



Guideline: 2015-07

By-elections superseded by a general election

Comments made during formal consultation period May 15–June 1, 2015

Comments received from the Animal Alliance Environment Voters Party of Canada	Elections Canada response to the Animal Alliance Environment Voters Party of Canada
I have reviewed the document titled “By-elections superseded by a general election” on behalf of Animal Alliance Environment Voters Party of Canada. The file name is: 2015_07_By-Elections_Superseded_EN_Draft for consultation_May_2015. The Party has no additional suggestions but found the clarifying “Notes” to be very helpful.	
No comments were submitted by the Bloc Québécois	
No comments were submitted by the Canadian Action Party	
No comments were submitted by the Christian Heritage Part of Canada	
No comments were submitted by the Communist Party of Canada	
No comments were submitted by the Conservative Party of Canada	

Comments received from the Green Party of Canada	Elections Canada response to the Green Party of Canada
<p>The Green Party of Canada has one concern with the wording and interpretation contained in Chapter 6:</p> <p>Reimbursement of expenses and reporting All confirmed candidates in a superseded by-election are deemed to have received 10 percent of the valid votes and are entitled to receive an initial reimbursement equal to 15 percent of the election expenses limit.</p> <p>Candidates must file their return within four months after the notice of withdrawal of the writ is published. As is the case for all elections, they will be eligible for a total reimbursement equal to 60 percent of their paid election expenses and paid personal expenses, to a maximum of 60 percent of the election expenses limit.</p> <p>Candidates whose final reimbursement amount is less than the initial reimbursement paid to their campaign will need to return the overpayment (see section 5.1, Distribution of funds administered by Elections Canada).</p> <p>The Green Party of Canada would like to see some clarification around the issue of all confirmed candidates receiving the 15% of the expense limit. In the current wording it is unclear what the procedure is to receive this return and what paperwork might be required, if any. We believe that it is worth making the clarification.</p> <p>Thank you for your consideration.</p>	<p>No additional action is required to receive the initial reimbursement.</p> <p>Guideline 2015-07 will be added as a new chapter to the <i>Political Financing Handbook for Candidates and Official Agents</i>. The handbook explains the reimbursement of election expenses in detail.</p>
Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada
<p>Page 1 – In the paragraph following the title “Appointing an official agent and opening a bank account”, in the first line after the words “official agent”, auditor should also be added so that it aligns with pages 7–8 of EC 20155.</p>	<p>The word “auditor” has been added to the title of the section and to the text.</p>

<p>Page 2 – In the section “Contributions, loans and loan guarantees”, somewhere in the second bullet should be a reminder that the \$1,500 annual contribution limit is shared with EDAs, candidates, and nomination contestants under the same party banner.</p>	<p>The following text has been added:</p> <p>“Note: An individual (who is a Canadian citizen or permanent resident of Canada) can contribute \$1,500 in total to all the registered associations, nomination contestants and candidates of each registered party in a calendar year.”</p>
<p>Page 2 – In the section “Contributions, loans and loan guarantees”, somewhere in the third bullet should be a statement that the candidate must be registered with the district returning officer to access the \$5,000 candidate limit.</p>	<p>As is the case with all contribution limits, if and when a candidate is confirmed, the contribution limits apply retroactively from the date a contribution, loan or transfer was accepted or an electoral campaign expense was incurred. The candidate could have contributed \$5,000 to his or her campaign before receiving the confirmation from the returning officer, provided that the candidate had appointed an official agent and an auditor, and opened a campaign bank account.</p>
<p>Page 3 – In the “Note:” area, perhaps an example, such as signs, would bring greater clarity to the statement made in the note.</p>	<p>The following example has been added:</p> <p>“A by-election is superseded by the call of a general election. A candidate’s campaign has purchased signs for the by-election and now transfers them to the candidate’s general election campaign. The expenses are election expenses for both campaigns.”</p>
<p>Given the anticipated discussions that will be covered at the ACPP meeting of June 8–9, 2015 regarding the allocation of broadcast and Internet advertising to by-elections, we believe there is merit in covering this topic in both the Candidate and Party Handbooks.</p>	<p>Guideline 2015-07 will be added as a new chapter to the <i>Political Financing Handbook for Candidates and Official Agents</i>, which will also have new text on election advertising.</p> <p>The <i>Political Financing Handbook for Registered Parties and Chief Agents</i> will have new text on election advertising, as well as the following text about advertising during a by-election:</p> <p>“Election advertising transmitted in an electoral district where a by-election is underway is subject to the by-election limit in that electoral district. This includes election advertising distributed</p>

