

Overview of Elections Canada and the Federal Electoral System

Briefing Book

To the attention of the Honourable Dominic LeBlanc
President of the Queen's Privy Council for Canada



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The Chief Electoral Officer and Elections Canada

Electoral Legislation

Elections Canada is responsible for the administration of the *Canada Elections Act* (CEA), which governs the election of members of Parliament to the House of Commons, and the *Referendum Act*. The CEA covers a broad variety of rules, including, but not limited to, the appointment and duties of election officers; how candidates are nominated; the regulation of political financing; voting days, times and locations; voting procedures at the polls and by special ballot; the counting of ballots; voter registration; and a number of offences under the CEA and related penalties for infractions.

The CEA is amended and revised at each electoral cycle. Recently, Parliament adopted the *Elections Modernization Act* (Bill C-76), which substantially modifies various aspects of the CEA and, as a consequence, makes significant operational changes to how Elections Canada fulfills its mandate. Perhaps the most important of these changes is the relaxing of certain aspects of the highly prescriptive electoral administration model previously in place. A number of these legislative changes will be highlighted in this briefing book.

Three federal referendums have been held in Canada since Confederation: in 1898, on whether to prohibit the sale of alcohol; in 1942, on compulsory military service (conscription); and in 1992, on the Charlottetown constitutional accord. Under the *Referendum Act* that came into force just before the 1992 referendum, only questions related to the Constitution of Canada can be asked in a federal referendum. Federal referendums and elections cannot be held on the same day. The *Referendum Act* allows the Chief Electoral Officer to adapt the CEA by regulation to apply it to a referendum.

The Chief Electoral Officer

The Chief Electoral Officer (CEO) of Canada is an agent of Parliament who is directly responsible to that institution and independent from the government of the day. This independence flows from a range of provisions in the CEA, notably those related to tenure of the position and the specific process for removal of the incumbent, accountability mechanisms and financial independence.

The current CEO, Stéphane Perrault, was appointed on June 8, 2018. The CEO is appointed by resolution of the House of Commons.

The CEO serves a 10-year term and may be removed only for cause by the Governor General on joint address of the Senate and House of Commons.

The CEO reports to Parliament on the administration of a general election, by-election or referendum and on their planned spending and expenditures. They also make recommendations to Parliament on legislative changes that they consider beneficial. The CEO communicates with the government through the designated minister responsible for the CEA—previously the Minister of Democratic Institutions.

The CEO appears regularly before the House committee responsible for electoral matters—namely, the Standing Committee on Procedure and House Affairs in the House of Commons. They also appear from time to time before the Standing Committee on Legal and Constitutional Affairs in the Senate and any other committee upon request.

The CEO also provides technical advice to committees, upon request, on legislation and any other issue a committee is studying.

The other agents of Parliament perform primarily a “watchdog” function in overseeing the actions of the government of the day. The CEO is unique among them in that the mandate of Elections Canada includes a significant operational aspect—managing the delivery of federal elections, by-elections and referendums, and monitoring political entities, rather than the government.

In recent years, the CEO and the other agents of Parliament have worked together to develop a common approach on various matters that impact their independence, such as government policies.

Elections Canada’s Key Responsibilities

Elections Canada’s duties cover matters relating to both electoral operations and regulatory compliance.

Electoral operations

- Administering federal electoral legislation
- Exercising general direction and supervision over the conduct of elections and referendums
- Maintaining the National Register of Electors and the Register of Future Electors
- Ensuring that all election officers act with fairness, impartiality and in compliance with the CEA
- Issuing to election officers the instructions that the CEO considers necessary for the administration of the CEA
- Adapting any provision of the CEA if the CEO considers that an emergency, an unusual or unforeseen circumstance or an error makes an adaptation necessary, for the sole purpose of enabling electors to exercise their right to vote, or enabling the counting of votes
- Implementing public education and information programs to inform the general public about the electoral process
- Educating the public about the Canadian electoral process, the right to vote and the right to run in an election
- Carrying out studies on voting, including studies respecting alternative voting means, and devising and testing new voting processes for use in a future general election or by election, subject to the approval of House of Commons and Senate committees
- Providing legal, technical, financial and administrative support to the independent commissions responsible for the periodic process of readjusting federal electoral boundaries to ensure that representation conforms to the *Electoral Boundaries Readjustment Act*

Regulatory compliance

- Issuing written opinions, guidelines and interpretation notes (OGIs) on the application of the CEA to political entities
- Registering political entities, including political parties, electoral district associations, leadership contestants, nomination contestants of registered parties, as well as third parties, and providing instructions for the nomination of candidates
- Calculating the amount of election expenses limits for candidates and political parties as well as the expenses limit for nomination contestants
- Disclosing the financial returns of political entities—including candidates, political parties, electoral district associations, leadership contestants, nomination contestants of registered parties and third parties engaged in election advertising—and verifying their compliance
- Reimbursing election expenses to candidates and political parties according to formulas laid out in the CEA

Funding and Accountability of the Chief Electoral Officer

Elections Canada is funded by and operates under two separate budget authorities.

The first is an annual parliamentary appropriation that covers the salaries for permanent positions. This appropriation can be increased only with the approval of the Treasury Board.

