Office of the
Chief Electoral Officer
of Canada

An Electoral Framework for the 21st Century

Recommendations from the Chief Electoral Officer of Canada Following the 42nd General Election

September 2016

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September 26, 2016

The Honourable Geoff Regan, P.C., M.P.
Speaker of the House of Commons
Centre Block
House of Commons
Ottawa, Ontario
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Dear Mr. Speaker:

Pursuant to section 535 of the *Canada Elections Act*, I have the honour to submit my report *An Electoral Framework for the 21st Century—Recommendations from the Chief Electoral Officer of Canada Following the 42nd General Election*.

The report proposes amendments that, in my opinion, are desirable for the better administration of the Act.

Under section 536 of the Act, the Speaker shall submit this report to the House of Commons without delay.

Yours truly,

Marc Mayrand
Chief Electoral Officer

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Table of Contents

Message from the Chief Electoral Officer

I am pleased to present Elections Canada's third and final report following the 42nd general election. This report is made under section 535 of the *Canada Elections Act* (the Act), which provides that after a general election, the Chief Electoral Officer shall set out any recommendations on amendments that are, in his view, desirable for the better administration of the Act.

This report follows two earlier reports: the initial report on the election, tabled in February 2016, which provided a factual narrative of the conduct of the election; and a retrospective report, published earlier this month, which discussed the results of Elections Canada's post-election assessments and examined the experience and feedback of electoral participants.

Canada is fortunate to have a strong electoral democracy that yields results that Canadians trust. Our statutory framework has stood up relatively well over the years, but it is increasingly showing signs of strain. While it is important to remember the past, we should embrace change and make sure that our legislative framework keeps pace with a rapidly evolving society. As shown in our retrospective report on the 42nd general election, we need legislative change to effectively and efficiently administer elections in the future.

Over the years, amendments to the Act have added new requirements and new rules, with little regard to the overall burden placed on electors, candidates, parties, volunteers and election workers. In the last decade, changes have been made without taking into account the rapidly shifting technological context; we now need to evaluate whether there are better ways to achieve the same results as in the past.

The challenge for the legislator is to amend the Act in a way that takes advantage of new opportunities and meets the evolving expectations of Canadians, but in a way that recognizes the strengths of the current system. Ideally, amendments should permit greater flexibility for the administration of future elections, so that voting processes and systems can more easily be adapted to varying conditions, while maintaining key democratic safeguards. Amendments should also strive to provide a process that is inclusive and fair for all.

My recommendations to improve and modernize the legislative framework come at a time when electoral reform is on the public agenda. The House of Commons Special Committee on Electoral Reform is considering a variety of proposals relating to voting system reform, as well as mandatory voting and electronic voting. It is of course the role of the Chief Electoral Officer to implement whatever changes to legislation are adopted by Parliament. I am hopeful that the recommendations I offer here will be considered in the context of other possible legislative proposals. I believe that they are needed no matter what the outcome of the ongoing reform process will be.

I make no comment in this report on the issues before the Special Committee, nor do I comment on other matters that, while the subject of some debate at the last election, I believe are better left to parliamentarians. This includes the issue of pre-writ spending by political parties and third parties as well as the regulation of government advertising in the months leading up to a general election. As always, Elections Canada will be pleased to offer whatever support parliamentarians may request of us in their deliberations on such matters.

I urge parliamentarians as much as possible to collaborate and seek a broad consensus when it comes to changes to the Act; our democratic system will be best strengthened when amendments reflect the views of a large number of political participants. I note that New Zealand requires a special majority of parliamentarians in order to enact legislative amendments to key aspects of their electoral framework. I believe this is something that parliamentarians should consider.

As legislators consider the proposals presented to them, I encourage them to work closely with the next Chief Electoral Officer and to make use of the expertise available at Elections Canada.

It has been an extraordinary honour and privilege for me to serve as Chief Electoral Officer for these past almost 10 years. I look forward to watching future improvements to our electoral system from the perspective of an interested Canadian.

Marc Mayrand
Chief Electoral Officer of Canada

Introduction

This report is divided into two main chapters, which reflect the two main components of the Act. The first chapter of the report addresses the electoral process and the second chapter addresses the regulatory regime for political financing and advertising.

Chapter 1

The voting process is largely governed by Parts 3 to 15 of the Act and includes many elements beyond the simple placing of a ballot in a box. The Act sets out rules for hiring hundreds of thousands of Canadians, often for a single day, to perform the series of complex tasks required to administer an election. It prescribes rules for delineating polling divisions, establishing polling places, and registering and informing electors as to where and when they may vote. Strict requirements outline how to administer the vote on polling day, on the four advance polling days and through special balloting. The Act sets out specific controls that must be carefully followed by election officers throughout the process to ensure, among other things, that only qualified electors cast ballots and that they do so only once. Finally, the Act prescribes a detailed process for counting the ballots and verifying the winner of the election in each electoral district.

Many of the recommendations presented in Chapter 1 of this report seek to increase the flexibility of the administration of the voting process in order to improve operational efficiency, while still maintaining integrity. Notable among them are recommendations to permit the Chief Electoral Officer to make voting more accessible, convenient and efficient by simplifying processes and allowing greater use of technology. The aim is to have a more nimble and responsive approach to the design and operation of polling stations that takes into consideration varying demographic needs.

Chapter 2

Chapter 2 of the report deals with the political financing and election advertising regime contained in Parts 16, 17 and 18 of the Act, where the focus is on political entities rather than electors and election workers. Part 18 contains the key provisions regulating the financing of political parties, candidates, electoral district associations (EDAs), and leadership and nomination contestants, comprising approximately 40 percent of the entire Act. Election advertising by third parties is regulated under Part 17, while Part 16 covers communications more generally (broadcasting, signage, opinion polls, etc.).

Together, these three Parts of the Act are intended to achieve a number of goals, such as making financial transactions related to political activities transparent, levelling the financial playing field among competitors and improving the accessibility of the political process through public funding. The provisions in Parts 16, 17 and 18 create a complex regulatory scheme that includes spending limits, contribution limits and obligations to report on financial transactions, among other provisions.

While the voting process has remained largely unchanged over decades, the political financing and advertising regulatory regime is relatively recent. A series of amendments between 2000 and 2014, which added new political entities and new substantive components, have significantly altered the basic framework created in the early 1970s.

The recommendations under Chapter 2 are intended to better achieve the underlying goals of the political financing and election advertising regime. In part, this has to do with improving and streamlining compliance through the introduction of administrative monetary penalties. The Act at present relies almost exclusively on criminal offences to ensure compliance. Such an approach, while perhaps appropriate for dealing with matters such as bribery and voter fraud, seems particularly ill-suited to the regulatory regime found in Parts 16, 17 and 18. While administrative monetary penalties could be considered for introduction elsewhere in the Act, this report suggests they be considered first in the political financing area. Chapter 2 also contains a number of other more specific recommendations to provisions contained in these Parts, each of which is designed to better accomplish the underlying goals of the regime.

It is important to note that not all recommendations contained in this report are treated in chapters 1 and 2. The chapters are followed by three tables of amendments: the first table sets out the specific recommendations that are discussed in the narrative, while the second and third tables consist of other substantive recommendations as well as more minor and technical ones.

Consultation

The recommendations in this report reflect the experience of Elections Canada in administering an election across a vast and diverse country, not only during the 42nd general election but also in the years leading up to it. The recommendations come from both the experience of Elections Canada staff and the complaints and comments received from electors, election workers, candidates, parties and others.

To verify the problems being addressed and that the proposed solutions met the concerns of those affected, Elections Canada carried out a series of consultations with returning officers (ROs), political parties, disability advocates, the Assembly of First Nations, youth groups and others. Their comments and views were considered in the development of this report.

The Broadcasting Arbitrator and members of the broadcasting industry were also consulted in the development of recommendations on paid and free broadcasting time during an election period, as was the Canadian Armed Forces with respect to recommendations on voting by Canadian Forces electors.

Finally, both the Commissioner of Canada Elections (Commissioner) and the Canadian Radio-television and Telecommunications Commission (CRTC) were consulted in the development of this report, since each of these entities also has specific responsibilities under the Act. The Chief Electoral Officer is pleased to support several recommendations they have suggested for the better administration of the Act.

Chapter 1—Modernizing Canada's Electoral Process

Overview

The essentials of the framework of the federal electoral process have been in place for well over a hundred years. Unsurprisingly, that framework mostly reflects the realities of a century ago. It is a paper-based and highly decentralized process, assuming teams of autonomous workers in remote communities functioning based on clear instructions, with little centralized oversight or guidance.

The basic framework is well known. The country is geographically divided into electoral districts. The RO for each electoral district is responsible for running the election in that district. The electoral districts are geographically divided into polling divisions. All electors living in a polling division vote at the polling station established for that polling division. The polling station is staffed by two election officers, the deputy returning officer (DRO) and the poll clerk, each of whom has clearly defined duties. The DRO is responsible for running the polling station.

The Act creates rules that are to be consistently applied. In some cases the Act is clear almost to a fault, prescribing processes and practices that are far more detailed than is commonly found in legislation. There are at least two explanations as to why this is. First, the highly contested nature of elections makes clear and consistent rules desirable. ROs were, until 2007, government appointees, and DROs and poll clerks have long been appointed on the basis of partisan recommendations. Reducing the discretion available to these officers was therefore important for ensuring public confidence in the integrity of elections.

The second explanation for a highly prescriptive approach is that the Act reflects the era in which it was first enacted. At that time, Canada was a much more rural country with vastly less communicative capacity than today. Elections were time limited and highly contested. If ROs or DROs were unsure about the application of a rule to a particular situation, they could not simply pick up the phone and ask someone at Elections Canada headquarters or in the RO office how to resolve the situation. They were on their own.

The current framework of the Act has served its purpose. The electoral process it outlines is understood and rarely contested in Canada. But its prescriptive nature is not without drawbacks. Efforts to modify the process to keep up with changing technology or expectations of electors and election workers are often stifled because of the prescriptiveness of the law.

The recent external audit by PricewaterhouseCoopers concluded that errors made by poll workers during the voting process could be minimized by streamlining existing processes, including through the use of technology. This report presents an opportunity to outline ways to reduce the prescriptiveness in the voting system and favour a results-based approach that allows for greater flexibility and responsiveness without sacrificing the integrity and certainty provided for in the Act.

The recommendations in this chapter are all related in some way to the electoral process. First, amendments are suggested to enable Elections Canada to introduce important improvements to voting operations. Second, changes are proposed to improve voter education, registration and

identification, accessibility for electors with disabilities, voting other than on polling day and offences relating to voter fraud. Third, certain amendments are suggested to the length of the election period and the timing of polling day. Fourth, a series of amendments are recommended to the process for appointing election officers to permit timely hiring and training of key personnel. And finally, potential improvements to the nomination process for candidates are identified.

1.1. Voting Services Modernization

The voting process set out in the Act is highly prescriptive with respect to who performs what tasks and how those tasks are to be performed. As technology evolves, however, new ways of achieving the goals of the Act (including accessibility, integrity and secrecy) can be implemented. In some cases, the prescriptiveness of the current law acts as a barrier to solutions that could better achieve those goals. Furthermore, as expectations in the community change, it is important for Elections Canada to be able to adapt the processes and add technology to meet those evolving expectations while preserving essential controls.

To this end, Elections Canada intends to propose changes to voting operations that can be put in place at polling stations by the 43rd general election. These changes would increase the accessibility, convenience and efficiency of voting while preserving the safeguards that give Canadians confidence in the electoral process.

For example, electors currently voting in a central polling place must go to the specific table set up for their polling division. The new approach would involve a central polling place that gives electors more options and makes better use of election personnel. Electors could go to any table in a central polling place and, upon proving their name and address, present their voter information card (VIC) containing a bar code and have their name immediately marked electronically to indicate that they received a ballot. Electronic forms could be used for those electors seeking to register on polling day, and an electronic poll book could keep track of all exceptional procedures. These changes are in line with the recommendations of the recent external audit performed by PricewaterhouseCoopers as well as approaches being taken in various provinces and territories.[1]

This new approach to the voting process would make record keeping easier and decrease reliance on paper documents and archaic manual processes at the polls. Polling place organization could be calibrated depending upon the polling place's size and location, with the work being distributed appropriately so election officers are better able to respond to the flow of electors throughout the day. Election officers could each specialize in only certain tasks and could be trained appropriately for those tasks without necessarily having to master the full range of polling day procedures prescribed in the Act (as is currently the case for the DRO). In addition to improving service to electors, these changes would help to reduce the errors made by election officers in executing polling day procedures, as noted in the recommendations made in the external audit report.

[1] Report of the external audit conducted pursuant to section 164.1 of the Act by PricewaterhouseCoopers. The report, entitled *Elections Canada: Independent Audit Report on the Performance of the Duties and Functions of Election Officials – 42nd General Election* (2016), is included as Appendix 2 in the Chief Electoral Officer's retrospective report published earlier this month. See also *Proposal for a Technology-Enabled Staffing Model for Ontario Provincial Elections: Post-Event Report: Whitby–Oshawa By-Election* (Elections Ontario, 2016) and *Report of the Chief Electoral Officer on the May 5, 2015 Provincial General Election*, "Section 4: Recommendations" (Elections Alberta, 2016).

However, the Chief Electoral Officer cannot implement this new voting model unless certain amendments to the Act are made with respect to polling procedures. These include revisiting the link between the functions prescribed in the Act and the individuals to whom they are assigned. It is recommended that the Act instead allow ROs flexibility in assigning their personnel to complete the various tasks required, based on instructions from the Chief Electoral Officer.

An additional amendment is needed to permit electors to vote at a place other than the table assigned to their polling division, currently known as their polling station. Instead, it is recommended that the notion of polling station be expanded to encompass the entire space where voting takes place, which may or may not include several polling divisions. This would allow for different approaches to the organization of the polling place (or polling station, as redefined) to maximize efficiency while preserving integrity. If Parliament deems it necessary, the Act could continue to allow votes to be counted on the basis of polling divisions.

While straightforward in principle, these changes will require amendments to many existing provisions in the Act. These amendments are recommended not simply to replace one prescriptive voting model with another, but instead to allow flexibility while at the same time preserving essential safeguards. **[Recommendations A1, A2, A3, A4]**

1.2. Other Electoral Service Improvements

Voter education

In 2014, the mandate of the Chief Electoral Officer to conduct education and information programs was restricted to those aimed only at primary and secondary school students. This is an unusual restriction on an election administrator, considering the powers of other electoral management bodies, and it impedes the ability of Elections Canada to promote civic education. While civic education for youth is obviously important, it is not less important for electors who lack the basic knowledge about democracy. Research shows that knowledge built through education has a material impact on positive participation in the democratic process.

In addition to continuing to provide information to Canadians about where, when and ways to vote and become a candidate, it is recommended that the Chief Electoral Officer's previous public education and information mandate be restored. **[Recommendation A5]**

Registration of electors

The registration of electors prior to polling day used to be conducted via enumeration. At every election, teams of enumerators would go door-to-door to establish a list of eligible electors. In 1996, Parliament moved to establish a permanent voters list called the National Register of Electors (NROE). The NROE forms the core of the voters lists to be used during the election. It is maintained and updated from information provided through a variety of sources, including the provinces and territories; other federal departments; and electors, who provide information both on paper and, increasingly, online.

