

Policy on Replacement Voting Services

Last updated: February 13, 2024

1. Effective date

This policy was approved by the Chief Electoral Officer (CEO) on February 13, 2024, and takes effect on March 15, 2024.

2. Purpose

The *Canada Elections Act* (the Act) gives the CEO, the head of Elections Canada, the authority to exercise the powers and perform the duties and functions that are necessary for the administration of the Act. He does so in alignment with the principles of electoral integrity articulated in the [Electoral Integrity Framework](#): accessibility, fairness, independence, reliability, security, and transparency.

The purpose of this policy is to detail the considerations and principles that guide Elections Canada's decision to provide replacement voting services to electors.

3. Application

The policy applies to exceptional situations where consideration is given to providing electors with replacement voting services through the discretionary powers under sections 17 and 179 of the Act and section 179 of the *Special Voting Rules as Adapted for the Purposes of a By-election* (the Rules).

For purposes of this policy, replacement voting services can be understood as voting services that are not planned ahead of the election and are not offered broadly or on a recurrent basis each election, but instead offered in response to rare and limited circumstances where electors have had their opportunity to vote significantly impacted or eliminated by an event or incident. Thus, these voting services are offered to affected electors in place of the planned voting services offerings. Potential examples of such services include, but are not limited to, a polling station established outside the electoral district, or kiosks established for special ballot registration and voting, on polling day.

4. Objective

Elections Canada considers whether to provide replacement voting services in a general election or by-election within the legal framework provided by the Act and according to the principles of electoral integrity, in a way that allows electors, political entities, and the general public to understand the context for the decisions made pursuant to the CEO's discretionary powers.

This policy explains how Elections Canada establishes a balance between competing considerations in administering replacement voting services, in accordance with the [Electoral Integrity Framework](#).

5. Context

Elections Canada is an independent, non-partisan agency that reports directly to Parliament. Its mission is to ensure that Canadians can exercise their democratic rights to vote and be a candidate. Elections Canada must be always prepared to conduct a federal general election or by-election in compliance with the Act.

Planned Voting Opportunities

Elections Canada plans ahead of elections to offer a number of voting opportunities, which are then delivered to electors during a general election or by-election. These include standard in-person voting services, extended in-person voting services that are provided to electors facing substantial barriers in accessing standard in-person voting services, and the opportunity to vote by mail or otherwise by special ballot.

As part of their responsibility for organizing elections in electoral districts (EDs), returning officers (ROs) play a key role in ensuring electors can access these planned voting opportunities. ROs do so, in accordance with instructions from the CEO, by taking steps to ensure electors in their ED are provided with standard in-person voting services, identifying the need for extended in-person voting services, and playing a key role in the administration of the special ballot voting process.

CEO Discretion

While the Act sets out requirements for the administration of voting services, it also gives authority to the CEO to exercise discretion in providing replacement services to electors in various circumstances. The voting days for an election may coincide with, for example, unexpected weather events, natural hazards, days of religious or cultural significance, or other incidents that may make it difficult for certain electors to access planned voting services and, as a result, lead to the consideration of the use of the CEO's discretionary powers under the Act.

For serving electors through replacement voting services, and thus providing voting opportunities that go beyond the planned services, this discretion is exercised in accordance with the sections of the Act summarized below.

Adaptations to the Act pursuant to section 17

Subsection 17(1) of the Act authorizes the CEO to adapt any provision of the Act during the election period or within 30 days after the election. This power may only be used for the purpose of enabling electors to exercise their right to vote or enabling the counting of votes. To exercise this authority, the CEO must be satisfied that the adaptation is necessary due to an emergency, an unusual or unforeseen circumstance or an error.

Instructions issued pursuant to section 179 to adapt the Special Voting Rules for the purposes of a general election

Section 179 of the Act authorizes the CEO to issue, in the context of general elections, instructions to adapt or apply the Special Voting Rules set out in Part 11 (sections 177 to 282) of

the Act to a particular circumstance. These instructions are issued when the CEO considers it necessary in order to execute the intent of the Special Voting Rules. Instructions may be issued at any time, during an election period or between elections. They can be made applicable only for the purposes of a particular election or may apply continuously until rescinded by the CEO or rendered obsolete. This policy applies only to any such instructions issued during, or immediately before, an election period where the instructions establish a new voting opportunity for certain electors.