The second budget authority is a statutory authority that draws directly from the Consolidated Revenue Fund. This authority funds all Elections Canada expenditures other than the salaries for permanent positions and is not subject to annual parliamentary approval. The statutory authority serves to recognize Elections Canada's independence from the government. It also ensures that Elections Canada has access to the funds required for electoral events, which may occur at any time.

The CEO is subject to all federal laws of general application, such as the *Access to Information Act*, the *Official Languages Act*, the *Public Service Employment Act*, the *Privacy Act* and the *Financial Administration Act*. Like any other government department or agency, Elections Canada participates in the Estimates process. This includes submitting Main Estimates, the Departmental Plan, the Departmental Results Report and the Quarterly Financial Reports.

In addition, the financial statements of the Office of the CEO are subject to annual audits by the Office of the Auditor General. The agency is also subject to the reporting requirements of the Receiver General, including those related to the Public Accounts.

However, because of Elections Canada's independence from the government and its statutory mandate, the CEO is exempted from a number of Treasury Board policies and directives. Other policies apply to the CEO, but in a manner that does not impede their independence or ability to carry out their mandate.

Elections Canada's Size and Governance

The Office through which the CEO carries out their mandate (Elections Canada) normally includes some 600 employees working in the National Capital Region. This number rises to approximately 1,600 in the lead up to and following a general election.

For each of the 338 electoral districts, the CEO appoints a returning officer on the basis of merit for a renewable term of 10 years. They also hire and train 32 field liaison officers to assist the returning officers. Returning officers are responsible for administering elections within their respective electoral district. They are also responsible for filling upwards of 285,000 specific election officer positions, an average of almost 850 positions in each of the 338 electoral districts. Of these, some 180,000 are staffed for election day. To fill these positions, returning officers may appoint half of the officers needed to deliver the election at the beginning of the election period. For the remaining half, they must consider names provided by candidates of the registered political parties.

The CEO appoints the Broadcasting Arbitrator after consulting with the registered political parties. This person is responsible for allocating paid and free broadcasting time to the political parties and resolving disputes about the purchase of advertising time during an election. The current Broadcasting Arbitrator is Peter S. Grant.

Elections Canada's External Engagement

In delivering its mandate, Elections Canada engages a number of stakeholders, including political entities, provincial and territorial electoral management bodies and specific groups of electors for whom access to the electoral system is a concern.

Advisory Committee of Political Parties

The Advisory Committee of Political Parties (ACPP), chaired by the CEO and consisting of two representatives of each registered political party in Canada, is a forum for information, consultation and advice on federal electoral matters. Although its title and purpose were formalized in June 2014, the ACPP has been meeting regularly since it was created in 1998.

The purpose of the ACPP is to provide the CEO with advice and recommendations relating to the conduct of elections and the administration of the political financing regime. It has two main objectives: first, to foster and maintain an open dialogue and working relationship between Elections Canada and registered political parties in order to gain a better understanding of political parties' operational context, and second, to seek a collaborative approach to developing new initiatives.

The CEO meets formally with the ACPP at least once a year. Members are also consulted regularly throughout the year, through either teleconferences or workshops. A steering committee, which includes members of the ACPP, has also been established to help the agency establish priorities for written opinions, guidelines and interpretation notes (OGIs). The steering committee includes one representative from each party and meets at least once a year, usually during the ACPP's annual general meeting.

Advisory Group for Disability Issues

In February 2014, Elections Canada launched an Advisory Group for Disability Issues (AGDI) to provide subject matter expertise and advice on accessibility initiatives for federal elections. The group also helped to identify the best ways to inform people with disabilities about when, where and ways to register and vote.

AGDI members are leaders of organizations, invited as experts, and they participate in a personal capacity. They are selected based on their cross-disability and policy focus. Elections Canada chairs and serves as a secretariat for the AGDI by convening meetings and targeted consultations on improvements to electoral services.

Civic education and stakeholder mobilization

The *Elections Modernization Act* expanded the CEO's civic education mandate by restoring powers the position held prior to 2014. The CEO may now provide information and education programs to the public at large on a wide range of topics, including the importance of voting. Until very recently, only elementary and high school students could benefit from such programs. In addition, the *Elections Modernization Act* now allows Elections Canada to maintain a Register of Future Electors, which creates new opportunities for proactive civic education. This Register enables young people ages 14 to 17 to pre-register to be included in the National Register of Electors in the future.

For over 20 years, Elections Canada has provided educational resources to primary and secondary school teachers. Elections Canada has recently released a new collection of resources as a supplement to proven pedagogical tools in order to better meet current educational needs. These resources were designed to align with curriculum goals and learning skills in all provinces and territories. The redesigned program is intended to support teachers in preparing future electors and encouraging them to participate in electoral democracy.

Elections Canada is also implementing a public education and information program through the Inspire Democracy initiative. This initiative was conceived in order to better understand why some Canadians do not exercise their democratic right to vote. Studies show that certain communities face tangible barriers to participating in elections, whether registering, voting, working at a polling station or running for office in a federal election. The following groups face these barriers most often:

- First Nations, Inuit and Métis electors;
- people with disabilities;
- youth; and
- new Canadians.

The Inspire Democracy program aims to break down barriers by providing tools designed to spark a dialogue with leaders from these communities and the organizations that represent them.