Elections Canada is constantly seeking to improve the coverage, currency and accuracy of the NROE. Better voters lists help all participants in the electoral process: electors will receive accurate information from Elections Canada; candidates will be able to contact electors; and Elections Canada and ROs will be able to invest less time and resources into manually registering electors during the election period and at the polls. Registering electors on polling day involves a complex procedure for poll workers that can result in administrative errors. Perhaps more importantly, an accurate list allows for better planning of the entire logistical operation of the election, including the size and location of polling divisions, their staffing and supplies, the location of polling places and other matters.

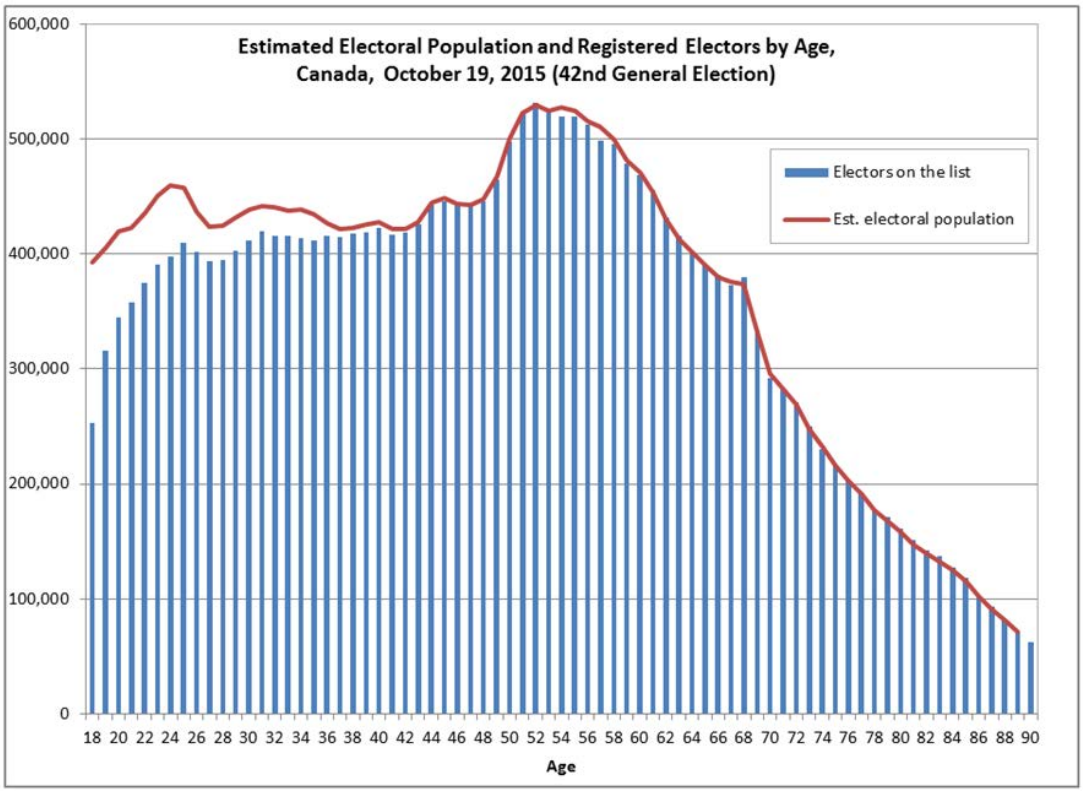
Registering new, young electors on the NROE promptly once they turn 18 is a continual challenge. Driver's licence information provided by the provinces and territories is helpful in this regard, but the information may not come from these sources in time for a general election and does not help with the registration of non-drivers.

Figure 1 below shows the challenge Elections Canada experiences in ensuring that youth aged 18 to 34 are registered. Data from the last general election shows that the gap between the estimated number of electors and the number of electors who were registered is highest for 18-year-olds and then gradually decreases. Beyond age 34, there is very little gap between the electoral population and coverage on the voters list. Despite Elections Canada's successful outreach during the election period to youth aged 18 to 34, this group remained under-represented on voters lists when compared to other age groups.

In this regard, Elections Canada would benefit greatly by being able to collect information about youth, for example those aged 16 and 17, so that they could be activated as electors on the NROE, with their consent, when they turn 18.

The authority to collect such information would allow Elections Canada to retain relevant information about these individuals from institutions already sharing information with Elections Canada. It would also permit the agency to conduct registration drives in schools or other institutions to encourage young people to register in advance and therefore be ready to vote as soon as they turn 18. Pre-registration of youth exists in several Canadian provinces, in a number of US states and in countries such as the United Kingdom, New Zealand, Portugal and France. It is time to implement it in Canada. **[Recommendation A6]**

Figure 1—Estimated Electoral Population and Registered Electors by Age



Another important recommendation to improve the accuracy of the information in the NROE is to grant authority to Immigration, Refugees and Citizenship Canada (IRCC) to share citizenship data with Elections Canada.

Although there is no single repository of citizenship information in Canada, IRCC has information on non-citizens residing in the country that would help Elections Canada ensure that only citizens are included in the NROE. Internal studies have indicated that approximately 0.2 percent of individuals in the NROE are potentially not Canadian citizens. Having access to non-citizen data would allow Elections Canada to identify and remove these individuals from the NROE on an ongoing basis. Elections Canada could also compare it with data from other sources to confirm the accuracy of the entries in the NROE. **[Recommendation A7]**

Voter identification at the polls

Since 2007, electors have been required to prove their identity and address in order to vote. Currently, this can be done in one of three ways: by showing a piece of photo identification issued by a Canadian government that contains the elector's name and address; by showing two pieces of identification authorized by the Chief Electoral Officer, both of which show the elector's name and one of which shows the elector's address; or by showing two authorized pieces of identification with the elector's name, and having an attestor who resides in the same polling division attest to the first elector's name and address.

Most electors have no difficulty meeting the requirement to prove name and address when they go to vote; the vast majority rely on their driver's licence. However, evidence shows that for a significant minority of electors, the proof of address requirement is difficult to meet and, in some cases, presents a significant barrier to voting. This is particularly true with Aboriginal electors, youth, homeless electors and seniors living in long-term care facilities.

It was for this reason that the Chief Electoral Officer had previously authorized the use of the VIC by some of these electors as proof of address, in conjunction with another document proving identity, in several pilot projects in 2010 and 2011. Results were positive, demonstrating that use of the VIC as proof of address, together with another document proving identity, can be helpful to those electors who otherwise may have difficulty meeting the Act's requirements. It is therefore recommended that the prohibition on authorizing the VIC as a piece of identification to establish address be removed from the Act. **[Recommendation A8]**

The VIC can only be used by those who receive it; however, this does not include electors whose names are not in the NROE. For electors not in the NROE, if they do not have a piece of identification showing their current address (for example, if they recently moved), they must show two pieces of identification proving their identity and have another elector attest to their address.

The current attestation process seems unduly onerous. It is unclear why electors with no proof of address should be required to prove their identity with two separate documents. It is recommended that only one piece of identification be required in the case where an elector needs someone else to attest to his or her address.

In addition, the law places restrictions on the attestors. They must live in the same polling division as the attested elector and may only attest to the residence of one other person. The latter requirement means that a person cannot attest to the addresses of multiple family members who live at the same location, and the former adds an additional burden in the case of long-term care administrators who want to attest to the residence of a senior living in the building where they work, but which is not in their polling division.[2]

For these reasons, amendments are proposed to allow the Chief Electoral Officer to authorize multiple attestation in certain specific and limited situations, similar to his current statutory ability to authorize types of identification. Situations where multiple attestation might be authorized include attesting for more than one person in the attestor's family, or attesting for individuals living in the same residence or by an individual providing services at that residence. To make attestation in some of these situations easier, it is also recommended that the attestors not have to reside in the same polling division as the elector for whom they are attesting. **[Recommendation A9]**

Electors with disabilities

Electors with disabilities are a growing percentage of the voting population and face particular hurdles when seeking to cast their vote. Elections Canada has invested significant effort in recent years to improve access for these electors, working closely with its Advisory Group for Disability Issues.

[2] An example of this was seen in the contested election considered by the Supreme Court of Canada in *Opitz v. Wrzesnewskyj*, 2012 SCC 55. Several of the votes that were questioned were cast by residents of a long-term care facility, all of whose addresses were attested to by an employee of that facility.

Various tools and procedures are available at the polls to help electors with disabilities cast their vote in secret and as independently as possible.

But more can still be done. Currently the provisions allowing assistance at the polls are restricted to persons with physical disabilities and those who cannot read; assistance should be available to anyone who identifies as having a disability that might limit their ability to vote independently. In addition, the same assistance given to those who vote at the polls should be available to those who vote by special ballot in an RO office. **[Recommendation A10]** Transfer certificates, which can be used by electors with disabilities to permit them to vote at a polling station other than their own, should be more easily available. **[Recommendation A11]**

Voting at home is currently an option only for those who cannot leave their homes and also cannot mark a ballot as a result of a disability. It is recommended that this option be broadened to permit its use in the case of an elector with a disability who can leave home but whose polling location is not accessible. **[Recommendation A12]** In addition, "curbside voting" is suggested for those electors who, for reasons of disability, are unable to enter their polling place; an amendment should permit election officers to administer the voting process outside the polling place in certain defined circumstances, in the presence of candidates' representatives and with other attendant safeguards. **[Recommendation A13]**

As well, times have changed since the requirement of level access for polling places was included in the Act in 1992. In the 42nd general election, Elections Canada implemented a much broader set of criteria for the accessibility of polling places. This meant that a polling place that did not meet the 15 mandatory criteria for accessibility required approval from the Chief Electoral Officer before it could be used. It is recommended that the requirement for polling stations to be located where there is level access be amended to reflect this more comprehensive approach to physical accessibility of polling places, which is already in place. Polling places should be required in the Act to be accessible. This is a more modern notion than simply relying on level access, and it is time to bring the Act in line with Elections Canada's existing practices. **[Recommendation A14]**

Finally, many Canadians with disabilities use equipment and technology to address various barriers they face in participating in society. Whether such equipment and technology is suitable already, or could be made suitable, for voting purposes can be assessed through a pilot project conducted by Elections Canada. Certain restrictions exist in the Act on the parliamentary approvals required, however. Combined with the legislative prescriptiveness described earlier, the restrictions on conducting pilot projects send mixed signals at best about the introduction of technology in the voting process.

For many electors with disabilities, the use of technology is not a simple matter of convenience but one of respect, dignity and basic inclusiveness. This report consequently recommends increased flexibility for the Chief Electoral Officer in conducting pilot projects under the Act, and encourages Parliament to specifically require testing of technology in the voting process to benefit electors with disabilities. **[Recommendation A15]**

Voting other than on polling day: advance polls, special ballots

In the 42nd general election, almost one quarter of voters did not vote on polling day, but preferred to vote at advance polls (21 percent) or by special ballot (3 percent), either through the mail or at one of more than 400 local offices across the country. This is a growing trend over the last several general elections. It has also been observed in other democracies such as New Zealand, Australia and the United Kingdom, suggesting a common trend of electors seeking maximum convenience in voting.

Various legislative improvements can be brought to these alternative ways of voting to increase their efficiency and, in the case of special ballots, to make the process more coherent.

Advance polls

Opening advance polls at 9:00 a.m. rather than noon would align with electors' expectations that these polling stations operate on the same hours as the regular polls. Adopting this recommendation would, however, increase the cost of advance polls and the working hours of election officers. **[Recommendation A16]**

Streamlining advance poll processes would increase efficiency. Currently at least four separate controls are in place to identify electors voting at advance polls: they must provide satisfactory proof of their identity and address; their name is crossed off the voters list; their name and address is recorded; and they must sign the record of electors who have voted at the advance polls. Keeping three of these controls would be sufficient to ensure that a proper record is kept of those voting at advance polls and that integrity is maintained. In their external audit, PricewaterhouseCoopers specifically recommended streamlining procedures at advance polls for the benefit of electors.

Removing the signature requirement in particular will facilitate a faster process; this is especially true if technology is introduced in the future to maintain an electronic voters list at the polling station. A more efficient electronic process to locate the elector (for instance, by using a bar code on the VIC to find electors on the voters list and mark them as having voted) would help to reduce errors in crossing the wrong elector off the list. Even without an electronic list, eliminating the signature requirement would have a significant positive impact on the administration of advance polls, creating fewer delays and lineups. **[Recommendation A17]**

Another recommendation is to allow mobile polls, which currently may only be used on ordinary polling day and only at long-term care facilities, to be used for advance polls in certain low-density and isolated communities, where a full four-day advance polling period is not necessary and is difficult to staff. Rather than having one poll set up in a central location for the full four-day period, a mobile poll could travel the region, giving electors the opportunity to vote closer to home at a specific time during the advance polling period. ROs should be permitted to establish mobile advance polls of two or more locations in accordance with the instructions of the Chief Electoral Officer to better serve these communities. **[Recommendation A18]**

Special Voting Rules

The Special Voting Rules, which were enacted in their modern form in 1993, are found in Part 11 of the Act. These rules provide a method of voting for certain electors who may not be able to vote at the advance polls or on polling day, including electors with disabilities, electors temporarily residing outside Canada, electors away from home, members of the Canadian Forces and incarcerated electors. As well, any elector residing in Canada who is unable or does not wish to vote at the advance or ordinary polls may vote by special ballot.

The Special Voting Rules are intended to enfranchise electors, yet they do not always achieve this effectively due to their very prescriptive nature. Some of the provisions are simply unnecessary or unnecessarily complicated. The level of detail in the rules and the fact that, in many instances, they contemplate paper-based processes make it difficult for Elections Canada to take advantage of new technologies.

The recommendations in this report are intended to simplify and modernize the Special Voting Rules in order to enfranchise electors and, where possible, to move away from paper-based registration and record-keeping processes. Notably, it is recommended that electors who apply online for their special ballot be permitted to download an electronic copy of the ballot, which they could print, complete, insert in a double envelope and return to Elections Canada for counting. This would mean that these electors would not have to wait for a special ballot kit by mail, thereby increasing the likelihood that their ballots will reach Elections Canada on time to be counted.[3] Elections Canada is working on this initiative, but legislative change is required for its full implementation. **[Recommendation A19]**

Clarifying ballot offences

While the recommendations described above are designed to increase and simplify access to the vote, the importance of the integrity of the process can never be forgotten. As noted above, when making changes to voting procedures, it is important to retain the controls that ensure integrity in the outcome. In this respect, the current organization of the provisions relating to ballot secrecy and other voting prohibitions could be improved. It is recommended that these provisions be streamlined and grouped together, and any duplication removed. In addition, the Commissioner has suggested certain textual changes to enable more effective investigation and prosecution of offenders who vote while not qualified, and to ensure that a clear, enforceable prohibition exists on taking “ballot selfies.” Preventing a person from photographing a marked ballot is an essential safeguard against bribery in the voting process. **[Recommendation A20]**

[3] In the 42nd general election, 6.5 percent of special ballots (3,229) were returned after the deadline and were therefore not counted. In the 41st general election, the proportion of ballots not returned in time to be counted was 7.8 percent (1,825).

