



INFORMATION SHEET 19

NOMINATION CONTESTS: TRANSITIONAL PROVISIONS FOR NOMINATION CONTESTS UNDERWAY PRIOR TO JANUARY 1, 2004, OR CONTESTANTS WHO HAVE STARTED TO COLLECT CONTRIBUTIONS OR INCUR EXPENSES PRIOR TO THAT DATE

DISCLAIMER

These information sheets set out Elections Canada's current interpretation of the *Canada Elections Act* and are issued to assist the public in understanding the Act. The views expressed in information sheets are not law and are not intended to replace the official text of the Act. How the Act applies to any particular case will depend on the individual circumstances of that case. Elections Canada reserves the right to reconsider any interpretations expressed in information sheets, either generally or in light of the actual circumstances of any case, and in accordance with continuing legislative and judicial developments.

1. Regardless of when a nomination contest began, any contest whose selection date is on or after January 1, 2004, will have to be reported by the responsible registered electoral district association or the registered party as the case may be to the Chief Electoral Officer under section 478.02 of the *Canada Elections Act*.
2. In that case, each nomination contestant will be deemed to have been a nomination contestant as of the later of:
 - 2.1 the time he or she first accepted a contribution for his or her nomination campaign or incurred a nomination campaign expense; or
 - 2.2 January 1, 2004.
 - 2.2.1 Parliament would not have intended the application of the obligations of a nomination contestant to apply retroactively to a period before the Act came into force when individuals would have no knowledge of the obligations to be met. The presumption against retroactive application of legislation would apply.
3. The obligations in the Act respecting the finances of the nomination contest (financial agent, bank account, etc.) will thus apply to a nomination contestant as of the day that he or she is deemed to have become a nomination contestant (January 1, 2004 or the later date the contestant first collected a contribution or incurred a nomination campaign expense).
4. On January 1, 2004, nomination campaign contributions received prior to that date must be transferred as soon as possible to the nomination bank account.
5. All nomination contributions, whether received before or after the coming into force of Bill C-24, must be reported in the financial return of the nomination contestant in accordance with section 478.23 of the Act.
 - 5.1 Subsection 478.23(2) requires the reporting of all “contributions received”. Thus, all contributions which have been received by the nomination contestant must be reported

regardless of whether they were received before or after the coming into force of subsection 478.23(2).

6. But nomination contributions received before January 1, 2004, will not count for the purposes of determining contribution limits respecting corporations and trade unions under section 404.1 or individuals under subsection 405(1). (s. 65, S.C. 2003, c. 19)
7. Similarly, the restrictions which came into effect on January 1, 2004, limiting who can give contributions will not apply to contributions given before that date.
 - 7.1 For the period prior to January 1, 2004, Parliament would not have expected contributors to respect eligibility rules or contribution caps which at the time of the contribution the contributor may have had no notice and which were not in effect until January 1, 2004. The presumption against retroactive application of legislation would apply here.
8. Nomination campaign limits will only begin to apply after January 1, 2004.
9. For the same reasons given respecting the transitional provisions for contributions and contribution limits, expenses incurred before that date will still have to be reported, but they will not count towards the spending limit.