Relationships with electoral management bodies

Elections Canada works in collaboration with its provincial, territorial and international counterparts to address and discuss a wide array of issues, including governance and accountability, legislative trends, best practices and voter services.

The CEO chairs the Advisory Committee of Electoral Partners (ACEP), which is composed of provincial and territorial CEOs. Elections Canada maintains data-sharing agreements with Canadian provinces and territories, which regularly provide information to update the National Register of Electors. Elections Canada also produces, in consultation with the provinces and territories, the *Compendium of Election Administration in Canada*. The Compendium offers a comparative analysis of major provisions in Canadian election laws.

International involvement

In accordance with the CEA, Elections Canada has been cooperating with electoral agencies in other countries and international organizations for many years. The goal of its international engagement is to strengthen the independence, impartiality, integrity, transparency and professionalism of electoral management both abroad and in Canada to ensure the conduct of free, fair and inclusive election processes.

Elections Canada actively engages with other electoral management bodies and international electoral organizations to develop and share knowledge on effective electoral management. It strives to be a recognized source of information on electoral administration and improve its own practices by learning from others.

Delivering the Election

Canada's electoral system is the product of an almost 150-year evolution, through which Canadians have achieved a universal, now constitutionally guaranteed, right to vote. Representation in the House of Commons is based on geographical divisions known as electoral districts, calculated by province and territory. Each electoral district is divided into polling divisions containing some 350 electors. In line with the redistribution of federal electoral boundaries, completed in fall 2013, the number of seats in the House of Commons rose from 308 to 338.

Canada's electoral system is referred to as a "single-member plurality" system (commonly called a "first-past-the-post" system). In every electoral district, the candidate with the highest number of votes wins a seat in the House of Commons and represents that electoral district as its member of Parliament. An absolute majority (more than 50 percent of the votes in the electoral district) is not required for a candidate to be elected.

Since May 2007, the CEA provides for a general election to be held on a fixed date: the third Monday of October in the fourth calendar year following the previous general election. As the last general election took place on October 21, 2019, the next fixed election date is **October 16, 2023**. That said, the CEA does not prevent a general election from being called on another date.

A general election occurs when the Governor General dissolves Parliament at the request of the Prime Minister; the Governor General, acting on the advice of Cabinet, then sets the date of the election and the date by which the writs must be returned. By law, the election must be held for at least 36 days, but no more than 50 days, after the issue of the writs.

Planning and Readiness

A federal general election is a massive operation whose success rests on the timely mobilization and deployment of human, material and technological resources in diverse environments across Canada.

The planning process begins well before a general election—in fact, at the conclusion of the previous election. Elections Canada performs ongoing scans of its environment to assess changes in Canadian society and the agency's operating context. Using different types of research, and drawing on the experience of electors, poll workers and candidates, the agency can measure the success of its various initiatives and the progress it has made against its longer-term plans.

In the months following a general election, Elections Canada consults key stakeholders, such as political parties and groups of electors, to gather feedback that may help the agency establish its strategic direction for the next general election and recommend legislative improvements.

Specific improvement initiatives are then identified, made subject to formal business cases and, following a positive review, approved and funded.

As new initiatives are progressively integrated into the agency's election delivery programs, Elections Canada begins assembling the resources (people, supplies, equipment and information) required to prepare for and deliver a general election. This "ramp-up" process is referred to as election readiness. Since March 2019, Elections Canada has put itself and its field staff in a state of election readiness leading up to the 43rd general election. Election readiness involves such things as:

- conducting preparatory field work, including validating the new electoral maps (polling divisions), selecting polling stations and ensuring that the stations meet accessibility standards; and
- reviewing, reprinting and restocking election supplies and manuals for election workers.

The Logistics of an Election

During a general election, Elections Canada prepares and delivers a suite of services to electors and candidates from some 17,000 polling stations across Canada. It also relies on a network of 500 local offices (including satellite offices in large, sparsely populated districts) that operate during the election period.

In every electoral district, a returning officer is responsible for the local administration of the election. Elections Canada provides them with policies, procedures, operational data and technology. Returning officers rent offices, make arrangements for polling stations, hire and train staff—up to 30 in a typical office—and serve electors and candidates under the general direction and supervision of the CEO. By election day, each returning officer has recruited and trained an average of 700 election workers.

When returning officers select polling stations, they must carefully balance accessibility, proximity and familiarity to electors. In 2010, the Canadian Human Rights Tribunal ordered Elections Canada to cease renting facilities that were not barrier-free. In many parts of the country, this can be achieved only at the expense of proximity and familiarity.

Voter registration services

Since 1997, Elections Canada has maintained the National Register of Electors. This is a digital directory containing the name, address, gender and birthdate of Canadians who are eligible to vote; it is updated periodically through information-sharing agreements with various federal and provincial agencies and departments. The Register is used to create the preliminary lists of electors when an election writ is issued. Electors whose names are on the preliminary list of electors receive the voter information card (VIC), giving them the address of their polling station.

Otherwise, when an election is called, electors have several options for registering or updating their registration. Returning officers also update the lists of electors for their electoral district during the revision period. Targeted revision is conducted in specific areas, including high-mobility areas, new developments, areas with low demographic coverage, shelters and long-term care facilities. The agency's Online Voter Registration Service allows electors to check if they are registered, update existing address information, or register for the first time with the use of their driver's licence number. Otherwise, they can register at any returning office or at their polling station.