1.3. Election Timing

Fixed election period

In 2007, Parliament passed legislation that amended the Act to set a fixed date on which elections are to take place every four years. Review of the parliamentary debates reveals that one of the main objectives of fixing the date of the election was to improve transparency and fairness in the electoral process by eliminating the governing party's ability to use the timing of elections for partisan advantage. A fixed date was also expected to have significant administrative benefits, allowing Elections Canada and ROs to prepare effectively in anticipation of the election call.

The absence of a maximum period for the election, however, combined with the fact that spending limits for parties and candidates are prorated to the length of the campaign, can compromise the level playing field by favouring campaigns that have access to more resources.

The benefits of a fixed election date did not fully materialize with the 42nd general election because of the unusually long (78 days) election period. The mid-summer election call was a surprise to many electoral participants and may have been seen by some as giving an unfair advantage to the governing party at the outset. ROs faced additional staffing pressures and were deprived of the anticipated preparatory period.

Imposing a maximum limit on the election period (for example 45 or 50 days) in conjunction with the fixed election date would create a greater measure of predictability for all electoral participants as the fixed date approaches and would better accomplish the goal of a fixed election date. **[Recommendation A21]**

Polling day

As has been the case for many years, polling day at the 42nd general election was on a Monday. Having polling day on a weekday has a number of consequences. Polls must be open before and after work to give people sufficient time to vote. This means that, for long periods of the day, the poll may be nearly empty and then there is a large rush at the end of the day, which, given the inflexibility of the present process, leads to problems for poll workers and frustration and delays for electors. Having polling day on a weekday also greatly reduces the number of qualified personnel available to operate polling stations.

Australia, New Zealand and a number of European countries have their polling day on a weekend, and Canada should consider a similar move. Weekend polling may make the vote more accessible for some Canadian electors—although it should be noted that Elections Canada's consultation with electors with disabilities underlined the importance of para-transportation services being available on a weekend polling day, were this change to be made.

Weekend voting would also increase the availability of qualified personnel to operate polling stations and of accessible buildings, such as schools and municipal offices, for use as polling places. While schools can present ideal locations for voting, concerns about student safety make it increasingly difficult for ROs to obtain access to schools for voting while students are on the premises. For all these reasons, Elections Canada believes that having polling day on a weekend would better serve Canadians. **[Recommendation A22]**

1.4. Hiring Election Workers

The success of the voting process is dependent in large part on the work of tens of thousands of Canadians who work on polling day and in the days and weeks leading up to polling day. These workers provide the fundamental services that allow the election to take place. Those who work on polling day must work very long hours (14 hours or more), with few or no breaks. The dedication of these hard-working Canadians allows our electoral process to function as smoothly as it does.

The conduct of the 42nd general election required a total of 285,000 election workers. Increasingly, finding sufficient, qualified staff to perform all the required duties is difficult for ROs. There are several reasons for this. Polling day is during the week (as are two of the advance poll days), so the pool of available workers does not include those who are unavailable on weekdays. Furthermore, as noted, the hours are long and the work is difficult and complex. Because of these factors, after working as an election officer at one election, people often choose not to work at a subsequent election.

ROs are also restricted by the terms of the Act as to whom they may hire. Many positions (DROs, poll clerks, registration officers and revising agents) may only be staffed once candidates or parties have recommended individuals to fill them, but candidates and parties are recommending increasingly fewer people to staff these positions. Furthermore, many positions are restricted to those who are 18 years of age and live in the electoral district, unless authorized by the Chief Electoral Officer.

The recent experience of Elections Canada is that, where exceptions have been made to hire youth aged 16 and 17, these youth have proven to be highly effective and dedicated workers. Furthermore, while elections do have a local character and it is helpful for election workers to know their community, this is not as important as it once was and is certainly not essential for some positions. It makes little sense to prevent an RO from hiring a desperately needed, qualified person just because he or she happens to live on the other side of an electoral district boundary.

Recommendations are therefore included in this report to permit the hiring of election workers from outside the electoral district and the appointment of persons under 18 years of age. **[Recommendations A23, A24]** More significantly, it is recommended that provisions in the Act requiring election positions to be staffed first by partisan nominees be eliminated. **[Recommendation A25]** There should be nothing to prevent parties from continuing to recommend people as election officers, but the delay created for ROs in having to wait for these nominations prior to doing any other hiring is an undue restriction on their ability to staff effectively. Being able to hire earlier in the electoral calendar would also help in the planning and delivery of training for election personnel.

The recommendations in this section should be considered in conjunction with Recommendation A1, discussed in section 1.1 above. Many of the recommendations complement the proposal to make the appointment of and the assignment of duties to election officers more flexible. Increasing flexibility in the assignment of duties to election officers would also improve working conditions by allowing for regular breaks and potentially limiting the number of consecutive hours of work for any one election officer.

1.5. Candidates

Candidate nomination process

Under the Act, nominations of candidates must be confirmed by the RO. The nomination paper contains a number of elements, including the signature of a witness to the candidate's consent to candidacy and the signatures of 100 (or in some cases 50) electors. The candidate is not allowed to file his or her own nomination paper; rather, it must be filed by the witness.

Many aspects of the existing nomination process reflect a view of candidacy that is out of step with modern approaches. The requirement for a witness to file the document suggests that the candidate is only reluctantly accepting the nomination. Moreover, the obligation to obtain signatures from electors acts as a barrier to people exercising their constitutionally guaranteed right to be a candidate. The requirement to meet these formal conditions also imposes an out-of-proportion burden on ROs and their staff at a time when they should be focused on completing the myriad of other key tasks involved in organizing an election.

The benefit of requiring prospective candidates to collect 100 signatures is marginal at best. The signatures do not represent support for the candidate. All that is required to sign the nomination paper is that the person reside in the candidate's electoral district. In fact, candidates can obtain signatures by going to public locations such as malls or community centres, and the signatures obtained do not necessarily equate to votes at the polls. As well, verifying the names and addresses of 100 electors to confirm that they reside in the electoral district is a time-consuming task for ROs and delays the confirmation of the candidate's nomination.

The requirement that the person must file the nomination paper in person at the RO office is a further barrier to candidacy. Parliament has recognized in the past that this is problematic and, in 1993, put in place an electronic filing process. The idea was to deal with situations in large electoral districts where it was difficult for a witness to physically get to the RO office. However, at the time, "electronic" filing meant filing by fax, and the statutory provision is written based on this assumption; it does not reflect the idea of electronic filing as it is understood in 2016.

The current fax process also creates inconsistencies in the law. When filing in person, the witness must sign a declaration in front of the RO; however, there is no such requirement for a person who files by fax. This leads to the absurd reality that if the wrong person shows up to file the nomination paper at the RO office, he or she may solve the problem by walking next door to a place with a fax machine and sending the paper by fax.

To remove unnecessary barriers to candidacy and lighten the administrative burden both on campaigns and election workers, Elections Canada is now working on the creation of a new electronic portal on its website that would allow candidates to file their nomination papers online. The aim is to make the candidate nomination process easier, both for the candidates and the ROs, and to make electronic filing the primary method for filing nomination papers.

In order to maximize the potential of this initiative and remove the archaic and unnecessary barriers to candidacy described above, it is time to modernize and simplify the candidate nomination process more generally. **[Recommendation A26]**

Candidate identification

One further recommendation related to candidacy is a new requirement for candidates to show identification to establish that they are the person who they claim to be. Although electors have been required since 2007 to show identification, no similar obligation has been placed on candidates. In recent elections, candidates have been listed on the ballot under a name that is not their own. The current provisions dealing with nicknames do not offer clear guidance to prospective candidates or ROs as to what names should be allowed. It is therefore proposed that prospective candidates be required to provide proof of identity with their nomination paper, as prescribed by the Chief Electoral Officer. **[Recommendation A27]**

Chapter 2—Improving the Political Finance Regulatory Regime

Overview

The regulatory regime governing political financing and advertising by political entities and third parties is a different sort of administrative regime than the one governing the voting process and serves a number of distinct objectives.

First, the Act aims to make the financial transactions of those seeking political office transparent. Participants must report on their financial transactions, and those reports are published by Elections Canada. This transparency reduces the likelihood of malfeasance by allowing public scrutiny of the financial transactions of competitors for public office.

Second, the Act seeks to level the playing field among various competitors for public office. This is achieved primarily through spending limits on parties, candidates and nomination contestants, and by controlling some spending of third parties. The Act also contains provisions to allocate broadcasting time among parties and ensure the media's equal treatment of participants in this regard.

In recent years, Parliament has added contribution limits to the Act to further limit the influence of money in the system and to level the playing field between those who may have well-resourced supporters and those who may not. By eliminating the possibility of large donations, the contribution limits also work to control the perception of and actual undue influence.

Third, the Act aims to reduce barriers to participation through public subsidies. Subsidies are available in different forms: a tax credit for certain contributions; a direct reimbursement of certain expenses for some parties and candidates; and a subsidy for auditors who perform mandatory audits of campaign returns and the annual returns of registered EDAs. The Act also provides for an allocation of free broadcasting time to registered parties during the election period.

This chapter discusses ways to improve the link between the political finance regulatory regime and the goals of the Act. The first section outlines how to better ensure compliance with the regime. If the tools available to ensure compliance are ineffective, then the goals of the regime cannot be achieved. The Act at present focuses on criminal sanctions to promote compliance. However, as has been increasingly recognized in other federal statutes, criminal sanctions are less effective than administrative tools in achieving the goals of a complex administrative scheme. For this reason, a regime of administrative monetary penalties (AMPs) is proposed for the political finance regulatory regime. The second section of this chapter proposes changes to other elements of the Act where the current law is not fully achieving its goals because of technological or other changes that have occurred since the provisions were first put in place.

2.1. Modernizing Compliance

Administrative monetary penalties

Over the last decade, the complexity and scope of the political finance regulatory regime have grown considerably. Despite this, the Act includes very few administrative compliance mechanisms, as would normally be expected in a regulatory context. Instead, enforcement of the Act is based almost entirely on a traditional, and costly, criminal approach: prosecution, or its possibility, remains the principal enforcement tool. In many cases of non-compliant activity, however, neither the degree of harm caused to the electoral process nor the nature of the wrongdoing merit the stigma of prosecution in criminal courts. As an example, filing a return only a few days after its due date constitutes an offence under the Act. While late filing harms the goal of transparency, the solution to such non-compliance is not a criminal prosecution.

The length of time involved in the criminal prosecution of a matter must also be taken into account. The process is necessarily lengthy because a full investigation needs to be conducted by the Commissioner after the completion of the internal Elections Canada audit process—a process that already takes several months to complete after an electoral event. Only once the Commissioner has conducted his own investigation and concluded on the basis of the evidence that there are reasonable grounds to believe an offence has occurred and that sufficient admissible proof exists can he recommend to the Director of Public Prosecutions (DPP) that charges be laid.

The DPP will also take the time needed to review the evidence and assess whether proceeding with a prosecution is in the public interest. By the time a charge is laid, it may be several years since the event in question, yet the court process is only beginning. Such a lengthy period can lead to a perception of justice delayed and also fosters a sense of unfairness among electoral participants, who may feel that they are in limbo as the process unfolds. Moreover, the deterrent effect for other participants in the electoral process may be diminished by the passage of time.

Currently, the only alternative to prosecution under the Act is a compliance agreement negotiated with the Commissioner. This mechanism, however, is only available to the Commissioner as an alternative to prosecution after he has concluded that reasonable grounds exist to believe an offence has been committed. It is therefore not an administrative sanction in the typical sense, existing outside the criminal court process.

AMPs, by contrast, are legislated regimes in which the failure to comply with a prescribed prohibition or requirement is established by an administrative, rather than judicial, process. In AMPs regimes, an official of the regulatory body is authorized to determine that a person or entity has contravened the law and to order the payment of a monetary penalty as a consequence. No resort to a court is required before an AMP can be ordered, although judicial review may take place after the fact.

The purpose of AMPs is to promote compliance with a regulatory regime by creating an incentive to comply—to avoid incurring a monetary penalty. The use of AMPs is a more efficient, immediate and, in many cases, effective tool to achieve compliance than the possibility of a future prosecution. It is also less stigmatizing and punitive than a prosecution in criminal courts, as individuals or entities subject to an AMP will not face the possibility of a criminal record or imprisonment. AMPs, therefore, help to provide a broader range of appropriate enforcement responses to unlawful conduct.

AMPs already exist in a wide variety of Canadian statutes and regulations. They were introduced in 1995 in the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, S.C. 1995, c. 40, and are now used in many federal regulatory regimes. Notable examples include the *Telecommunications Act*, S.C. 1993, c. 38 (re: the CRTC), the *Conflict of Interest Act*, S.C. 2006, c. 9 (re: the Conflict of Interest and Ethics Commissioner) and the *Consumer Products Safety Act*, S.C. 2010, c. 21. Also, in 2012, an AMPs regime was added to Alberta's *Election Act*.

It is time to include AMPs in the Act. **[Recommendation A28]** Their inclusion is recommended for Parts 16, 17 and 18,[4] which address political financing and communications. These Parts of the Act correspond most to a traditional regulatory regime, with obligations being imposed on actors who choose to enter into a regulated area. In many cases, the ability to enforce these obligations is not particularly well served by a criminal enforcement regime, for the reasons set out above.

Adding AMPs to the political finance regulatory regime would provide an alternative, timely and effective administrative tool to deter non-compliance and assist in efficient regulation. It is a recommendation that is supported by the Commissioner. In the future, AMPs could also be added to other parts of the Act, but it seems sensible to introduce them first in the area where there is the most obvious rationale and they are likely to have the greatest impact.

To implement AMPs, the Chief Electoral Officer would need to develop a set of criteria for determining when to issue an AMP, as opposed to referring a matter to the Commissioner for investigation. The Chief Electoral Officer would also need to identify a set of criteria for determining the amount of the AMP to be imposed, up to a maximum set out in the Act (e.g. $5,000).[5] These criteria could be issued, after appropriate consultation with the members of the Advisory Committee of Political Parties and the Commissioner, as guidelines on the application of the Act to political entities pursuant to section 16.1.

It is proposed that the following process be set out in the Act to be applied in cases where an AMP is selected as the appropriate compliance mechanism. The components listed in this process are those typically found in existing federal AMPs regimes, with variations.

1. A notice of violation would be issued to an identified individual or entity by a designated Elections Canada official, when reasonable grounds exist to believe that the individual or entity has contravened the Act.

2. The notice of violation would name the individual or entity believed to have committed the violation, identify the relevant legislative provision, identify the non-compliant conduct with the supporting information and indicate the amount of the monetary penalty imposed.

[4] Part 16.1 of the Act, which addresses voter contact calling and is administered by the CRTC, should be exempt from the new AMPs regime. These provisions are already covered by AMPs under the *Telecommunications Act*.

[5] In line with other legislative schemes, certain factors could be taken into account, such as the compliance history of the persons involved; the advantage they obtained from the non-compliance; their level of familiarity with the electoral process; whether they made reasonable efforts to mitigate or reverse the effects of the violation; whether they provided all reasonable assistance to Elections Canada with respect to the violation, including voluntarily reporting it and providing all relevant documentation; whether they have taken steps to avoid a recurrence of the violation in the future; and the level of negligence they demonstrated.

