



INFORMATION SHEET 15

NOMINATION CONTESTS: WHICH NOMINATION CONTESTS ARE REGULATED UNDER THE *CANADA ELECTIONS ACT*?

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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. A nomination contest is a “*competition* for the selection of a person to be proposed to a registered party for its endorsement as its candidate in an electoral district”.
 - 1.1 It has to be a competition (a contest) – appointments and acclamations which take place outside of a competition are not regulated. (definition of “nomination contest” in s. 2 CEA)
 - 1.2 For the purposes of the Act, any process which is recognized by the rules of whoever is conducting it for the selection of a person to be proposed to a registered party for endorsement as a candidate will qualify as a contest, provided that it offers the opportunity for more than one person to put his or her name forward for consideration.
 - 1.3 In the event that only one person puts himself or herself forward, the selection of that person by whoever is holding the contest will still constitute a competition for the purposes of the Act.
 - 1.4 A contrary interpretation would deny an individual who collects funds as a nomination contestant on the basis of an announced contest, as well as the party and the association, the ability to take advantage of the transfer provisions of the Act simply by reason that only one person came forward during the period of the contest. It would also mean that a person who is acclaimed by whoever is holding the contest according to its rules would be able to avoid the statutory obligations to dispose of his or her nomination campaign surplus and to report contributors simply by reason that only one person was willing to come forward for selection. This would be inconsistent with the purpose of the legislation.

This approach is also consistent with that followed where a candidate is acclaimed under section 63 of the Act as a result of a returning officer confirming only one nomination for a district in an election. The acclamation does not affect the obligations or rights of the acclaimed candidate under the Act.
2. Only nomination contests which are associated with a registered party will be regulated.

- 2.1 This is implicit in the statutory obligation in s. 478.02 to report nomination contests within 30 days of the contest which is imposed upon registered parties for all contests held by anyone other than the party's registered electoral district association. Registered parties which were unaware of the contest being held would not likely be able to comply with a 30-day reporting obligation.
3. Thus, only those nomination contests which are held:
 - 3.1 by the registered party or its registered electoral district associations;
 - 3.2 by groups over whom a registered party has some control; or
 - 3.3 with the approval of the partyare regulated.
4. There is no statutory obligation on a registered party to accept the winner of a nomination contest.
5. At the same time, the endorsement or rejection of a contest winner by a registered party does not have any impact on the duty of the party or the various nomination contestants to comply with the requirements of the Act for nomination contests.
6. The Act does not regulate how many nomination contests there can be in an electoral district.
7. Competitions are regulated according to the electoral district for which the party endorsement will take effect.

8. A competition can be held respecting
 - 8.1 existing electoral districts; or
 - 8.2 electoral districts which are established by a representation order following the proclamation of that order even if it is not yet in effect.
 - 8.2.1 This is implicit in the statutory scheme. New electoral boundaries only come into effect on the calling of a general election. In light of the relatively short period of elections (minimum 36 days), it is not feasible that Parliament would have expected that all nomination contests for those new districts would have to be delayed until the calling of the election. Thus, in the absence of express words, Parliament should not be seen to have intended to restrict the ability to hold nomination contests for new districts.
 - 8.2.2 Once it is accepted that nomination contests for new districts can take place before the calling of the election (which formally triggers the coming into force of the new boundaries), it is not logical to assume that Parliament would have wanted all nomination contests held respecting existing electoral districts and all those held immediately after the dropping of a writ (which triggers new boundaries) to be regulated while leaving an unregulated window for those contests held for new districts prior to their existence.