Voting services

In Canada, votes are cast by paper ballot, completed by hand by the elector.

When designing services for electors, Elections Canada must account for the social, demographic and geographic diversity that returning officers face, and it must adapt its service delivery without compromising its compliance with the CEA.

Canadians can vote using three methods:

1. at a polling station on election day: An elector can vote only at the polling station set up for their polling division. In densely populated urban settings, many polling stations are usually grouped into a central location;
2. at an advance polling station on the second weekend before election day (some 3,674,000 electors chose this option in 2015): For advance voting purposes, polling divisions are grouped into advance voting districts. Each district has an advance polling station assigned to it. Once again, an elector can vote only at the advance polling station assigned to their polling division; or
3. by special ballot during the election period, either in person at a local returning office or by mailing their ballot to Elections Canada. The CEA also has special provisions for Canadian Forces electors, electors who reside abroad and electors who are incarcerated to vote by special ballot. In total, approximately 600,000 electors voted by special ballot in the 2015 general election.

In exceptional circumstances, Elections Canada has allowed returning officers to deploy special ballot kiosks in designated areas for electors to register and vote at for a certain length of time during the election period. These locations have traditionally included work camps in the north and acute care hospitals. For the 2019 general election, Elections Canada installed special ballot voting kiosks in 115 post-secondary educational institutions across the country.

The CEO appoints a Special Voting Rules Administrator (SVRA), who is responsible for the administration of special ballot voting services for electors who are living temporarily abroad, in the Canadian Forces, or incarcerated, as well as certain electors residing in Canada and voting by special ballot. The SVRA's office issues and receives mail-in ballots during the election and coordinates with Canadian Forces, Global Affairs Canada and provincial and federal correctional departments. On election night, ballots are counted and results are sent to each returning officer to be added to the results from the polling stations.

The *Elections Modernization Act* proposes a new, more flexible, voting services model intended to reduce wait times and administrative errors. In addition to new measures to enhance the efficiency of the voting process at advance polling stations, this law provides greater flexibility in how and where electors are served. In the future, polling stations may be able to serve multiple polling divisions during an ordinary poll (also known as election day), and electors may be able to vote at any table within a polling station. This amendment will ensure more efficient operations at the busiest polling stations and at peak times.

Generally, the same tasks as before will be performed at the polls (whether on paper or electronically); however, polling station workers will be able to shift roles as needed. For example, workers will be able to rotate among service points for breaks during the long workday or shift from verifying ID, issuing ballots and record-keeping at a voting table to assisting with polling station registration processes in order to clear a bottleneck at registration tables.

Voter Information Campaign

To ensure that Canadians can exercise their democratic right to vote, Elections Canada conducts a Voter Information Campaign before and during federal elections to provide Canadians with all the information they need on where, when and the ways to register and vote in a general election.

The national campaign, delivered through a series of products with consistent messages and look and feel, primarily targets the general population and groups who face higher than average barriers to participating in elections: new voters (youth and new Canadian citizens), Indigenous electors and electors with disabilities.

For the first time, in 2019 Elections Canada launched its Voter Information Campaign prior to the election call (pre-election campaign) to increase awareness of the upcoming general election, position itself as the official source of information on the electoral process, and encourage eligible Canadians to register to vote in and work at the federal election. Similar to the national campaign, the pre-election campaign targeted the general population with a focus on new voters and other priority groups with lower electoral participation rates.

For the 2019 general election, a network of community relations officers (CROs) was once again recruited. CROs work with local leaders to improve access to registration and voting for specific groups of electors, particularly youth, Indigenous electors, seniors in long-term care, electors from ethnocultural communities and electors who are homeless. CROs educate electors about where, when and the ways to vote and inform them about tools and services available to them. For the 2019 election, the program included outreach activities in Métis communities and official language minority communities.

Reporting results

Following the close of polls, the ballots are manually counted in the polling stations by an election officer assigned to the polling station in the presence of another election officer and observed by the candidates or their representatives or, if none are present, at least two electors. The outcome of the election is known within a few hours of the close of polls. On election night, preliminary results are published on the Elections Canada website and shared with a media consortium for live broadcast.

Post-election Activities

Validation of the results

The validation of the results is conducted by the returning officer, generally in the week following election day. The returning officer verifies the tabulation of the individual and total results recorded and reported by the *Statement of the Vote* for each poll.

The CEO has no authority to correct or otherwise alter results that have been validated by a returning officer. The only review mechanisms allowed for validated results are a judicial recount and a contested election application.

Judicial recounts

A judicial recount is a new tabulation of the votes cast for an electoral district, presided over by a judge of a superior court of the province or territory. A judicial recount must take place if the leading candidates in an electoral district receive the same number of votes after the validation of the results or if they are separated by less than one one-thousandth of the total votes cast. It can also be requested by any elector if there is evidence of an error in the original count. Following the 2015 general election, judicial recounts were held in 5 of 338 electoral districts, consistent with usual recount rates. All of these confirmed the initial results; none of them were automatic recounts.

Judicial recounts deal solely with the counting and tabulation of votes.