	<p>over the Internet. All expenses, including the production, distribution or placement costs, are election expenses subject to the limit in the electoral district where the by-election is underway. Even though the advertising may be distributed to a broader area than the electoral district, 100% of the production cost, plus the actual cost to transmit in the region that includes the electoral district (which may be a broader area than the electoral district), are election expenses.</p> <p>For example, a registered party purchases an advertisement in a local newspaper that is distributed in an electoral district where a by-election is underway. Despite the fact that the newspaper may have a distribution that goes beyond the electoral district, 100% of the production and placement costs of the advertisement are subject to the election expenses limit for the by-election.”</p>
No comments were submitted by the Libertarian Party of Canada	
No comments were submitted by the Marijuana Party	
No comments were submitted by the Marxist-Leninist Party of Canada	
No comments were submitted by the New Democratic Party	
No comments were submitted by the Party for Accountability, Competency and Transparency	
No comments were submitted by the Pirate Party of Canada	

No comments were submitted by the Progressive Canadian Party	
No comments were submitted by the Rhinoceros Party	
No comments were submitted by the United Party of Canada	
Comments received from the Commissioner of Canada Elections	Elections Canada response to the Commissioner of Canada Elections
<p>In general, Elections Canada’s interpretation of the provisions of the <i>Canada Elections Act</i> (the Act) regarding the deemed withdrawal of a writ for a by-election at the issue of the writs for a general election, as expressed in draft guideline 2015-07, corresponds to that of the Commissioner of Canada Elections.</p> <p>However, for clarification purposes, the following changes could be made to the proposed guideline.</p>	
<p>Appointment of an official agent and opening of a bank account The draft guideline 2015-07 reads as follows:</p> <p style="padding-left: 40px;">Candidates in a by-election must appoint an official agent before incurring expenses or accepting contributions, loans or transfers. They must open a separate bank account to be used exclusively for the by-election campaign.</p> <p style="padding-left: 40px;">Candidates who also wish to run in the general election will need to appoint an official agent – who could be the same person as for the by-election – and open a separate bank account to be used exclusively for the general election campaign.</p> <p>Consideration should be given to the presumption set out in the Act that a person whose nomination as a candidate in an election has been confirmed by the returning officer is deemed to have been a candidate from the time they accepted a contribution or a transfer, borrowed money or incurred an</p>	<p>Elections Canada agrees that candidates running in a by-election will not always know that the by-election is going to be superseded by a general election. The text has been changed to reflect that the requirement to appoint an official agent and an auditor and to open a bank account applies when it is determined that a person will be running in the general election.</p>

<p>expense. These activities often will have occurred well before a writ is issued.</p> <p>The above-quoted passage suggests that a person planning to run in a future election knows – at the time when he or she incurs an expense or accepts a transfer, a loan or a contribution – whether he or she will be a candidate in a by-election or a general election. However, this is not always the case. When a person decides to run in the next election that will be held in an electoral district, he or she may well do so without knowing for certain whether the seat in the House of Commons for that electoral district will become vacant when a by-election or a general election is called.</p> <p>To clearly communicate the requirements of the Act to candidates and their official agents, the text should be amended in order to remove any possible confusion.</p>	
<p>Transfer to a general election campaign</p> <p>Though the Act allows for the transfer of funds, services or goods from a candidate’s campaign in a superseded by-election to his or her campaign in a general election, it would be useful to mention in the guideline that the reverse is not authorized. Funds, services or goods from a candidate’s campaign in a general election may not be transferred to his or her campaign in a superseded by-election.</p> <p>To avoid having official agents contravene the Act by transferring funds, services or goods from a candidate’s campaign in a general election to his or her campaign in a superseded by-election, it is recommended that the proposed text be amended to state expressly that such transfers are not permitted under the Act.</p>	<p>As noted in the <i>Rae v. Canada</i> decision, a “retransfer” of previously transferred funds, property or services is allowed between political entities even though it is not contemplated in the Act.</p> <p>The amount of retransferred funds or the commercial value of retransferred property or services cannot exceed the amount or commercial value of the initial transfer.</p>