3. Within a prescribed time period, the individual or entity served with the notice could pay the penalty, thus bringing the matter to an end, or make written representations challenging the finding of a violation and/or the imposition of the penalty amount to a different, more senior official within Elections Canada, designated as the review officer.

4. The review officer would review the proposed decision to impose the AMP, taking into consideration any new information provided within 30 days by the individual or entity involved, and would decide whether to confirm the imposition of the proposed AMP or instead to impose a different (or no) penalty.

5. If no review is requested, or following the review process, once a final AMP is imposed, the imposition of the AMP and the reason for it would be made public, including identification of the individual or entity involved. This is consistent with Parliament's objective to maintain public confidence in the integrity of the political finance regulatory regime.

6. The Act should also set out that an unpaid AMP is a debt to the Crown, recoverable according to established practices. This is a common feature in existing AMPs schemes.

7. Finally, the imposition of an AMP would not be subject to appeal but would, like other discretionary decisions by federal entities, be subject to judicial review in the Federal Court according to the terms of the *Federal Courts Act*.

An AMPs system for Parts 16, 17 and 18 of the Act could be administered by Elections Canada as a complement to the audit function. It would not be necessary to create any new political financing obligations or prohibitions in the Act to provide for AMPs. Instead, contravention of specified existing requirements or prohibitions in Parts 16, 17 and 18 could be designated as violations, which could trigger the authority to apply an AMP in appropriate circumstances, as an alternative to the possibility of prosecution in criminal courts. Sections 495 to 497.5 of the Act currently list which contraventions of provisions in these Parts constitute offences. A similar list of contraventions could be developed that, if proven according to a civil standard, constitute violations leading to the imposition of an AMP.[6]

Electoral district associations

In 2004, EDAs were brought into the political finance regulatory regime of the Act, closing what had been referred to as a "black hole" in transparency. However, while transparency has improved, some EDAs still do not submit their reports. This is especially true of EDAs that have been deregistered. These EDAs are required to file any outstanding financial returns, but they do not always do so.[7] And, in some cases, despite not having filed a return, the same, or a very similar, group will apply to be registered as a new EDA shortly after being deregistered.

In 2010, Elections Canada recommended that EDAs that fail to file the required returns be prevented from re-registering for four years. The House of Commons Standing Committee on Procedure and House Affairs agreed with a two-year ban, but no change was included in amendments made to the Act in 2014. This report suggests a more calibrated approach. EDAs that do not file their required

[6] Whether or not the contravention had occurred would be decided on a balance of probabilities. A defence of due diligence would be provided, so that persons who exercise all due care to avoid violating the Act would not be liable. In addition, other common law excuses and justifications would apply.

[7] From 2010 to 2014, 411 EDAs were deregistered for various reasons. In 120 cases, the returns were filed after the six-month deadline and, in 40 cases, no return was filed.

returns should lose the right to issue tax receipts for contributions, either until the filing is made (in the case of EDAs that remain registered) or for four years (in the case of deregistered EDAs, applicable to their successor). In addition, a new EDA should not be able to register with assets from unknown sources; at registration, an EDA should be required to report the source of all contributions or transfers to its bank account. **[Recommendation A29]**

Auditors and official agents

The roles of the official agent and auditor of a candidate would also benefit from amendments. The official agent is responsible for conducting and reporting on all of the candidate's financial transactions. Capable official agents ensure that the requirements of the law are met and produce timely returns that ensure transparency. The auditor appointed by the candidate audits the return prepared by the official agent and provides a level of scrutiny to the financial documents produced by the official agent.

The Act has evolved a great deal since the roles of official agent and auditor were first established. The job of the official agent has become much more complicated and includes a great deal of responsibility. Timely filing of candidate returns is dependent upon the official agent's work, and compliance with the law by the campaign is in large part dependent upon the official agent's knowledge of the requirements and ability to keep the other members of the campaign team informed.

Increasingly, and by contrast, the role of the external auditor has become less important. Elections Canada conducts its own review of submitted returns to ensure transparency and eligibility for public subsidies and, in many cases, a large number of changes must still be made to returns in order to comply with the Act, even after review by an external auditor. This is largely because the role of the external auditor is to look at a narrow aspect of the return—a financial audit—as opposed to conducting an audit of the compliance of the return with the law, which is performed by Elections Canada.

It is also noteworthy that in a high percentage of the returns that are filed late, the delay is because the auditor had trouble finding time to conduct the review. This is especially true when the returns are due during tax season, as they were after the most recent election.

Because of the diminishing importance of the auditor in achieving compliance and transparency, Elections Canada is recommending again, as in 2010, that the obligation for candidates to obtain an auditor's report on their returns be limited to those candidates who incur expenses or receive contributions of $10,000 or more. This is currently the case for nomination contestants. Table 1 provides information as to how many campaigns would have required auditors in the last election if this threshold had been applied.

Alongside the adoption of this threshold, an amendment is also recommended to increase the subsidy for a candidate's auditor, which has not been adjusted for inflation since 2003. **[Recommendation A30]**

Table 1—Candidates in the 42nd General Election—Effect of $5,000 and $10,000 Thresholds on Number of External Audits Required			
	No threshold (current law)	$5,000 threshold	$10,000 threshold
Qualified for reimbursement	984	984	984
Did not qualify for reimbursement but required audit	816	218	127
Total audits required	1,800	1,202	1,111
Total audits no longer required		598	689

Audit required if contributions or electoral campaign expenses less transfers out exceed the applicable threshold.

Data as of July 13, 2016: subject to change.

Finally, given the key role of the official agent, it is recommended that a public subsidy (such as is available to auditors) also be provided to official agents. The payment of the subsidy would be contingent upon timely filing of the return and the completion of certain training as directed by the Chief Electoral Officer. The amount of the subsidy could also depend on the volume of transactions contained in the return. The following table provides an estimate of the costs associated with this recommendation. **[Recommendation A31]**

Table 2—Estimated Costs of Proposed Official Agent Subsidy at Different Levels of Compliance	
Compliance rates	**Total estimated cost of subsidy**
100% of candidates	$1,633,929
90% of candidates	$1,470,536
80% of candidates	$1,307,143
70% of candidates	$1,143,750
60% of candidates	$980,357
50% of candidates	$816,964

Subsidy at 3% of campaign expenses to a maximum of $3,000.

Based on candidate returns from 41st general election (36 days).

Federal Court

Another recommendation regarding compliance pertains to judicial procedures that relate to requests for extensions and corrections by regulated entities. At present, the Act requires these procedures to take place in provincial superior courts. This may result in inconsistent jurisprudence among provinces in matters under the Act and limits the development of judicial expertise in the subject matter.

To address these issues, it is recommended that Parliament consider transferring the adjudication of the application of political financing provisions to the Federal Court, including applications for an extension of filing deadlines for financial returns and for authorizations to correct documents related to financial reporting obligations. **[Recommendation A32]** The Court's role in this respect would be

complemented by its statutory responsibility to hear judicial review applications of decisions made by the Chief Electoral Officer in an AMPs regime, were that recommendation also to be adopted.

Commissioner of Canada Elections

The introduction of AMPs would allow the Commissioner to focus investigations on the most serious political financing offenders, alongside the investigation and enforcement of all other electoral offences.

Certain other amendments to the Act are required for the Commissioner to do his job more effectively. Previously, both the Commissioner and the Chief Electoral Officer recommended that the Commissioner be given the power to apply to a court for an order to compel testimony in his investigation of election offences, with appropriate safeguards to ensure compliance with the *Canadian Charter of Rights and Freedoms*, including protection against self-incrimination, a statutory recognition of the right to counsel and a requirement for the examination to be conducted in private. This requirement remains as pressing today for the effective investigation of offences as it was when originally proposed. **[Recommendation A33]**

The Commissioner has also requested that he be granted the power to lay a charge on his own initiative, as is the case for the police and almost all federal regulatory investigators, instead of having to first obtain authorization from the DPP to do so. For the vast majority of federal offences, the investigator is the one to lay the charge and the DPP is the one to prosecute. The Commissioner has recommended the same process be followed for election offences, and the DPP has no objection to the adoption of this model under the Act. The Chief Electoral Officer also supports it. **[Recommendation A34]**

Finally, the Commissioner has requested that the Act's provisions on compliance agreements be reviewed to make them more useful as a means of dealing with offenders. Specifically, the Commissioner would like the authority to negotiate broader terms and sanctions with a contracting party. **[Recommendation A35]**

2.2. Other Amendments to Better Accomplish the Goals of the Regulatory Regime

This part proposes several additional amendments designed to better accomplish the goals of the political finance regulatory regime set out above, which include promoting transparency, ensuring a level playing field and reducing barriers to participation. In each of the specific instances identified below, Elections Canada's experience in administering the Act has revealed that the current provisions fall short of achieving the goals of the legislation.

Definition of leadership and nomination campaign expenses

A key area where the overall goals of the political finance regulatory regime are not well served is with respect to the regulation of leadership and nomination contests. The difficulties stem from the definition of "leadership campaign expenses" and "nomination campaign expenses." These definitions contain drafting deficiencies that have major impacts on the coherence of the regime. The problems are set out in detail in Elections Canada's Interpretation Note 2014-01, *Definition of Leadership*

Campaign Expenses and Nomination Campaign Expenses from August 2015. In short, the particular drafting of these definitions impedes the coherent regulation of leadership and nomination campaigns both in terms of expenses and contributions.

Under the Act, only leadership and nomination campaign expenses *incurred during* the contest period are regulated. This is different from candidate campaigns, where two types of expenses are regulated: those for goods and services that are *used during* the campaign to promote the candidate and, more broadly, all of those *incurred as an incidence* of the campaign. In either case, it does not matter when the expense was incurred. The candidate regime works well. The leadership and nomination regimes do not, and they contain anomalies. The most significant of these is that any money given or loans obtained specifically to pay for unregulated contest expenses (i.e. those *incurred outside* the contest period, even if *used during* it) will not be reported and are not subject to the controls on contributions that apply everywhere else in the Act.

Because it allows many relevant expenses and contributions never to be reported, the current political finance regulatory regime applicable to nomination and leadership contestants fails to achieve the Act's goal of transparency. It does not restrict the role of money through limits on who may make contributions and in what amount because contributors can easily give contestants any amount without limit or restriction. Finally, the provisions limiting nomination contest spending are ineffective in controlling costs either in total or during a specific time period.

The definitions of leadership and nomination campaign expenses should be amended to mirror the candidate electoral campaign expense definition found in the Act. This will allow all expenses incurred as an incidence of the contest to be regulated in the same way that all expenses incurred as an incidence of an election campaign are regulated. Consequently, all contributions to a leadership or nomination campaign will also be reported and subject to the limits in the Act. **[Recommendation A36]**

Greater flexibility for certain categories of candidate expenses

For candidates, the fact that a particular expense is or is not considered an electoral campaign expense as defined in the Act carries a number of important consequences. If it is a campaign expense, then it must be reported as such (either as an election expense subject to the limit, as a personal expense, or as an other electoral campaign expense). It also means that it must be paid out of regulated contributions, loans or transfers.[8] The reverse is also true: if a particular expense is not an electoral campaign expense (e.g. a personal trip), then it is not regulated as an expense and may not lawfully be paid using regulated campaign funds.[9]

[8] The payment of any electoral campaign expense using funds other than those in the campaign account amounts to the making of a non-monetary contribution by the entity paying the expense and is subject to the statutory restrictions on contributions.

[9] If campaign funds are used to pay for activities unrelated to the campaign, the disbursements will not be considered in the calculation of the surplus at the end of the campaign and any missing amount will have to be remitted to the campaign in order to allow the campaign to comply with the rules governing disposal of the surplus.

Table 3—Types of Electoral Campaign Expense				
Type of electoral campaign expense	**Period when incurred or used**	**Regulated funds must be used and expenses reported**	**Subject to the expenses limit**	**Eligible for reimbursement**
Election expenses E.g. Renting a campaign office, election advertising	Incurred as an incidence of the election *and* used during election period to promote or oppose a candidate	Yes	Yes	Yes
Personal expenses E.g. Travel and living, childcare, expenses related to a disability	Incurred as an incidence of the election	Yes	No	Yes
Other electoral campaign expenses E.g. Pre-writ advertising	Incurred as an incidence of the election	Yes	No	No

This all-or-nothing proposition is important for the coherence and integrity of the regime for candidates. However, in some cases, its consequences appear to go too far.

For example, the Act provides that expenses related to a candidate's disability are personal expenses. This is also true of childcare expenses and other expenses for the care of dependants with a disability. In all cases, this allows a candidate to use campaign funds and, more importantly, to seek partial reimbursement of those care expenses. However, classifying these costs as personal expenses requires that they be paid out of regulated funds. A candidate must in theory report all of these expenses, even if they are incurred well in advance of the issue of the writ, and cannot pay for them using his or her own money (except through statutorily limited contributions to the campaign). In effect, this could restrict the capacity of a person with such expenses to be a candidate because he or she is limited, by the Act, in the ability to pay for these expenses.

This is not the intention of the Act. A candidate's own disability expenses along with expenses related to childcare or the care of someone with a disability are classified as personal expenses, which means they are not subject to the spending limit but are eligible for reimbursement up to a certain limit. This is meant to create a benefit for candidates, but the goal was frustrated unintentionally by the contribution limits added to the Act for other reasons in 2004 and 2006.

It is not a solution to exempt such expenses from the Act. To do so would mean that a person would be prohibited from using contributions to their campaign to pay for such expenses, and such expenses would not be eligible for reimbursement. This also is not the intent of Parliament.

To ensure that costs related to care expenses are not a barrier to candidacy, it should be made clear that for disability or childcare expenses that would otherwise constitute electoral campaign expenses, candidates (and contestants) should have the option to pay or not pay such expenses using regulated funds. If the campaign chooses to use regulated funds, the expenses must be reported and should be eligible for reimbursement. If a candidate (or contestant) prefers to use his or her own funds to cover such costs, then the costs would neither be reported nor reimbursed.

A similar issue arises with respect to legal fees that are incurred as a result of a dispute or a judicial application under the Act. Such procedures include judicial recounts, contested elections and applications for an extension to file a return. Legal fees associated with any of these procedures constitute electoral campaign expenses, as they are incurred as an incidence of the election. However, as with the expenses discussed above, the interaction with contribution limits creates problematic results. Candidates would need to raise funds in accordance with contribution rules in order to be able to access their right to legal counsel to protect their rights under the Act, and in some cases this may not be appropriate. Legal fees should also be specifically exempted from the mandatory application of the electoral campaign expenses regime. Candidates and contestants should be free to incur legal fees subject to the regulatory regime, or outside of it. **[Recommendation A37]**

Accommodating electors with disabilities

A concern regularly raised with Elections Canada by its Advisory Group for Disability Issues is that political parties and individual candidate campaigns do not accommodate people with disabilities as a matter of regular practice. This makes it difficult for electors with disabilities to participate in the political process or, in some cases, even obtain sufficient information to be able to cast an informed vote. Specific examples include video products without captioning, paper and electronic products in inaccessible formats, and a lack of sign language interpretation at events.