Contested elections

Concerns respecting the regularity of an election—other than matters that are handled through judicial recounts—are addressed through the contested election process. This includes concerns about fraud or irregularities in the electoral process. After a person is declared elected, any elector who was eligible to vote in an electoral district, or any candidate in that district, may bring an application for a contested election before a judge. In practice, legal contestations are quite rare. In a contested election proceeding, a judge is required to determine whether the person who won the election was eligible to be a candidate or whether there were any other irregularities, fraud or corrupt or illegal practices that affected the result of the election. The CEO, the Attorney General, the respective returning officer, the candidates in the election and the person bringing the application are all parties to a contested election proceeding. At the end of the court proceeding, the judge either dismisses the application or invalidates the result of the election. This decision can be appealed directly to the Supreme Court of Canada.

Mandatory independent audit

In 2014, the requirement was introduced for a mandatory independent audit to be carried out for each general election and by-election to report on whether election officers properly exercised their duties under the CEA.

Accounting for the election

Under the CEA, the CEO must publish three reports to provide a comprehensive perspective on a general election.

- **Report on the election results:** The first in the series is a factual chronology of the election. It includes an explanation of the evolution of the federal electoral framework since the previous general election, the integration of amendments to the CEA into the preparations for the election, and basic information on the election results.
- **Retrospective report on the election:** The second report presents a retrospective of the election. It includes an overview of the experiences of electors (including their experience with the voter identification requirements) and political entities. The report also includes observations about electoral administration challenges, electoral integrity and compliance at the polls. It is complemented by two annexes: the Overview of Public Opinion Research Studies and the Audit of Poll Workers' Performance.

- Recommendations report: The third and final report presents the CEO's recommendations for improving Canada's electoral framework. This report is made under s. 535 of the CEA, which provides that, after a general election, the CEO shall set out any recommendations on amendments that are, in their view, desirable for the better administration of the CEA.

Redistribution of Federal Electoral Districts

The Constitution of Canada requires that federal electoral districts be reviewed after each decennial census to reflect changes and movements in Canada's population. The next decennial census is scheduled to take place in 2021 and the redistribution process should start in early 2022. The redistribution process is led by independent commissions working separately in each province to establish electoral boundaries. Commissions are not required for Nunavut, the Northwest Territories and Yukon since each territory is a single electoral district.

The CEO plays a number of roles in the federal redistribution process as provided in the *Electoral Boundaries Readjustment Act* (EBRA). During the process, the CEO must:

- calculate the number of House of Commons seats allocated to each province using the population estimates supplied by Statistics Canada and the [formula set out in the Constitution](#);
- provide each commission with the census population numbers and maps showing the distribution of the population in the province;
- provide administrative and technical support to the commissions (for example: help commissioners establish offices, provide mapping resources);
- prepare, in collaboration with Natural Resources Canada, paper and electronic maps of all electoral districts as described in the commissions' reports and the finalized maps once redistribution is completed;
- process payment of all expenses related to the redistribution process; and
- act as a conduit between Parliament and the electoral boundaries commissions.

The CEO *does not* decide where and how House of Commons seats are distributed within the provinces. That is solely the responsibility of the electoral boundaries commissions. Upon completion of the redistribution process by all ten electoral boundaries commissions, the EBRA requires the CEO to prepare, in accordance with the recommendations contained in the commissions' reports, a draft representation order dividing each of the provinces into electoral districts and describing the boundaries of each such district.

The CEO transmits the draft representation order to the Minister. The EBRA provides that the Governor in Council shall, by proclamation issued within five days after the day on which the Minister receives the representation order from the CEO, declare the representation order to be in force. The new electoral districts become effective on the first dissolution of Parliament that occurs at least seven months after the day on which that proclamation was issued.

Regulating the Election

Regulating the election involves five key components: the voting process, political financing, electoral communications, enforcement and electoral security.

Regulating the Voting Process

Instructions, adaptations and training

The recent amendments to the CEA relaxed certain elements of the highly prescriptive electoral administration model previously in place. The CEA now gives the CEO greater flexibility in administering the voting process, particularly in where and how electors are served.

The CEA's provisions regarding the administration of the voting process are supplemented or implemented, where necessary, through instructions issued by the CEO to returning officers and other election officers. These instructions provide detailed and comprehensive steps that must be followed, for example, with respect to updating the lists of electors (the revision process) and administering the vote by special ballot, both at advance polls and on election day.

In addition to their instruction power, the CEO has the ability to adapt aspects of the CEA during an election period or for 30 days afterwards. This ability enables electors to exercise their right to vote or enables the counting of votes if an emergency, unusual or unforeseen circumstance or error makes such an adaptation necessary.

Between election periods, Elections Canada implements training and infrastructure to ensure that returning officers are prepared when an election is called. The task is challenging and has become more so in recent years as new legislative provisions have added responsibilities and complexity to the jobs of election officers (notably, the voter identification requirements added in 2007).

Voter identification

In order to vote at an advance polling station, on election day or at an Elections Canada office in federal elections and by-elections, electors must prove their identity and address in one of three ways. Under the first option, electors can show one piece of identification issued by a Canadian government (federal, provincial, or municipal) or one of its agencies bearing their photo, name and address. Under the second option, electors can show two pieces of ID from the list of identification authorized by the CEO; both pieces must include their name, and at least one must include their current address. Lastly, if the elector is unable to establish their identity and address using one of the first two options, they may do so by making a solemn declaration and being accompanied by another elector whose name is on the list of electors at the same polling station. The accompanying elector, called a voucher, must provide proof of identity and address and also make a solemn declaration.

