purposes of section 51.02 (3) (c) and (e);

(g.2) prescribing information that must be included under section 59.01 in a notice respecting a nomination contest;

(h) establishing classes of special voting opportunities and restrictions on who may vote at each for the purposes of section 77 (2);

(h.1) for the purposes of the definition of "voting administration tools" in section 79.01, prescribing other types of tools to assist in the conduct of voting proceedings;

(h.2) for the purposes of section 79.01 (3) (a), prescribing circumstances in which or locations at which one or more types of voting administration tools are to be used;

(h.3) for the purposes of section 79.05, prescribing an action by an election official in relation to the vote-counting equipment;

(h.4) establishing classes of alternative voting options and restrictions on who may vote at each for the purposes of section 102 (2);

[\(h.5\) prescribing verification requirements for the purposes of section 106 \(1\) \(e\);](#)

(i) prescribing information that must be included

(i) under section 155 (3) (o) in an application for registration of a political party,

(ii) under section 157 (3) (m) in an application for registration of a constituency association, or

(iii) in a class of report under Part 9 or 10;

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(j)prescribing classes by which income, expenditures, election expenses and contestant expenses must be reported in a report under Part 9 or 10;

(j.1)respecting a method of accounting to be used for the purposes of preparing reports under Part 10;

(j.2)prescribing the manner in which disclosure reports under Part 11 must be filed;

(k)specifying expenses that are to be included as personal election expenses of a candidate under section 183 (4) (f);

(l)specifying expenses that are to be included as personal contestant expenses of a nomination or leadership contestant under section 184 (4) (f);

(m)specifying election expenses for the purposes of section 203 (1) (i) that are not to be included when determining whether an organization or individual has complied with an election expenses limit;

(m.01)prescribing election expenses or classes of election expenses for the purposes of section 215.04 (2) (d) that must not be reimbursed;

(m.1)exempting from the requirements of section 231 (1) classes of election advertising that may reasonably be considered clothing, a novelty item or an item intended for personal use;

[\(m.2\) prescribing additional content and format standards for the purposes of section 231 \(1\);](#)

[\(m.3\) establishing requirements in respect of any information referred to in section 231 \(1\) \(a\) to \(d\) and any information that is required under a regulation made for the purposes of section 231 \(1\) \(e\);](#)

[\(m.4\) prescribing other matters and things for the purposes of section 234.4 \(2\) \(c\);](#)

[\(m.5\) prescribing individuals and classes of individuals for the purposes of section 239 \(4\) \(h\);](#)

[\(m.6\) prescribing matters for the purposes of section 239 \(5\) \(d\);](#)

(n)prescribing information that must be included in

(i)an application under section 240, or

(ii)an election advertising disclosure report under section 244;

(o)prescribing classes of advertising for the purposes of section 245 (1)

(a);

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- (p)for the purposes of section 275,
  - (i)establishing restrictions on provincial, municipal or federal electoral purposes for which information under this Act may be used under that section and, in relation to this, requirements for access to and use of the information, and
  - (ii)specifying purposes for which information under this Act may be used under that section and, in relation to this, requirements for access to and use of the information;
- (p.1)for the purposes of the definition of "advertiser" in section 276.01 (1), prescribing a class of individuals or organizations;
- (p.2)for the purposes of section 276.01 (3) (g), prescribing any other information;
- (q)establishing procedures for conducting a plebiscite under section 282;
- (r)establishing higher amounts than those specified in this Act, where these higher amounts are contemplated by this Act;
- (s)for any other purpose for which regulations are contemplated by this Act.

[\(2\)Subject to section 16 \(2\), for the purposes of section 215.02, the chief electoral officer may make regulations respecting annual allowances to a merged political party, including defining what a merged political party is and establishing the amount of the annual allowance and the payment schedule.](#)

(3)Subsection (2) of this section and this subsection are repealed on December 31, 2022.

(4)The chief electoral officer must make regulations prescribing the form of ordinary ballots and the form of write-in ballots.

[\(5\) In making a regulation under subsection \(4\), the chief electoral officer may prescribe different forms of write-in ballots to be included in mail-in voting packages.](#)

## **Schedule**

### **Form 1**

*(Section 26 (2))*

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Lieutenant Governor



**ELECTION ACT**

**WRIT OF ELECTION**

*Form 1 (Section 26 (2))*

~~Elizabeth II, by the Grace of God, of the United Kingdom, Canada and Her Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith~~  
Charles III, by the Grace of God, of the United Kingdom, Canada and His Other Realms and Territories, King, Head of the Commonwealth, Defender of the Faith.

**To the District Electoral Officer for the Electoral District of .....**

GREETING:

We command you THAT:

Notice of time and place of election being given, you do cause election to be made, according to law, of a member to serve in the Legislative Assembly of British Columbia for the Electoral District of

.....;

You do accept the nomination of candidates at the office of the District Electoral Officer for the Electoral District until 1 p.m. [Pacific Standard Time] [Pacific Daylight Saving Time] on the .....day of ....., 20....;



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If an election by voting is required, you do cause final voting for the election to be conducted, from 8 a.m. until 8 p.m. [Pacific Standard Time] [Pacific Daylight Saving Time] on the ..... day of ....., 20....;

You do certify the name of the member elected, to the Chief Electoral Officer, at the City of Victoria, on or before the ..... day of ....., 20...., being the day for the return of this Our writ.

In Testimony Whereof, We have caused these Our Letters to be made Patent under the Great Seal of Our Province of British Columbia.

Witness, The Honourable.....

at Our Government House, dated this ..... day of ....., 20....

.....

.....

***Attorney General***

***Chief Electoral Officer***

**Certificate of Election**

I do hereby certify that, in obedience to the Writ of Election, I have caused an Election to take place within the Electoral District of .....

The voters of this Electoral District have elected the following candidate to represent them as a member in the Legislative Assembly of British Columbia:

.....

Name of elected candidate

Date of certification ....., [month, .....  
day, year] District Electoral Officer

**Form 2**

[Repealed 2019-42-139.]

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**Form 3**

[Repealed 2019-42-139.]