



Written Opinions, Guidelines and Interpretation Notes

The Chief Electoral Officer issues guidelines and interpretation notes on the application of the *Canada Elections Act* to registered parties, registered associations, nomination contestants, candidates and leadership contestants, in accordance with section 16.1 of the *Canada Elections Act*. Before the issuance of any guideline or interpretation note, registered federal political parties and the Commissioner of Canada Elections are consulted and invited to provide comments on a draft version. Guidelines and interpretation notes provide guidance and promote consistency in the interpretation and application of the Act. However, they are for information only and do not displace the provisions of the Act.

Guideline: 2015-07

The content will become a part of the *Political Financing Handbook for Candidates and Official Agents*.

CHAPTER 6

By-elections superseded by a general election

Introduction

When a vacancy occurs in the House of Commons, a by-election must be called within six months. As is the case for all elections, the election period must be at least 37 days and there is no maximum length.

If a general election is called prior to election day for the by-election, the by election writ is withdrawn and is superseded by the writ for the general election. In such a case, Elections Canada publishes a notice of withdrawal of the by-election writ.

By-election deemed to have taken place

In the case of a superseded by-election, the by-election is deemed to have taken place on the day that the notice of withdrawal of the writ is published.

Note: The following applies only to a candidate whose nomination was confirmed for a by-election that has been or will be superseded by a general election.

Appoint an official agent and an auditor, and open a bank account

Candidates in a by-election must appoint an official agent and an auditor 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.

Candidates who also decide to run in the general election will need to appoint an official agent and an auditor – 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.

Note: The financial transactions of a by-election campaign and a general election campaign must be managed separately.

Contributions, loans and loan guarantees

The limit on contributions, loans and loan guarantees applies to a superseded by-election as follows:

- Independent candidates may accept contributions, loans and loan guarantees of up to \$1,500 in total from eligible contributors for the by-election. In addition, they may accept contributions, loans and loan guarantees of up to \$1,500 in total from the same contributors for the general election. This is because, in the case of independent candidates, the contribution limit applies not per year, but per election.
- Candidates endorsed by a registered party may accept contributions, loans and loan guarantees of up to \$1,500 in total annually from eligible contributors. The limit applies per calendar year, irrespective of the number of electoral events.

Note: An individual (who is a Canadian citizen or permanent resident of Canada) can contribute \$1500 in total to all the registered associations, nomination contestants and candidates of each registered party in a calendar year.

- Candidates, whether they are independent or endorsed by a registered party, can make contributions, loans and loan guarantees of up to \$5,000 in total to their campaign in the by-election, as well as another \$5,000 in total to their campaign in the general election.
- Once confirmed, candidates can issue tax receipts for the contributions that they receive.
- All contributions received by confirmed candidates in the by-election can later be transferred and used for the general election (see the section on transfers below).

Note: The contribution limits apply to: total contributions, the unpaid balance of loans made during the contribution period and the amount of any loan guarantees made during the contribution period that an individual is still liable for.

The sum of these three accounts cannot at any time exceed the contribution limit.

Limit on election expenses

Candidates in the by-election are subject to the applicable election expenses limit. When a by-election is superseded, the limit is not affected by the fact that the length of the election period has been reduced.

Note: Depending on the relative lengths of the by election and the general election, the election expenses limit for the general election may be different. Candidates and their official agents must ensure that they respect the election expenses limits for both elections.

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.

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.

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).

Note: Paid election expenses and paid candidate's personal expenses are eligible for reimbursement only once, either in their relation to the by election or the general election.

Transfers to the campaign for the general election

The *Canada Elections Act* allows for the transfer of any money from the by election account (including the initial reimbursement) to the general election account of the candidate.

The *Canada Elections Act* also allows for the transfer of property or services acquired for the by-election to the campaign for the general election (even if the candidate is not in the same electoral district, for example as a result of redistribution). The ability to transfer property and services is important as it allows the campaign for the general election to account for such things as signs and office facilities that continue to be used from one election to the other.

The same property or services may be used during both elections. In that case, expenses for property or services transferred to the campaign for the general election are subject to the election expenses limit for both elections, if they meet the definition of an election expense.

Example

A by-election is superseded by a call for 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.