Electoral integrity

The integrity of an election bolsters Canadians' confidence in the electoral system and reinforces its reputation as a fair process with reliable results. There are three components of election integrity:

- respect for the principles of electoral democracy;
- compliance with the law and established procedures; and
- protection provided by a regulatory framework that ensures transparency and fairness.

The Electoral Integrity Program helps Elections Canada detect and respond to incidents that may compromise the integrity of the electoral process and Canadians' ability to register and vote. It is based on best practices of integrated risk management.

The program consists in monitoring the external environment and conducting research and analysis to identify threats to the integrity of the electoral process, such as:

- irregularities observed in the work of poll workers;
- incorrect instructions given to electors;
- misinformation and disinformation about the electoral process; and
- events disrupting the operation of polling stations.

Staff monitor operational systems and the external environment to detect any anomalies and incidents that occur during a general election. If a potential problem is detected, they plan and organize Elections Canada's intervention. Program staff are also in charge of referring potential offences to the Commissioner of Canada Elections.

Political Financing

The political financing regime in the CEA is built around three core values: fairness, transparency and preventing the undue influence of money. These core values are primarily supported by the following measures:

- annual limits on contributions from eligible individuals (\$1,600 for 2019) and a complete ban on corporate and union contributions (registered third parties are not subject to contribution limits and ban).
- public funding in the form of tax credits for contributions and partial reimbursement of election expenses; and
- financial reporting requirements, which include the annual reports of political parties and electoral district associations; the event-based reports that must be submitted by political parties, candidates, third parties (i.e. individuals or groups other than registered parties, candidates and registered electoral district associations), nomination contestants and leadership contestants, including an audit by an external auditor if the entity meets the statutory threshold.

The *Elections Modernization Act* modified several aspects of the CEA's political financing regime. Among the most significant changes is a pre-election period beginning on June 30 in the year of a fixed-date general election and finishing on the day before the start of the election period. Spending limits apply to partisan advertising conducted during this period by political parties as well as all partisan activities, partisan advertising and election surveys ("regulated activities") conducted during this period. Third parties that meet the thresholds will be subject to interim reporting requirements. The Act also introduced a complete ban on the use of foreign funds by third parties and a prohibition for foreign third parties to incur expenses for regulated activities during the pre-election and election periods.

Spending limits and reimbursement of expenses

In order to facilitate the level playing field, the CEA imposes limits on election expenses for parties and candidates. The limits apply to the total of all election expenses, whether paid, unpaid or accepted as non-monetary contributions or transfers. The limits, which are calculated differently for political parties and candidates, are based on the number of names on the lists of electors for each electoral district. Prior to the coming into force of the *Elections Modernization Act*, these spending limits varied depending on the length of the election period. This is no longer the case. Third parties are also subject to spending limits on expenses related to regulated activities during the pre-election and election periods: \$1,023,400 and \$511,700 respectively.

Registered political parties that receive 2 percent of the overall vote, or 5 percent of the vote in electoral districts where they endorsed candidates, are eligible for partial reimbursement of their paid election expenses. Candidates must be elected or receive 10 percent of the vote to be eligible for reimbursement. In both cases, reimbursement is conditional on having met reporting obligations. Third parties are not entitled to any reimbursement.

Increasing complexity

The current regime is largely the result of successive reforms in 1974, 2000, 2003, 2006, 2014 and 2018. While these reforms have established a comprehensive political financing regime, the complexity of the rules presents a significant challenge for participants in the process and for the consistency of their application. For example:

- Because annual contribution limits are set for contributions and loans to various entities, political participants may be forced to reimburse contributions that they believed to be legal because there is no realistic way of knowing whether their contributors have already given to others.
- Distinctions between various categories of expenses (electoral campaign expenses, election expenses, personal expenses) are difficult to understand, yet are critical to the regime. For example, during an election period, only election expenses are subject to spending limits applied to parties and candidates.
- New requirements for political parties and third parties during the pre-election period are distinct from the requirements that apply during the election period. This may cause some confusion for those regulated by the regime. For example, the respective spending limits for each of these periods do not apply to precisely the same types of expenses.

Role of the official agent

The political financing regime for candidates is built around the role and responsibilities of the official agent, who is responsible for managing a candidate's financial transactions during an election campaign. Because official agents are largely unknown to Elections Canada before the election, it is difficult to train them in advance. While the agency produces manuals and web tutorials, the official agents learn the rules as they go along. They have access to the Political Entities Support Network to ask questions directly to Elections Canada's auditors. Many will only act once as an official agent.

Supporting financial compliance

Elections Canada strives to help political entities comply with the rules. This includes producing and updating training material, answering questions from political entities during and after the election and helping ensure that their financial reports are complete and accurate. Elections Canada has planned to complete the review of candidate's returns within a 12-month period following the filing deadline (by February 2021).