Creating incentives under the Act would give political entities a needed push in this regard. Amendments to the Act to provide for a higher level of reimbursement for election expenses relating to the accommodation of electors with disabilities (90 percent rather than 50 or 60 percent) would at least encourage those candidates and parties eligible for reimbursement to incur such expenses. Depending on the success of this initiative, further incentives for all parties and candidates could be considered at a later date. **[Recommendation A38]**

Broadcasting

A final recommendation in this part of the report relates to the regulation of broadcasting during a general election. As with the voting regime, technological and societal changes have affected the regulation of political entities. This is particularly true with respect to political advertising.

Television and radio remain important tools for parties to get their messages out in an election campaign, despite changes in recent years in communication technologies and strategies. The broadcasting allocation created in Part 16 is a recognition of the continuing importance of these media, and was put in place to give the electorate adequate access to the views of all political parties and level the electoral playing field. However, several aspects of the regime create unfairness.

In his 2005 recommendations report, the previous Chief Electoral Officer summarized his concerns on this subject as follows:

> The existing legislative system that regulates the apportioning of free and paid broadcasting time is overly complex and must be reformed.
>
> Furthermore, the viability of the existing free-time system has been significantly undermined by the fact that there is now only one English-language television network, the CBC, required to provide free political broadcasting time. The loss of network status by CTV in 2004 had the effect of halving the free-time English-language television broadcasting available to parties in the 38th general election. [Two French networks, TVA and Radio-Canada, continue to be bound by the regime.]
>
> Finally, the current process of apportionment is strongly driven by past electoral success and raises concerns about potential infringement of the principles laid down by the Supreme Court of Canada in its decision in *Figueroa v. Canada (Attorney General)*.[10]

These three concerns about the broadcasting regime during a general election—that it is unnecessarily complex, that it imposes an obligation to provide free broadcasting time only on a few broadcasters, and that it favours parties that have been most successful in the past—continue to exist today. The Broadcasting Arbitrator has employed his statutory authority to modify the statutory broadcasting allocation to allow for a somewhat fairer allocation of broadcasting time among parties. However, with the multiplication of political parties in recent years, these modifications by the Broadcasting Arbitrator are no longer sufficient to achieve the objective of a level playing field.

Broadcasting is a complex legal area with various players involved, notably the Broadcasting Arbitrator, the CRTC and a wide variety of private and public broadcasters. In 2005, when responding to the report of the Standing Committee on Procedure and House Affairs, which had supported the Chief Electoral Officer's recommendation on broadcasting, the government agreed in principle with these recommendations, but suggested that extensive consultation would be required with political parties and the broadcasting industry to develop an appropriate regime.

In an effort to advance the consultation process, the Chief Electoral Officer contacted the CRTC in early 2016. The CRTC suggested that the Chief Electoral Officer consult the industry directly, so he accordingly wrote to both CBC/Radio-Canada and the Canadian Association of Broadcasters for their views on the previous recommendations; these views were then shared with the Broadcasting Arbitrator. Having considered the input of those consulted, the Chief Electoral Officer and the Broadcasting Arbitrator continue largely to support their original recommendations.
[Recommendation A39]

[10] *Completing the Cycle of Electoral Reforms: Recommendations from the Chief Electoral Officer of Canada on the 38th General Election* (Elections Canada, 2005), p. 75.

Conclusion

The recommendations in this report are all designed to improve the administration of the Act. They promote accessibility, inclusiveness, flexibility and effectiveness while still observing key safeguards and fairness for all participants. In sum, the report recommends that Parliament make changes to bring the electoral process into the 21st century.

Evidence from the last few general elections and particularly from the 2015 election points to a voting process that is too rigid, not easily scalable and ill-suited to quickly adapting to spontaneous shifts in demand for voting services. The recommendations in this report aim to prudently address these issues without in any way affecting the confidence of electors, on which the legitimacy of election results rests.

It is also clear that greater flexibility as well as more effective mechanisms are required in the tools available to ensure compliance with the political financing rules adopted by Parliament. The Act contains a detailed regulatory regime that cannot be enforced solely with criminal prosecutions, as was the case in the 19th century. Minor compliance issues should be dealt with administratively, and the Commissioner should be properly equipped to deal effectively with more serious violations.

Finally, while Elections Canada has taken important steps over the years to make the process more inclusive for various groups of electors, there is no doubt that more needs to be done. In particular, new technology and the possibility of electronic or Internet voting provides great hope to many electors with disabilities. The agency needs a clear mandate to move forward in this area.

Elections Canada trusts that parliamentarians and the government will carefully examine these recommendations, as they have done in the past, in order to build a modern and inclusive electoral framework.

Appendix

List of Abbreviations Used in the Appendix

AARO	Additional assistant returning officer
AMP	Administrative monetary penalty
ARO	Assistant returning officer
CEO	Chief Electoral Officer
CF elector	Canadian Forces elector
Commissioner	Commissioner of Canada Elections
CRTC	Canadian Radio-television and Telecommunications Commission
DRO	Deputy returning officer
EDA	Electoral district association
NROE	National Register of Electors
RO	Returning officer
SVRA	Special Voting Rules Administrator

Table A—Recommendations Discussed in Chapters 1 and 2

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A1.	Appointment and duties of election officers	**22** **32** **33–39** **124** **Multiple sections specifying duties of election officers**	The current highly prescriptive polling place model was created in the 19th century and is increasingly unable to meet the needs of the 21st. What may work at a small polling place with a single polling station serving 200 electors may not work in a large central polling place serving 4,000 electors. To modernize services and improve efficiency, while preserving the secrecy and integrity of the vote, there needs to be more flexibility in the organization of functions at polling places. Elections Canada is unable to streamline the voting process or adapt it to modern circumstances, in part because of restrictions in the Act on who may perform certain tasks in the process. For example, dozens of tasks must be performed by the DRO, and others by the poll clerk, with respect to each elector at a particular polling station. This creates unnecessary bottlenecks at some polling places because there is a limit to how much a single person can do. In order to design polling places in a way that meets the needs of the elector, it is necessary to break the link in the Act between tasks and specific election officers.	The specific provisions respecting the appointment of DROs, poll clerks, registration officers, information officers, central poll supervisors, revising agents and persons responsible for maintaining order (see sections 32, 33–39 and 124) should be deleted. The Act should instead provide that the RO shall, in accordance with the CEO's instructions, appoint sufficient election officers to carry out the tasks prescribed by the Act. Wherever the Act specifies that one of the above-listed election officers is to carry out a task, reference should be made instead to "an election officer" or "two election officers", as the case may be (see sections 43, 64, 97, 100, 101, 107, 119, 120, 135, 138, 140–144, 148.1–152, 154, 156, 157, 160–162, 164, 167, 169, 173–176, 276, 283–285, 287–290, 296, 301, 304, 479, 484, 502 and 549). It should be clear that, in certain circumstances and with CEO approval, ROs would be authorized to hire election officers prior to the issue of the writ, to facilitate their training and preparation. These changes will give the CEO the flexibility to organize tasks at the polls and during revision in a way that accounts for local factors, while ensuring the secrecy and integrity of the vote.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A2.	Polling stations	**106** **108** **120** **122–124** **Schedule 1, Form 3**	The definition of “polling station” in the Act prevents Elections Canada from making the voting process more efficient, while maintaining the secrecy and integrity of the vote. Electors from a particular polling division must cast their ballot at a specific table (polling station) in a polling place. An elector may cast his or her ballot only at that table, even if it has a long lineup and no other polling station in the polling place is busy. This causes understandable frustration for electors and stress for election workers. The ability to use electronic lists makes the assignment of an elector to a particular table unnecessary, as poll workers at any table would be able to look up and cross off the name of an elector in any polling division.	To make the voting process more efficient while preserving the secrecy and integrity of the vote, the requirement that electors vote at a specific table in a polling place should be ended. The Act should still provide that all electors in a polling division are assigned to a specific polling station; however, that polling station would not be the particular table where the electors must vote, but rather the entire polling place. For example, where currently multiple polling stations are grouped together in one large room, such as a school gym, the entire room would be the polling station under the recommended process. In the text of the law, this result could be achieved by amending section 120 so that instead of establishing one polling station per polling division, an RO would be required to assign the electors from polling divisions to a polling station. This recommendation leaves open the possibility of reporting results at a more detailed level, as with the current poll-by-poll results. However, to fully achieve this result, the form of the ballot in Form 3 of Schedule 1 should be modified to require that the polling division be indicated on the ballot. Consequential amendments would also need to be made to sections 106 and 108 so that the lists of electors would include all electors for the polling station, not just a single polling division. Provisions related to

No.	Subject	Provision(s) in the Act	Issue	Recommendation
				splitting polling stations and establishing central polling places (subsections 120(2) to (4) and 122(1), and sections 123 and 124) could be repealed as they would no longer be relevant.
A3.	Counting procedures	**283(3)**	Section 283 prescribes the ballot-counting process in great detail, including the requirement for ballots to be unfolded and shown to each election officer and candidate's representative present. The level of detail hinders the use of technology in the counting process. The vote count must always be performed in a way that preserves secrecy and integrity, but permitting the count to be done according to the CEO's instructions could allow for the introduction of electronic counting devices or other technology to enhance efficiency.	Subsection 283(3) should be replaced with a general provision that allows the ballot-counting process to proceed according to the CEO's instructions.
A4.	Oaths	**143** **147** **161** **169**	The voting process currently has seven different possible oaths for electors to take, both oral and written, with warnings about the penalties for associated offences under the Act. These oaths deal with somewhat different situations, but essentially all aim to provide an additional piece of evidence that a person is in fact qualified as an elector and entitled to cast a ballot. Having so many different oaths causes confusion for election officers, may lead to unintentional non-compliance and slows the process for all electors. Elections Canada wishes to reduce the number of different oaths to simplify the work of election officers while maintaining the integrity of the process. To this end, the CEO needs the flexibility to determine the content of oaths.	To allow Elections Canada to prescribe fewer and clearer oaths, specific wording for the oaths should be deleted from provisions 143(3), 143(3)(*b*), 147, 161(1)(*b*), 161(1)(*b*)(ii), 169(2)(*b*) and 169(2)(*b*)(ii). These sections should simply provide, like other sections in the Act, that the oath required to demonstrate an elector's qualification is to be prescribed by the CEO.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A5.	CEO's public education and information mandate	**17.1** **18**	In 2014, the CEO's mandate to conduct public education and information programs was restricted to programs aimed only at primary and secondary school students. To better inform all electors, including those most likely to experience difficulties in exercising their democratic rights, Elections Canada should be able to implement public education and information programs for all Canadians, and to include content on the electoral process, the democratic right to vote and how to be a candidate.	The CEO should again be given the mandate to implement public education and information programs to make the electoral process better known to the general public, particularly to those persons and groups most likely to experience difficulties in exercising their democratic rights. This mandate should specifically include outreach activities to groups of electors that have a lower registration rate than the general population.
A6.	Pre-registration of 16- and 17-year-olds	**46** **48**	Elections Canada has the ability to obtain information about citizens under the age of 18 from various sources (for example, driver's licence bureaus and the Canada Revenue Agency). However, the agency may only retain information about individuals who are of voting age. If authorized to retain information on 16- and 17-year-olds, Elections Canada would be able to contact these individuals at an early stage with a view to adding them to the NROE when they turn 18. The agency could also conduct registration drives in schools to pre-register students in anticipation of their turning 18.	The CEO should be authorized to retain information about individuals aged 16 and 17 with a view to eventually including them in the NROE.
A7.	Sharing information on non-citizens	**46**	To be qualified as an elector and be included in the NROE, an individual must be a Canadian citizen. However, there are few sources of information available to help Elections Canada ensure that only Canadian citizens are included in the NROE. One source is the information held by Immigration, Refugees and Citizenship Canada respecting people who have acquired citizenship and those who have not. Having access to this information would allow Elections Canada	Section 46 should be amended to authorize the Minister of Immigration, Refugees and Citizenship Canada to share information, including information about non-citizens, with Elections Canada. A similar provision was included in the *Citizen Voting Act* (Bill C-50) during the last Parliament, but that bill was not enacted.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			to more quickly and accurately update and verify the information in the NROE. To allow the sharing of this data, Immigration, Refugees and Citizenship Canada has requested that the Act be amended to authorize its minister to disclose information to the CEO about non-citizens.	
A8.	Voter identification—use of voter information card	**143(2.1)**	Most electors do not have difficulty proving their identity; some have difficulty proving their address. Allowing electors to use their voter information card as proof of address at the polls, together with another document proving identity, would help those who are on the list of electors meet the identification requirements. The CEO successfully tested the card's use as proof of address in various pilot projects at specific locations in 2010 and 2011.	The prohibition on the CEO authorizing the voter information card (the "notice of confirmation of registration") as a type of identification at the polls should be repealed. The card would need to be used with another document proving identity.
A9.	Voter identification—attestation process	**143** **161** **169**	Some electors continue to have difficulty proving their address at the polls using the documents permitted by the Act. Such electors may still vote, but only if they show two pieces of authorized identification bearing their name, and have their name and address attested to by another elector who lives in the same polling division. A person may attest for only one other elector. These requirements for qualified electors who lack documentary proof of address are onerous and may leave them unable to vote. Although the number of such electors is small, any time an elector is disenfranchised, it is a concern. Allowing a person to attest to the address of more than one elector—at least in some circumstances—would increase certain electors' access	To meet the special needs of certain categories of electors, the CEO should be authorized to identify circumstances where a person may attest for more than one person (subsections 143(5), 161(6) and 169(5)). Examples could be attestations for: 1. electors who reside in facilities that house such groups as seniors, individuals with physical or mental disabilities and homeless people. The CEO could also establish who may attest in such circumstances (nurses, social workers, etc.); 2. individuals for whom the attestor is authorized to make decisions about personal care; 3. residents of First Nations reserves; 4. residents of women's shelters, residential rehabilitation centres and Friendship Centres; and