Special Voting Rules as Adapted for the Purposes of a By-election

Subsection 178(1) of the Act provides that the Special Voting Rules set out in Part 11 of the Act apply to general elections only. However, subsection 178(2) stipulates that the CEO may, by instructions, adapt Part 11 so that any or all of its provisions apply to a by-election. The Special Voting Rules as Adapted for the Purposes of a By-election constitute such instructions, and, through section 179 of these instructions, grant the CEO the same discretionary powers they may execute during a general election, in a by-election context. This policy applies only to any such instructions issued during, or immediately before, a by-election period where the instructions establish a new voting opportunity for certain electors.

6. Policy statement and guiding principles

This section sets out the principles that guide Elections Canada's decision to provide replacement voting services.

The Act states the prescribed voting opportunities Canadians have and are familiar with. Political entities are also aware of these voting opportunities, and consider them when planning their campaign activities. Therefore, Elections Canada recognizes that any decision to use the discretionary powers under the Act to provide replacement voting services must carefully consider the extraordinary nature of these powers and any impacts the decision to use them will have.

The decisions to provide or not provide replacement voting services are made within the unique context of the general election or by-election in which they occur and are made by weighing the relevant factors and principles, and how they relate to the specific event or situation that leads to the consideration of using these discretionary powers. Thus, a decision to use or not use these discretionary powers in one general election or by-election should not be seen as setting a precedent for future service offerings.

As such, given the extraordinary nature of these powers and the fact each circumstance is unique, the criteria and guiding principles below explain Elections Canada's considerations when deciding whether to provide replacement voting services.

6.1 Considerations for providing replacement voting services during an election

In response to a request for replacement voting services, Elections Canada must first consider whether the event or incident that prompt the request meets the prescribed circumstances for

providing replacement voting services to electors under the relevant sections of the Act detailed above.

In addition, Elections Canada's decision to provide replacement voting services is grounded in the six principles of the [Electoral Integrity Framework](#): accessibility, fairness, independence, reliability, security, and transparency. One or more of these principles may be relevant in certain situations.

The statements below explain the principles that guide the *Policy on Replacement Voting Services*:

Accessibility

The date on the electoral calendar in which the relevant event or incident occurs, and, as such, whether planned voting services are now inaccessible as a result.

The extent to which electors affected by the relevant event or incident would benefit from the replacement voting service.

The number of electors affected by the relevant event or incident, and thus how many electors would benefit from the replacement voting service.

Electors are able to receive reliable information about how to access the replacement voting service.

Electors are able to vote safely and election officers are able to carry out their duties in a safe environment.

Electors are able to vote with dignity in a manner that maintains the secrecy of the vote.

Independence

The consideration and response to requests for replacement voting services are to be done in a manner that is independent from the government, individuals or groups that may have requested the replacement voting services, political entities, and other partisan influences, by basing the decision on the Act, the mandate of Elections Canada, and the principles of electoral integrity.

Reliability

The replacement voting services are to be provided if resources are available to carry them out.

The addition of replacement voting services that are not planned for or familiar to Canadians is delivered and communicated in a manner that is in alignment with the Act, the mandate of Elections Canada, and the other principles of electoral integrity.

The replacement voting service adheres to the sound management of human, financial and material resources.

Security

Elections Canada ensures there are safeguards to prevent, detect, and mitigate threats to the security of replacement voting services.

Transparency

The voting services are to be administered in a transparent manner that is observable for electors and candidates and their representatives.

The rationale for why the service is being offered is transparently detailed.

7. Roles and responsibilities

The CEO is accountable for ensuring that Elections Canada delivers on its mandate as it relates to providing replacement voting services in compliance with the Act and this policy. The CEO has authority to adapt the Act under section 17, and the authority to issue special voting rules instructions under subsection 178(2) and section 179.

For all other roles and responsibilities related to Elections Canada's regulatory policy instruments, please refer to the *Regulatory Policy Development and Management*.

8. Monitoring and review

This policy will be reviewed and updated upon the request of the CEO, who may be advised in this regard by the Deputy Chief Electoral Officer - Electoral Events and Innovation and/or the Deputy Chief Electoral Officer - Regulatory Affairs. A proactive evaluation of all policy instruments will also be conducted following all general elections, so that operational changes will be reflected in the relevant policy instruments.

9. Inquiries

Address any questions about this policy to: politiqueregulatoire-regulatorypolicy@elections.ca.