Written opinions, guidelines and interpretation notes

Since 2014, the CEA has included the requirement to issue written opinions, guidelines and interpretation notes (OGIs) on the application of the Act to registered parties, electoral district associations, candidates, nomination contestants and leadership contestants. OGIs may be issued following consultations with all registered parties and the Commissioner of Canada Elections (CCE). Elections Canada must respond to all OGI requests from political parties.

OGIs fall into two categories: (1) written opinions and (2) guidelines and interpretation notes. Written opinions are issued only at the request of a political party (through its chief agent) and concern the application of a provision of the CEA to a specific activity or practice that a political entity proposes to engage in. Written opinions are binding on the CEO and the CCE and have precedential value.

Guidelines and interpretation notes are for information only and can be issued either on Elections Canada's initiative or at the request of a political party. Guidelines and interpretation notes address the application of the CEA (often of specific provisions) and are developed to provide a general explanation of Elections Canada's treatment of a certain type of activity under the CEA. Guidelines and interpretation notes are not binding.

For the 43rd general election, Elections Canada also issued manuals on political financing rules for political parties, electoral district associations and candidates, as well as a number of interpretation notes on specific topics related to political financing, such as cryptocurrencies and volunteer labour.

Electoral Communications

Certain components of electoral communications are regulated under the CEA, such as broadcasting time for political parties, online advertisement by digital platforms, the use and provision of voter contact calling services and the use of voter information by political parties and candidates.

Broadcasting Arbitrator

Canadian broadcasters, licensed by the CRTC, have a legal obligation to make broadcasting time available for purchase by registered and eligible political parties during a general election. The CEA provides for the appointment of a Broadcasting Arbitrator who allocates broadcasting time to parties under the Act, issues guidelines concerning the obligations of broadcasters during a general election, and arbitrates disputes between political parties and broadcasters concerning the application of the Act. Peter S. Grant, a lawyer specializing in broadcasting matters, has been the Broadcasting Arbitrator since 1992.

Social media advertisement registry

Under new rules introduced by the *Elections Modernization Act*, digital platforms are required to maintain a registry of partisan and election advertising published during the pre-election and election periods. The registry must include a copy of the advertising message and the name of the person who authorized it. This complements the obligation on political parties and third parties to identify themselves on their partisan and election advertising during these periods (tagline).

Voter contact calling services

During the election period, political parties, candidates and third parties must follow certain rules if they use voter contact calling services. These are services involving the making of calls during an election period for any purpose related to an election, including:

- promoting or opposing a registered party, its leader, a candidate or a nomination contestant or any position on an issue with which such a party or person is associated;
- encouraging electors to vote or to refrain from voting;
- providing information about the election, including information about voting hours and the location of polling stations;
- gathering information about how electors voted in past elections or will vote in the election or their views on a registered party, its leader, a candidate or a nomination contestant or any issue with which such a party or person is associated; and
- raising funds for a registered party, a registered association, a candidate or a nomination contestant.

If a script is used for the telephone calls, the political party, candidate or third party must keep, for one year after the end of the election period:

- a copy of each unique script used;
- a record of every date on which the script was used; and
- a list of every telephone number called.

The rules are administered and enforced by the CRTC. The Commissioner of Canada Elections is responsible for enforcing the requirement to keep a copy of the scripts and recorded messages.

Elector information and privacy

The CEA states that Elections Canada must provide lists of electors to members of Parliament, registered and eligible political parties, and candidates. These lists of electors contain the names, addresses and unique identifier numbers of electors. Political parties often supplement the basic information they get from the lists with information about electors from other sources.

Elections Canada provides political parties, members of Parliament and candidates with the *Guidelines for Use of the Lists of Electors*. The guidelines explain how recipients are allowed to use the lists and remind them of the importance of safeguarding confidential information at all times.

Recent changes introduced by the *Elections Modernization Act* required that all parties applying to register with Elections Canada must publish a policy on the protection of personal information on the party's website and provide a copy to Elections Canada as part of their application. Within three months of the coming into force of these new provisions, parties already registered and those in the process of registration were required to publish a policy on their website.

The federal *Privacy Act* and the *Personal Information Protection and Electronic Documents Act* (PIPEDA) do not apply to political parties. British Columbia is the only Canadian jurisdiction that has legislation that covers political parties in the province through the *Personal Information Protection Act*. Elections Canada as a federal institution is subject to the *Privacy Act*.

Election Security

The federal election process is protected by many legal, procedural and technological safeguards that are designed to ensure its security and integrity.

On the legislative front, the *Elections Modernization Act* includes measures to confront new threats to the federal election process posed by foreign influence and disinformation. The owners or operators of certain frequently visited online platforms that sell advertising space to political entities or third parties subject to the CEA must now maintain a register of partisan advertising and election advertising messages published on the platform. The law also clarifies offences related to impersonation through the publication of material by a party falsely claiming to be a candidate, a political party, the CEO or a returning officer with the intent of deceiving the public. In addition, the law stipulates an offence related to the unauthorized use of a computer with the intent of influencing the results of an election, forbids third parties from using funds originating from foreign entities to finance regulated activities, and forbids any person or entity from selling advertising space to foreign entities for the purposes of publishing election advertising messages.

There is no one simple solution that eliminates cyber and information threats to democracy while maintaining freedom of expression. These threats are complex, reaching beyond our borders and the realm of election management.