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			to voting and presents little risk. The CEO currently authorizes pieces of identification for registration and voting purposes. The CEO could also be given the power to authorize electors to attest for more than one other elector in certain defined circumstances.	5. persons in the attestor's immediate family who reside at the same address. An elector whose address is being attested to by another elector should only have to provide one piece of identification bearing his or her name (subsection 143(3) and paragraphs 161(1)(*b*) and 169(2)(*b*)). Electors should be able to attest for someone living in another electoral district (subsection 143(3) and paragraphs 161(1)(*b*) and 169(2)(*b*)). This would permit a facility's workers to attest for its residents when they may not live in the same electoral district.
A10.	Assistance for electors with disabilities	**154** **243**	Assistance with voting at the polls or in an RO office may currently only be provided to electors who are unable to read or, because of a physical disability, are unable to vote in the manner prescribed in the Act. The provisions do not make assistance available to all electors with physical disabilities or to those with intellectual or psychosocial disabilities that might limit their ability to vote independently. Assistance at the polls should be available to all electors with disabilities, regardless of the nature of their disability. For special ballot voting in an RO office, while electors can rely on an election officer for assistance, they currently cannot rely on a friend, spouse or other person known to them, as is possible at a polling station. The latter option should be permitted.	The Act should allow assistance to be given at the polls or in an RO office to any electors who indicate that, because of a disability, they require assistance to vote. Electors voting by special ballot in an RO office should be able to rely on the same people for assistance as at a polling station.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A11.	Transfer certificates for electors with a disability	**159**	Transfer certificates are available to electors with a physical disability whose polling station does not have level access. By restricting transfer certificates to electors with physical disabilities, and only in cases where the elector's polling station lacks level access, the provision fails to capture all instances where an elector may wish to vote at a different polling station because of a disability. In addition, the application for a transfer certificate must be hand-delivered to the RO or ARO. This is a burdensome process and an unnecessary impediment to electors who are seeking accommodation.	Transfer certificates should be available to any elector with a disability who, because of his or her disability, wishes to vote at an alternative polling location. The Act should allow the CEO to determine the form of the application process, rather than requiring in-person delivery to the RO or ARO.
A12.	Voting at home	**243.1**	The current provision in the Act for voting at home is very specific. Electors may only use this option if they are unable to get to an RO office or polling station and are unable to mark a ballot independently. The election officer who assists them must mark the ballot on their behalf. Voting at home could be beneficial to a greater number of electors, particularly to those whose polling station is not accessible.	A new provision should be added to permit electors with a disability whose polling station is not accessible, as indicated on their voter information card, to be visited by an election officer in order to vote at home. In these situations, electors would mark their own ballot.
A13.	Curbside voting	**n/a**	Based on feedback from ROs, there is a need to allow some electors with disabilities to vote, on request, at the location but outside the building that contains their polling station. For instance, an elector with a sensitivity to scent may not be able to enter the polling place. Called "curbside voting", this option is available in several US states to individuals who are unable to enter a polling place because of a mental or physical disability.	The Act should be amended to permit curbside voting by electors with any type of disability. The procedure specified in the Act should provide for the same rigour (secrecy of the vote, etc.) that applies to regular voting at polling stations. The provision should set limits on how far away from the building the voting may take place. Also, a record of curbside voting should be made in the poll book beside

No.	Subject	Provision(s) in the Act	Issue	Recommendation
				the name of each elector who uses this option. At least two election officers should be present for curbside voting, and candidates' representatives should be invited to attend.
A14.	Level access for polling places	**60** **95** **98** **121** **159** **168**	The Act requires RO offices and polling places to be located in facilities with level access. This is an outdated concept when dealing with accessibility, and considers only persons with a mobility impairment. Elections Canada has imposed a much higher threshold for choosing polling places, which includes 35 accessibility criteria (lighting, available parking, etc.). At the 42nd general election, ROs were required to seek CEO approval for all polling locations that did not meet a mandatory subset of these accessibility criteria, not simply locations that did not provide level access.	All references to level access for physical premises in the Act should be replaced with references to the need for those premises to be accessible.
A15.	Pilot projects conducted by the CEO	**18.1**	Section 18.1 authorizes the CEO to test alternative voting processes. Such processes may not be used for an official vote without the prior approval of the House and Senate committees responsible for electoral matters. In the case of an alternative electronic voting process, prior approval from the House of Commons and Senate themselves is required. This imposes a significant procedural limitation on the ability of Elections Canada to test new voting mechanisms, including those involving technology, at the polls. While pilot projects conducted by Elections Canada can benefit all electors, they are especially important for electors with disabilities who seek to vote independently and in secret through the use of technology.	The distinction between the approval requirement for testing an electronic voting process and any other alternative voting process should be removed, as should the requirement to seek the approval of the Senate committee responsible for electoral matters. A single approval requirement consisting of prior approval by the House of Commons committee responsible for electoral matters should apply to tests of any alternative voting process at an official vote. In addition, Parliament should require Elections Canada to conduct pilot projects on the use of technology in the voting process to benefit electors with disabilities.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A16.	Opening of advance polls	**171(2)**	Currently, advance polling stations must be open from noon until 8 p.m. Many electors do not distinguish between ordinary and advance polls, and they expect advance polls to be open as early as ordinary ones. As a result, long lineups may form before the doors open at noon.	Advance polling stations should open at 9 a.m. rather than noon. If they are to open earlier, Parliament could also consider having them close earlier than the current time of 8 p.m.
A17.	Advance poll procedures—signature requirement	**174(2)(*b*)**	During the 42nd general election, there were long lineups at some advance polls, creating frustration among electors. The lineups were partly caused by the unduly onerous procedures that the poll clerk must follow at an advance poll. Specifically, the poll clerk must write the name and address of each elector on the record of votes cast, and have the elector sign beside his or her name. Although seemingly a minor process, many electors and election officers complained that it added significantly to the time it took to process each voter. Recording the names of those who vote at the advance polls is important for updating the lists of electors before polling day. However, the signature requirement adds little if anything to the integrity of the process, yet slows it down significantly.	Paragraph 174(2)(*b*), which requires every voter at an advance poll to sign the record of votes cast, should be repealed.
A18.	Mobile polls	**125**	Mobile polling stations can currently be established only in institutions where seniors or persons with a physical disability reside. Some ROs have suggested that mobile polling stations could be usefully deployed in low-density areas with remote and isolated communities. In these places, a full four-day advance polling period is not necessary and leads to staffing challenges. A mobile poll could travel the region, giving electors the opportunity to vote closer to home at a specific time	To better serve isolated and low-density communities, ROs should be permitted to establish mobile advance polls at two or more locations, in accordance with the CEO's instructions.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			during the advance polling period, rather than having one poll set up in a central location for four days.	
A19.	Making special ballot kits available electronically	**182(*f*)** **227** **228** **237** **239** **267** **274–278** **Schedule 1, Form 4**	When an election is called, Elections Canada sends "ballot kits" to international electors. Ballot kits consist of a ballot, an inner envelope and an outer envelope. The kits are also provided to local and national electors who apply to vote by mail during the election. A 36-day election campaign is a short period for electors to apply for a kit, be sent their kit and return their ballot. This is especially so when the elector lives in a remote country or one with less efficient mail service. In every election, many special ballots cannot be counted because they arrive at Elections Canada after polling day. In the 41st and 42nd general elections, the number of special ballots not received on time was 1,825 and 3,229, respectively. The number of ballots that were not returned was 7,636 and 12,909, respectively. It is likely that at least some of these ballots were not returned because electors knew their ballot would not arrive by polling day.	To quicken the vote-by-mail process, the Act should be amended to remove barriers to having electors receive or download their own special ballot electronically. Electors who choose this option would have to return their ballot and a completed declaration using their own inner and outer envelopes, according to instructions that would preserve the secrecy and integrity of the vote. The necessary amendments are as follows: Form 4 of Schedule 1 would need to be modified to remove the form of the back of the ballot, as ballots printed by electors would be one-sided. Furthermore, sections 227, 228, 237 and 239 would need to allow for the possibility of declarations and ballots being sent to electors electronically, and of the declarations and ballots being returned by electors in inner and outer envelopes supplied by the elector. Lastly, sections 267 and 274 to 278 would need to reflect that not all special ballots being counted would be contained in outer envelopes as defined in section 2. Some would be in envelopes supplied by electors. Electors should continue to have the option to apply for a traditional mail-in ballot kit.
A20.	Prohibitions relating to requesting a ballot and	**5** **7** **12** **164**	Voting prohibitions and prohibitions related to improperly requesting and handling a ballot are scattered throughout the Act. There is a need to better organize these provisions and make them consistent. In some	The various sections in the Act that protect the secrecy of the vote and prohibit improper acts related to requesting and handling ballots should be grouped together in their own part of the Act so that they can

No.	Subject	Provision(s) in the Act	Issue	Recommendation
	voting	**167** **281** **282** **481** **482**	cases, it is not clear that a prohibition applies to all methods of voting. There is also duplication of prohibitions and partial overlap. The Commissioner has raised some additional difficulties with respect to enforcing these prohibitions. First, the prohibitions in section 5 on voting when not qualified require that a person know the state of the law—that is, what makes someone a qualified elector—and this is generally contrary to the criminal law principle that ignorance of the law is no excuse. Second, having the words “knowing”, “knowingly” or “wilfully” in a prohibition provision, as opposed to the provision that creates the offence (sections 480 to 499), may require a prosecutor to prove that an offender knew about or was wilfully blind to the elements of the offence for which knowledge is required. Third, the current provisions of the Act do not adequately address the sharing of photos of ballots. The Commissioner noted this deficiency in his 2016 annual report. These provisions need to be amended to protect ballot secrecy and reduce opportunities for bribery and intimidation.	apply to voting by any method, based on the facts of a particular situation. Duplication and overlap should be removed. Section 5 should be rewritten to prohibit a person from voting when he or she is not qualified as an elector or is disentitled from voting. In addition, it should be amended to prohibit a person from influencing another person to vote when he or she knows that the other person is not a Canadian citizen or at least 18 years of age on polling day. This would remove the need to prove that the person knew the requirements of the law. The provisions protecting the secrecy of the ballot should include a prohibition on taking, disclosing or sharing a photograph or digital image of a marked ballot, including on social media. They should indicate that the prohibition applies during voting or after voting has occurred. It should be clear that the prohibition applies to individuals sharing an image of their own marked ballot or of another person’s marked ballot. There should, however, be an exception to allow electors with a visual impairment to take and use a photo of their marked ballot, but only for the purpose of verifying their vote. The aim is to help these electors vote independently. The associated offence provisions in Part 19 of the Act should also be amended to reflect the changes made to the prohibition provisions. The Commissioner agrees with these recommendations.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A21.	Fixed election date	**57**	Although the Act provides for a fixed election date, the length of the election period varies depending on when the election is called. This creates uncertainty for all electoral participants except the governing party, and diminishes the benefit afforded by the fixed date in terms of Elections Canada's election preparedness. Finally, the absence of a maximum period for the election, combined with the fact that spending limits for parties and candidates are prorated to the length of the campaign, can compromise the level playing field by favouring campaigns that have access to more resources.	This provision should be amended to provide a maximum length for election periods (for example, 45 or 50 days). In the case of a fixed-date election, Parliament may wish to consider providing that the writ be issued on September 1. This is a natural starting point for the election period from the perspective of leasing RO offices.
A22.	Polling day	**56.1** **57(3)** **57(4)** **128**	Currently, the Act provides that polling day is a weekday (generally a Monday). There are a number of consequences to polling day being a regular workday, including difficulty in recruiting qualified election workers and finding suitable polling places. It also results in long lineups before and after regular working hours. Moving polling day to a weekend day would reduce or eliminate some of these difficulties. Para-transportation services for electors with disabilities would need to be made as widely available on a weekend polling day as they currently are on weekdays.	Parliament should consider moving polling day to a Saturday or Sunday, as is the case in Australia, New Zealand and a number of European countries.
A23.	Residency requirement for field liaison officers, ROs, AROs and AAROs	**22(4)**	The requirement that ROs, AROs and AAROs reside within the boundaries of their electoral district restricts the pool of potential candidates for these positions, and is not as important a requirement as that these election officers have a sophisticated understanding of their electoral district. In urban centres, someone can live across the street from an electoral district and be	The residency requirement for ROs, AROs and AAROs should be replaced with a requirement that they reside in the electoral district where appointed or in an adjacent electoral district. In addition, a technical error in this provision should be corrected. As a result of a 2014 amendment that