In the current environment, delivering a secure election requires collaboration among many players. Federal agencies, political actors, media, digital platforms, civil society and individual Canadians must all play a role.

As it prepares for the next election, Elections Canada is coordinating with other federal organizations that contribute to election security, including:

- the Commissioner of Canada Elections, whose office is charged with enforcing the *Canada Elections Act* and investigating complaints about possible offences under the Act;
- the Communications Security Establishment (CSE);
- the Canadian Centre for Cyber Security (CCCS);
- the Canadian Security Intelligence Service (CSIS);
- the Royal Canadian Mounted Police (RCMP);
- Public Safety Canada;
- Global Affairs Canada; and
- Canada's National Security and Intelligence Advisor.

Elections Canada meets regularly with these agencies to share information; discuss roles, responsibilities and protocols under potential scenarios; and plan communications.

With the support of national security agencies, Elections Canada can focus on its top priority: administering the election and making sure Canadians can exercise their democratic right to register, vote and be a candidate.

Enforcement

The Commissioner of Canada Elections (CCE) is appointed for a term of 10 years by the CEO after consulting with the Director of Public Prosecutions (DPP), and is responsible for ensuring that the CEA and the *Referendum Act* are complied with and enforced. The office of the CCE is part of Elections Canada, but in practice, acts independently from the agency. Prior to the coming into force of the *Elections Modernization Act*, the CCE was appointed by the DPP for a term of seven years and reported to the office of the DPP. The current CCE, Yves Côté, assumed his responsibilities on July 3, 2012.

The CCE conducts investigations of alleged offences that may lead to criminal prosecutions and has the power to enter into compliance agreements with contravening persons. Since the coming into force of the *Elections Modernization Act*, the CCE may also impose administrative monetary penalties for political financing offences and specific voting offences, and may independently bring criminal charges, though the final decision to prosecute still rests with the DPP.

The CCE receives complaints from the public and from within Elections Canada. For example, Elections Canada's Political Financing sector may report potential offences under the CEA that are identified during audits of the parties' or candidates' financial returns.

The CCE position was created in 1974, and its responsibilities were originally restricted to ensuring that the rules concerning election financing and expenses were enforced. In 1977, the CCE's mandate was extended to cover all provisions of the CEA. In 2006, the *Federal Accountability Act* transferred the authority for prosecution of offences under the CEA to the DPP.

Reference Documents

Electoral Cycle

Pre-election period

- Voter Information Campaign
- Expenses limits of third parties and political parties

Election period

Election campaign (min. 37 days / max. 51 days)

- Fully functioning offices of the returning officer
- Preliminary lists of electors
- Elector information update
- Candidate nominations
- Special ballots
- Expenses limits of third parties, political parties and candidates

Election

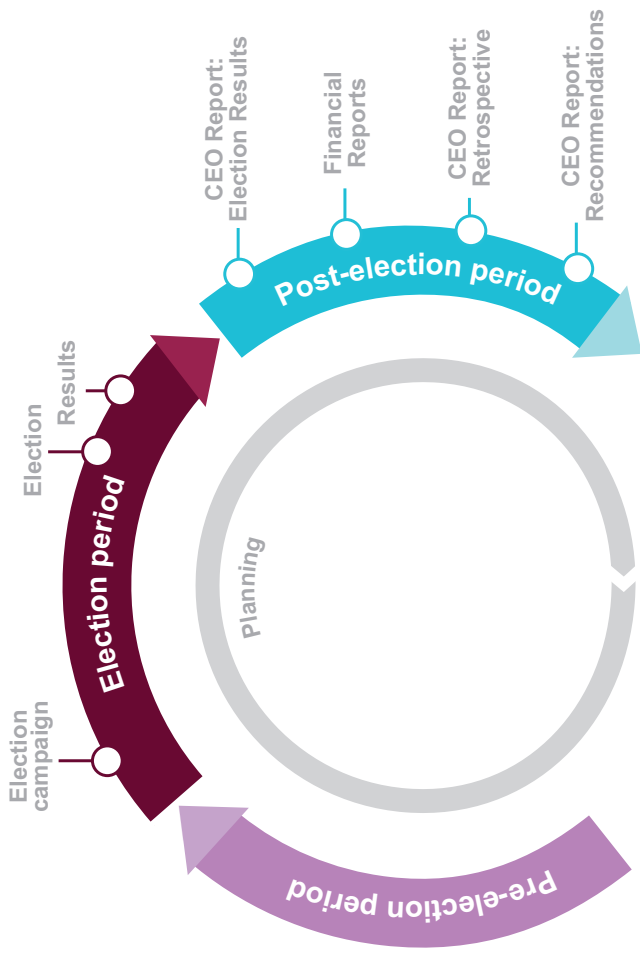
- Advance poll operations
- Election day registration
- Election day operations

Results

- Validation of results and official results
- Judicial recount

Post-election period

- Submission, audit and publication of expense returns of political parties and third parties and of campaign returns of candidates
- Reimbursements to political parties and candidates
- Legal challenges by individuals or groups (commissioner, DPP or courts)
- CEO reports: election results, retrospective and recommendations
- Conclusions of independent audit



- Annual reports of political entities
- Knowledge development and transfer
 - Policy development
 - Pilot projects
 - Budget allocation
- Recruitment and training of election workers
 - Electoral preparation