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			extremely familiar with it.	renumbered the election officer positions listed in subsection 22(1), field liaison officers are now unintentionally covered by the electoral district residency requirement. This is not possible given that their function is to coordinate between a number of electoral districts. Field liaison officers should not be subject to any residency requirement.
A24.	Appointment of election officers who live outside the district or are under the age of 18	**22(5)**	ROs have difficulty recruiting a sufficient number of skilled workers, in part because the Act places restrictions on who can be appointed. In recent elections, the CEO has systematically approved the hiring of 16- and 17-year-olds, and they have proven to be an excellent pool of workers. Being able to recruit 16- and 17-year-olds as well as workers who reside outside an RO's electoral district, without restriction, would increase an RO's ability to appoint the number of capable staff required.	The limitations on the ability of ROs to appoint election officers who reside outside the electoral district or who are 16 or 17 years of age should be eliminated.
A25.	Partisan nominees for election officer positions	**32–39**	During an election, some 285,000 election workers must be hired across the country. ROs are currently required to consider partisan nominees for the positions of DRO, poll clerk and registration officer until the 24th day before polling day, and for revising agents until three days after the parties receive the request for names from the RO. This means that ROs cannot staff the key DRO and poll clerk positions until late in the election period. This is a significant limit on the staffing flexibility of ROs and can create delays in training. In most cases, parties and candidates provide no names or a largely insufficient number of names to ROs.	While candidates and parties should remain free to recommend qualified persons for election officer positions, the prohibition on recruitment pending the receipt of these names should be deleted.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A26.	Candidate nomination process	**27(1)** **66–67** **69** **72(1)** **539** **Schedule 3**	The current system for filing candidate nomination papers is cumbersome, with unnecessary requirements that create an administrative burden for both the prospective candidate and the RO charged with verifying that all requirements have been met. To present their nomination, candidates must obtain the signatures of 100 (or, in some cases, 50) electors in their electoral district and must swear an oath consenting to the nomination in the presence of a witness. Nomination papers must be filed by the witness, who must verify the addresses of the electors and swear an oath before the RO. Candidates may not file their own nomination paper. These requirements reflect an outdated approach to candidacy, in which candidates are nominated by others instead of registering themselves. Although the requirement for signatures is aimed at discouraging frivolous candidacies, it is not clear that it does so. The signers do not need to state that they support the candidate, and many candidates receive fewer than 100 votes, suggesting that those who signed did not in fact support the candidate. The signature requirement is an administrative burden for candidates and election workers, whose time would be better spent focusing on other tasks. It also creates an obstacle to an efficient electronic nomination process.	The requirements for the prospective candidate to swear an oath consenting to the nomination in the presence of a witness and for the witness's signature should be repealed (paragraphs 66(1)(*b*) and (*c*)). Because a witness is no longer needed, the requirement for the witness to swear an oath before the RO should also be repealed (subsection 67(3)). The requirement for the witnessed signatures of 100 or 50 electors should be repealed (paragraphs 66(1)(*e*)–(*g*)), together with the requirement that the witness to those signatures exercise due diligence regarding the residence of those electors (subsection 67(2)). All the text in subsection 71(2) relating to elector signatures should be deleted. Subsections 67(1) and (4) should be amended so that it is the prospective candidate, and not the witness, who files the nomination paper, the deposit, the auditor's consent to act and the party endorsement. Subsection 72(1) requires the RO to issue a receipt to the witness who files the deposit. The provision should be amended so that either the RO or a delegate may issue the receipt, and so the receipt is issued to the prospective candidate. In subsection 27(1), which lists sections of the Act containing RO functions that may not be delegated, the reference to subsection 72(1) should be deleted.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			The nomination process is further muddled by the Act prescribing a process for faxed nominations that has somewhat different requirements (for example, the witness does not have to swear an oath before the RO). This leads to confusion for prospective candidates and election workers.	If the requirement for 100 or 50 elector signatures is repealed, the nomination period (section 69) could be shortened, as could the timeline for the RO to approve a nomination. As section 539 and Schedule 3 of the Act are only relevant for the purposes of determining whether 100 or 50 elector signatures are required, section 539 and Schedule 3 should be repealed if the signature requirement is repealed. If the signature requirement is not repealed, an alternative to the current process for amending the list in Schedule 3 should be devised. The process is very cumbersome and, among other problems, relies on information from 1971 that is no longer relevant.
A27.	Candidate identification	**66–67**	The current rules do not require prospective candidates to provide proof of identity with their nomination paper. This means that an RO cannot validate a prospective candidate's identity or confirm the name to be used on the ballot. As well, the Act provides that prospective candidates can replace one or more of their given names by a nickname in their nomination paper. There have been instances where candidates have used frivolous names. These situations can undermine electors' confidence in the seriousness of the electoral process.	Section 67 should be amended to require that prospective candidates provide proof of identity with their nomination paper. What constitutes satisfactory proof of identity should be determined by the CEO. The current nickname provisions should be replaced by a general requirement that, if candidates wish to use a name other than what is on their identification, they must provide evidence that they are "commonly known" by that name (including a nickname). At a minimum, if no substantial changes are made to the nickname provisions, the French version of paragraph 66(2)(*c*) should be corrected to accord with the English version.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A28.	AMPs	**Parts 16, 17 and 18**	The Act uses criminal sanctions, almost exclusively, to enforce compliance with its provisions. This is not an appropriate approach in many situations, especially in the complex regulatory regime that applies to political financing. In many cases of non-compliance, neither the degree of harm caused nor the level of wrongdoing merits the stigma of a criminal prosecution. As a result, non-compliance is often not effectively addressed. When it is, the criminal process does not provide for a timely resolution. A lack of action in some cases of possible wrongdoing and a delayed response in others reduces the deterrent effect and creates a perception of unfairness among those who "played by the rules". Canadian regulatory regimes are increasingly using AMPs as a way of promoting compliance. Under an AMPs regime, whether or not a prescribed prohibition or requirement has been contravened is established through an administrative, as opposed to a judicial, process. The purpose of AMPs is to increase compliance with a regulatory regime by creating an incentive to comply: namely, to avoid incurring a monetary penalty. The use of AMPs is a more efficient, immediate and, in many cases, effective approach to achieving compliance than the possibility of a criminal prosecution. It is also less stigmatizing and punitive than a prosecution in the criminal courts, as individuals or entities subject to an AMP will not be imprisoned or have a criminal record. AMPs help to provide a broader range of appropriate enforcement responses to unlawful	An AMPs regime should be developed for Parts 16, 17 and 18 of the Act, which regulate political financing and communications, as described in the body of this report. The Commissioner agrees with this recommendation.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			conduct. Adding AMPs to the Act would provide an efficient and effective administrative tool to deter unlawful activity; it would assist in efficiently regulating the political financing and communications regimes. AMPs would be available as an alternative to criminal prosecution for an offence.	
A29.	Failure of EDAs to file financial transactions returns within deadlines	**448** **473** **475.4**	Elections Canada has in the past had difficulty obtaining financial transactions returns from both registered and deregistered EDAs. In some cases, returns are filed after the deadline; in other cases, they are never filed. In both situations, the goal of transparency in political financing is not met. When an EDA is deregistered for failure to meet its reporting obligations, nothing prevents members of the party in the electoral district from re-registering a new association the following day. In 2010, the CEO recommended a four-year ban on the registration of a new EDA in an electoral district if the previous EDA in the electoral district for the same party did not comply with its financial reporting obligations.	If a registered EDA fails to comply with its financial reporting obligations by filing its financial return after the applicable deadline, its ability to issue tax receipts should be suspended until all its returns are received. The Act should also be amended to prevent a newly registered EDA from issuing tax receipts for four years (one electoral cycle) if the previous EDA for the same party in the same electoral district did not comply with its financial reporting obligations. The ban could be lifted if the outstanding returns are received. As well, the Act should be amended to make it an offence for EDAs to issue tax receipts after having received a notice of non-compliance with filing obligations. The registration of a new EDA should be prohibited if it has assets that cannot be traced back to contributions or transfers made in compliance with the Act. This would prevent a deregistered EDA that failed to file its financial return from re-registering with all the assets of the previous EDA (as well as new, unreported assets). The Commissioner agrees with these recommendations.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A30.	Auditor's report	**477.62** **475.8** **477.75**	Candidates are required to appoint an auditor at the outset of their campaign, prior to receiving contributions or incurring expenses. The reports of external auditors are increasingly expensive for candidates and, in the case of candidates with few financial transactions, they do not add a great deal in terms of transparency. At the same time, Elections Canada is frequently informed that the production of a return is delayed because of the length of time needed for the auditor to review the documents. In 2010, the CEO recommended that the requirement of producing an audit report be eliminated for all candidates who incurred expenses or received contributions of less than $10,000. Nomination contestants are exempt from the requirement to appoint an auditor and produce an audited campaign return if they accepted contributions and incurred expenses under $10,000. For EDAs and leadership contestants, the threshold is $5,000. As well, the subsidy provided to auditors of candidates and EDAs has not been adjusted for inflation since 2003, while there is currently no subsidy for auditors of nomination contestants.	The Act should provide that candidates are only required to submit an audit report if they incur expenses or accept contributions of $10,000 or more. The subsidy provided to auditors of candidates and EDAs should be subject to an inflation adjustment, and the same subsidy should be extended to the auditors of nomination contestants. The inflation adjustment factor in subsection 384 of the Act should be used for this calculation.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A31.	Subsidy for official agents	**n/a**	Official agents play a fundamental role in supporting the integrity of the political financing system, and their role is increasingly complex. They are not reimbursed for the important work they do.	A subsidy should be payable by Elections Canada to official agents of candidates. The subsidy should be available to official agents who meet certain conditions established by Elections Canada, such as completing training, filing complete returns and filing required documents on time. The amount of the subsidy should reflect the volume of transactions in (and therefore complexity of) the campaign return, using either a sliding scale or a set of thresholds. Campaigns with no or little financial activity should not be entitled to the subsidy. The subsidy should also be capped at a maximum amount (for example, $3,000).
A32.	Requiring some court procedures to take place in the Federal Court	**2** **Part 18**	Many judicial procedures under the Act are required to take place in provincial superior courts rather than the Federal Court, which creates an inconsistent jurisprudence in electoral matters and limits the development of judicial expertise in the subject area.	The adjudication of political financing matters, including applications for extensions of financial return filing deadlines or for authorizations to correct or revise documents related to financial reporting obligations, should be transferred to the Federal Court. This would require a change to the definition of “judge” in section 2, as well as possible amendments to the applicable political financing provisions (sections 443, 475.93, 476.73, 476.86, 476.88, 477.57, 477.68, 477.7, 477.71, 477.93, 478.78, 478.89, 478.91 and 478.92).
A33.	Power of Commissioner to compel testimony	**510**	Both the Commissioner and the CEO recommended in 2013 that the Commissioner be given the power to seek judicial authorization to compel testimony, which would greatly aid in investigating and successfully prosecuting offences under the Act. This recommendation continues to be relevant.	As recommended in 2013, the Commissioner should be given the power to seek a court order to compel witnesses to provide evidence, with all necessary safeguards for ensuring compliance with the *Canadian Charter of Rights and Freedoms*. The Commissioner continues to support this recommendation.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A34.	Authority of Commissioner to lay charges	**511** **512(1)**	Under section 511, in order to lay a charge for prosecution, the Commissioner is required to obtain the approval of the Director of Public Prosecutions. This is an unusual requirement for a federal investigator, and means that the Crown must undertake a separate and at times lengthy review of all the evidence in the case. It adds an undue delay in processing cases and is not operationally efficient. Normally, charges are laid in advance of the Crown review and are later stayed if the Crown concludes that it is not in the public interest to proceed with a prosecution or that there is no reasonable prospect of conviction. It is important to ensure that charges are not laid under the Act for partisan reasons, and there is a separate provision (subsection 512(1)) that prohibits a person from laying a charge without the prior written consent of the Director of Public Prosecutions. In the execution of his independent, non-partisan functions under the Act, the Commissioner should be exempt from this requirement.	As the Commissioner has recommended to the CEO, section 511 should be amended to authorize the Commissioner to lay a charge ("initiate a prosecution") under the Act without prior authorization from the Director of Public Prosecutions. In tandem, the Commissioner should be expressly exempted from the prohibition in subsection 512(1) against anyone but the Director of Public Prosecutions laying a charge without the latter's prior written consent.
A35.	Compliance agreements	**517**	The Act permits the Commissioner to enter into a compliance agreement with a "person". It should be clarified that this includes an entity such as a political party or municipality. Furthermore, in a compliance agreement, the Commissioner may presently only include terms or conditions that he considers necessary to ensure compliance with the Act. The Commissioner suggests	As the Commissioner recommended to the CEO, the Act should expressly authorize the Commissioner to enter into a compliance agreement with an entity as well as a person. In addition, the terms and conditions that may be included in a compliance agreement should be broadened to allow for any measures or sanctions that are negotiated with the contracting party. These may be included to ensure compliance, to provide restitution, to act as a deterrent or for any other purpose.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			that these agreements would be far more useful if the Act allowed him to negotiate broader terms and sanctions, such as the payment of a fine to the Receiver General. This would allow for contracting parties to take substantive action that recognizes the impact of their wrongdoing, would be a form of punishment and could act as a general deterrent.	
A36.	Definition of leadership and nomination campaign expenses	**2** **476.67**	Compared to the definition of "election expense" that applies to candidates, the definitions of "leadership campaign expense" and "nomination campaign expense" are problematic in that they do not include expenses incurred outside the contest period, even if the goods or services are used during the contest. Nor do these expenses include non-monetary contributions or transfers. This has consequences for the coherence of the political financing regime applicable to leadership and nomination contestants. Contestants are able to use unregulated money to fund much of their campaigns and to avoid reporting campaign-related expenses. Moreover, contestants are prevented from using campaign funds to pay for expenses directly related to the campaign if these expenses were incurred prior to or after the contest period (for example, audit fees or office rent). In his 2016 annual report, the Commissioner noted that he received complaints from members of the public about nomination contestants underreporting their expenses. On being informed of the Act's lack of regulation for significant expenses incurred by campaigns, the complainants questioned the integrity of the political financing system applicable to contestants.	The definitions of "leadership campaign expense" and "nomination campaign expense" (section 2) should be amended to include expenses incurred as an incidence of the campaign, not just expenses incurred "during the contest". Non-monetary contributions and transfers provided to contestants that are received as an incidence of the contest also should be captured by the definition. These changes will make leadership and nomination financial transactions fully transparent and the political financing regime applicable to contestants more coherent. In addition, the limit on nomination campaign expenses (section 476.67) should be amended to apply only to expenses in relation to goods or services used during the nomination contest period, regardless of when they were incurred. The CEO made similar recommendations in 2010. The Commissioner agrees with these recommendations.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			For more on this issue, see Interpretation Note 2014-01, *Definition of Leadership Campaign Expenses and Nomination Campaign Expenses* from August 2015.	
A37.	Treatment of certain expenses (childcare, disability, litigation, travel)	**376** **378**	The introduction of contribution limits has led to unintended and undesirable impacts respecting some kinds of expenses. This is particularly the case with certain expenses that are currently classified as "personal expenses"—specifically, childcare expenses and expenses to care for a person with a disability that candidates incur as an incidence of their candidacy. Parliament has categorized these expenses as personal expenses. This means the expenses are not subject to the spending limit, but may still be reimbursed, whether incurred inside or outside the election period. The aim is to reduce barriers to participation for persons who need to incur such expenses. However, contribution limits now prevent this objective from being attained. Because these expenses are regulated, they have to be paid using contributions that the candidate receives; however, the source and amount of contributions are restricted. This reduces the ability of candidates to pay for these expenses, including from their own resources. Candidates who incur litigation expenses in relation to an election face a similar difficulty. Litigation expenses may arise from a contested election, a judicial recount, or an application to correct a political financing document or to extend a filing deadline. As with childcare or disability expenses, litigation expenses	Expenses related to childcare and care for a person with a disability (whether candidates themselves or another person for whom the candidate provides care) should be regulated in a way that achieves Parliament's objective. The Act should be amended to clearly indicate that candidates may opt to pay childcare and disability expenses, which would normally constitute electoral campaign expenses, using their personal funds. If the campaign chooses to use regulated funds, the expenses (and related contributions) must be reported and should be eligible for reimbursement as personal expenses, as they are now. In addition, Parliament should consider increasing the level of reimbursement available for these expenses, given their importance in enabling certain individuals to run as candidates. A reimbursement of up to 90% of these expenses should be considered. A similar amendment, without reference to a reimbursement, should be made for candidates' litigation expenses to ensure that contribution limits are not a barrier to the right to counsel. Candidates should be able to choose whether or not to use regulated funds for the legal process. This includes litigation expenses for recounts, contested elections and proceedings related to the CEO's application of political financing provisions, including extension requests. As is the case

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			must be paid using regulated funds. This means that a person may be denied legal representation in such a matter even if he or she is able to pay for it personally. A separate matter, but one that is related to personal expenses, concerns the treatment of travel expenses. Currently, because travel expenses are a subcategory of personal expenses, even expenses for travel occurring outside the election period are reimbursed. Only expenses for travel that occurs during the election period should be reimbursed.	now, such expenses would not be reimbursable, nor subject to the spending limit. Because legal fees can be quite significant, the Act should require campaigns to file a separate report in this area along with the candidate's return. The report would set out any litigation expenses and, where the fees are not paid from the campaign bank account, the payment sources. This would ensure transparency with respect to the fee amounts and how they are paid. Finally, while all travel expenses should continue to be treated as campaign expenses so they must be paid using campaign funds, only expenses for the portion of travel that occurs during the election period should be reimbursed.
A38.	Costs to accommodate electors with disabilities	**n/a**	Political parties and individual campaigns do not always make accommodations for people with disabilities. Specific examples of a failure to provide accommodation include video products without captioning, paper and electronic products created in inaccessible formats, and a lack of sign language interpretation at events. Encouraging parties and candidates to take steps to provide accommodation for persons with disabilities, by amending the Act to reduce the burden of expenses related to providing accommodation, would benefit electors with disabilities and increase their access to and participation in the democratic process.	The reimbursement of expenses related to the accommodation of electors with disabilities should be increased to 90% to encourage candidates and parties to incur such expenses. Parliament may wish to prescribe categories of expenses that could qualify for such a reimbursement, and may also wish to consider whether these expenses should be exempt from the spending limit.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
A39.	Broadcasting regime	**332–348**	The provisions of the Act dealing with broadcasting need to be updated to make them fairer and more coherent. The regime is complex; it no longer covers an adequate range of players, since the free time rules are limited to "networks" only; and it continues to unduly favour larger parties over smaller ones, which is a chronic irritant for smaller parties. When the system was originally enacted, there was a small number of registered parties. Currently, there are 19. The Broadcasting Arbitrator is required to allocate paid time among all of these participants, even though many of them do not have the resources to buy broadcast advertising. The free time allocation is linked to the paid time allocation, however, so all parties must participate in the latter. In addition, the statutory formula for paid time allocation relies heavily on past electoral performance. The Broadcasting Arbitrator is permitted to modify this allocation if, in his view, it would otherwise be "unfair to a registered party or contrary to the public interest". He has used this authority consistently since his appointment in 1992. Most recently, he modified the allocation so that 50% of the paid time would be available to all parties equally, with the other 50% being allocated using the statutory formula (that is, on the basis of success at the past election). Broadcasters are required to make paid time available to parties during prime time. They must also make the paid time available at the lowest applicable rate, but in	The CEO and the Broadcasting Arbitrator continue to support the majority of recommendations previously made in this area. First, the paid and free time allocation processes should be uncoupled. Second, the allocation regime for paid time should be modified. Instead of 390 minutes of paid time being allocated among political parties in accordance with a complex statutory formula, each party should be given the same entitlement to 100 minutes of paid time. A cap of 300 minutes should be set on the total amount of paid broadcasting time that any station must sell to political parties. Where the requests from all parties to one station amount to more than 300 minutes, the time should be pro-rated, with any disputes to be resolved by the Broadcasting Arbitrator. Parties should also have the right to purchase additional time, subject to availability, as is currently the case. Third, paid time should be provided at the "lowest unit charge", which should be clearly defined to mean the lowest rate charged to non-political advertisers who receive volume discounts for advertising purchased months in advance. The Canadian Association of Broadcasters suggests that paid time be provided "at the same unit rate" to all parties, without any comparison to other potential purchasers. Neither the CEO nor the Broadcasting Arbitrator supports this

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			practice, broadcasters interpret this rule as permitting rates that are significantly higher than those applied to commercial advertisers who are able to buy advertising months in advance. The CEO and Broadcasting Arbitrator made detailed recommendations on this subject in 2001 and 2005. Elections Canada recently sought input from the CRTC, the Canadian Association of Broadcasters and CBC/Radio-Canada on the earlier recommendations. The responses received from the Canadian Association of Broadcasters and CBC/Radio-Canada were also shared with the Broadcasting Arbitrator, who provided his own response to their suggestions.	suggestion. Fourth, the obligation to provide free broadcasting time should no longer apply only to "networks". Instead, it should apply, through conditions of licence under the *Broadcasting Act*, to all conventional television stations that broadcast news or public affairs programs, all news/talk radio stations, and all specialty television stations that focus on news or public affairs. Each station should be required to provide a total of 60 minutes of free time, to be allocated among the parties. The Canadian Association of Broadcasters objects to this proposal, suggesting that it would be financially onerous for broadcasters. The CEO and the Broadcasting Arbitrator maintain this recommendation, however, as greater access to free broadcasting time for all political parties is in the public interest. Fifth, on the issue of free broadcasting time, although the Broadcasting Arbitrator believes that it should be allocated according to his 50/50 modified approach (currently used for the paid time allocation), the CEO recommends an equal allocation of free time among all registered parties. CBC/Radio-Canada has also recommended that the free time allocation be published by the Broadcasting Arbitrator within two days of the issue of the writs; that parties be given a 10-day deadline to express their intention to use their free time allocation; that a station,

No.	Subject	Provision(s) in the Act	Issue	Recommendation
				if it is part of a network or broadcaster group, be able to schedule free time similarly on all stations of the network or group; that it not be necessary to schedule the free time evenly over the election period, as long as parties are treated in an equitable manner; and that no reallocation be permitted less than 21 days before polling day. The CEO and the Broadcasting Arbitrator agree with these recommendations, which essentially mirror the current allocation regime for paid time.

Table B—Other Substantive Recommendations

No.	Subject	Provision(s) in the Act	Issue	Recommendation
B1.	Statement of electors who voted	**2** **162(*i.1*)** **291**	Statements of electors who voted ("bingo sheets") are completed by poll clerks and provided to candidates' representatives every hour on polling day. At the end of the election, ROs must make all bingo sheets available to candidates and parties on request. However, by virtue of the definition of "election documents" in subsection 2(1), once bingo sheets are returned to Elections Canada, they become election documents, which cannot be accessed except by court order. There is no reason to afford such protection to bingo sheets, and this protection prevents Elections Canada headquarters from coordinating their distribution to parties and candidates centrally after the election.	Bingo sheets should be removed from the definition of "election documents" in subsection 2(1) to permit Elections Canada to manage a central distribution process after the election, if required.
B2.	Proof of identity and residence	**2(3)**	The Act defines satisfactory proof of identity and residence as "documentary" proof prescribed by the CEO. The requirement for "documentary" proof of identity and residence ("la production de pièces d'identité" in French) when electors register to vote or apply for a special ballot prevents the use of technological solutions where this proof is required, such as online applications for special ballots and certain forms of e-registration. Without this requirement, electors could type in a piece of unique information contained in a document to prove their identity, rather than having to provide the document.	The requirement for "documentary" proof of identity and residence ("la production de pièces d'identité" in French) should be removed, and satisfactory proof of identity and residence should be established instead in the manner that the CEO determines. The CEO also made this recommendation in 2010.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
B3.	Assistant Chief Electoral Officer	**4(*b*)** **19** **21**	The Governor in Council is responsible for making appointments to this position. It is an anachronistic position that is not given any specific statutory mandate, other than what may be assigned from time to time by the CEO. It has not been filled since 2001.	All references to the Assistant Chief Electoral Officer should be deleted. This recommendation was made twice previously, in 2001 and 2005.
B4.	Voting by federal inmates	**4(*c*)** **246–247**	The provision preventing federal inmates (incarcerated persons serving a sentence of two years or more) from voting in paragraph 4(*c*) was declared of no force and effect by the Supreme Court of Canada in the *Sauvé* decision in 2002, but has never been repealed. As a result, the CEO has used his statutory authority under section 179 to design a process for voting by federal inmates similar to the process in sections 246 and 247 for persons incarcerated in provincial correctional institutions. The ongoing use of the CEO's discretionary power to adapt the Act is undesirable and difficult to justify. The CEO's extraordinary authority should not replace the legislative function.	Paragraph 4(*c*) should be repealed as required by the *Sauvé* decision. Provisions should be added to Division 5 of Part 11 to establish a voting process for electors who are incarcerated in federal institutions that is similar to what is already in place for provincial institutions.
B5.	Publication of written opinions, guidelines and interpretation notes	**16.1** **16.2**	Although guidelines and interpretation notes are not binding and are issued for information purposes only, they must be published for 30 days on the Elections Canada website before they are "issued" and placed in the registry. This period serves no purpose. In addition, the timelines for Elections Canada to consult with political parties and with the Commissioner (15 days) and to issue the final documents have not proven realistic. In practice, Elections Canada has allowed a 45-day consultation period, which political parties have indicated is necessary for them to provide feedback. More time is also needed to allow Elections Canada to	A distinction should be made between guidelines and interpretation notes, on the one hand, and written opinions requested by political parties, on the other hand. In the case of guidelines and interpretation notes, the requirement for the CEO to "publish" them before they are officially issued should be deleted. The consultation period with the Commissioner and political parties should be lengthened to 45 days, and the overall production deadline should be deleted.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			finalize the documents, including editing and translating them and fulfilling electronic publication requirements. Currently the Act provides for a 60-day timeline, including consultations. The production of written opinions in response to requests from political parties also presents challenges, but there is a greater need for timeliness here in order for them to remain useful.	In the case of written opinions, the requirement for pre-publication should be maintained. However, the consultation period should be lengthened to 30 days and the overall production timeline lengthened to 90 days. The Commissioner agrees with these recommendations, and members of the Advisory Committee of Political Parties are supportive.
B6.	Restrictions on use and disclosure of personal information by election officers	**23(2)** **111(*f*)**	Currently, the Act restricts the use of personal information contained in a list of electors (paragraph 111(*f*)) and the communication of information obtained by election officers during the course of their duties (subsection 23(2)). However, the Act does not address the improper use of personal information obtained by election officers in the course of their duties from a source other than a list of electors (for example, personal information on pieces of identification that electors present to poll workers or information provided on an application for registration and special ballot). The Commissioner noted this deficiency in his 2016 annual report.	As the Commissioner recommended to the CEO, subsection 23(2) should be amended to prohibit election officers from using or disclosing personal information that they obtain in the course of their duties, other than for a purpose related to the performance of those duties.
B7.	Appointment of AROs	**26(1)**	Currently, ROs have complete discretion in appointing their ARO. In some cases, this creates difficulties for the CEO. The ARO must be ready to replace the RO in all circumstances, and yet the CEO does not have a direct relationship with AROs or any involvement in their selection.	An RO's appointment of an ARO should be subject to the CEO's approval.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
B8.	Appointment of revising agents	**33(3)** **100(1)**	Revising agents are required to work in pairs, made up as much as possible of partisan nominees from different parties. Historically, enumerators worked in pairs to "watch over" each other in the door-to-door enumeration process. But the revision process has changed, and there is no longer a need for revising agents to work in pairs in all cases to ensure the integrity of the lists of electors. For example, it is impractical in an office to have two revising agents take all the information by phone. Integrity is already ensured in other ways: the RO or ARO must approve all changes made to the lists, and revising agents work under a revision supervisor.	The requirement that revising agents always work in pairs should be deleted. Instead, subsections 33(3) and 100(1) should authorize the CEO to determine in which situations revising agents must work in pairs and instruct ROs accordingly.
B9.	References to electors' gender in the Act	**44(2)** **46(1)(*b*)** **49(1)** **56(*b*)** **107(2)** **107(3)** **194(1)(*a*)** **195(1)(*a*)** **195(2)(*a*)** **199(2)(*a*)** **204(3)** **222(1)**	Many provisions of the Act require the collection of information about the "sex" of electors. Thus, many Elections Canada forms require an elector to indicate whether they are male or female; there is no other option. However, there are gender identities other than male and female. This issue is not restricted to Elections Canada—it is a government-wide matter. The Canadian Human Rights Commission and the Treasury Board Secretariat are currently conducting research into the collection and use of gender information by government institutions. The absence of gender information on lists of electors at polling stations would not impact the integrity of the voting process. In fact, poll workers are currently instructed to disregard gender information on the lists of electors. However, the collection of gender information	The collection and use of gender information is currently being reviewed on a federal government–wide basis, with input from all departments and agencies. As part of this review, the terminology in the Act respecting gender identification should be updated. Some form of gender information (regardless of the number or description of categories) is required to be collected in the NROE for operational reasons and is useful for statistical reasons with respect to candidates. It is not necessary for any operation at the polls. All requirements to indicate an elector's "sex" on lists of electors or other related documents should be deleted (sections 107, 194, 195, 199, 204 and 222).

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			is important in many cases for identifying electors and matching information in the NROE, and is also useful to provide statistical information about candidates.	
B10.	Withdrawal of a writ in case of disaster	**59**	The Governor in Council may order the withdrawal of the writ in any electoral district where the CEO has certified that it is impracticable to conduct an election because of "flood, fire or other disaster". When a writ is withdrawn, the election period for the affected electoral district must be entirely restarted, with all the attendant costs, time delays and political financing considerations. It would be preferable to have the option of postponing polling day for several days, rather than withdrawing the writ entirely. Several provincial electoral regimes allow postponements. In addition, in cases where the writ is withdrawn, the Act should affirm that the Governor in Council retains the authority to order the issue of a new writ. The wording of the current provision suggests that the CEO might bear this responsibility.	This provision should authorize the CEO to recommend to the Governor in Council that an election be postponed for a maximum period of one week, rather than cancelled altogether, in circumstances where a postponement is practicable. When a writ is withdrawn and a new writ must be issued, it should be clear in the Act that the Governor in Council, not the CEO, is responsible for setting the date for a new election in that electoral district.
B11.	Notice of election	**27** **62** **67** **77** **130** **293** **548** **Schedule 1, Form 2**	Currently, ROs must issue a Notice of Election with certain basic information about the timing of the election, the validation of results and the location of the RO office. This is an antiquated requirement that no longer serves to effectively inform electors. Elections Canada more usefully disseminates relevant information on its website and by other means, such as the voter information card. When elections are called, the website is updated with all the information that must be included in the notice, except for the date and time of the	The requirement in section 62 for ROs to publish a Notice of Election should be repealed. Alternatively, the section could be amended to make the CEO responsible for publishing the specified information centrally. Consequential amendments would be required wherever reference is made to the Notice of Election (sections 27, 67, 77, 130, 293 and 548), including Form 2 of Schedule 1, which prescribes the notice's

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			validation in each electoral district, which could easily be added. Deleting the requirement for ROs to issue a Notice of Election would allow them to focus on more important tasks.	format.
B12.	Publishing false statements to affect election results	**91**	Section 91 prohibits the making of false statements about the personal character or conduct of a candidate with the intention of affecting the results of an election. The intended scope of the provision is unclear in terms of the behaviour it seeks to capture (that is, what constitutes a false statement about personal character or conduct). It is also unclear how the provision applies when the intent is to affect the results of the election in general, rather than the election of a candidate in a particular electoral district. The Commissioner has noted that the provision's lack of clarity causes enforcement difficulties. It also raises expectations of what can be prosecuted.	The Commissioner has suggested to the CEO that Parliament may wish to clarify or repeal this provision. The CEO recommends that section 91 be repealed. Serious cases of defamation or libel can be dealt with through alternative civil or criminal legal mechanisms.
B13.	Polling divisions and advance polling districts	**108** **120** **125.1** **168**	The Act contains prescriptive rules for drawing polling divisions and establishing polling stations. These rules include timeframes in which polling divisions may be redrawn (that is, "merged" or "split" because of the number of electors) and deadlines for providing candidates and parties with written notice of the addresses of the polling stations. The strict rules limit the ability of ROs to make adjustments to better serve electors when circumstances change, which can happen at any time. This is despite the fact that any adjustments made can be rapidly communicated to electors, candidates and parties through the news media, social media and other methods as required.	If Recommendation A2 is not accepted, the Act should be amended to allow polling divisions or advance polling districts to be merged at any time. Under current restrictions, this can only be done after the revision period (section 108) for ordinary polling divisions and within the first four days after the issue of the writ (subsections 168(4) and (5)) for advance polling districts. These time limits should be deleted. The only restriction should be that the RO must seek prior approval from the CEO. Similarly, deadlines for splitting polling divisions—where a poll is found to have too many electors to operate

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			Furthermore, the rules for ordinary polling divisions are often different from advance polling districts in ways that are not explained by the substantive differences between the two types of polls. These rules should be flexible so that polling divisions can be drawn in a way that is consistent, serves electors and is transparent to everyone.	efficiently—should be removed. This can be achieved by deleting the deadline in subsection 120(2) for ordinary polling divisions, and adding a new subsection under section 168 to allow for the splitting of advance polling districts. Finally, section 125.1 provides that notice of the addresses of ordinary polling stations must be provided to candidates and any parties running candidates in the electoral district by the 24th day before polling day, and changes must be provided by the 5th day before polling day. This section requires both electronic and written notice, which is unnecessary. It should simply provide for notice, which in most cases will be more efficient to provide electronically. An equivalent provision should be created for notice of advance polling stations, but the deadline in this case should be the 15th day before polling day (the 5th day before the first day of advance polls).
B14.	Observers	**135(1)**	Subsection 135(1) lists the persons allowed at a polling station on polling day. This list does not include some groups of people who should be permitted at a polling station, such as field liaison officers, central poll supervisors and information officers. The provision also does not clearly allow for the presence of international observers, representatives of provincial or territorial election agencies, other domestic non-partisan groups, interested citizens or the external auditors required under section 164.1. After its most recent observation	Instead of amending this provision to create additional categories, subsection 135(1) should be replaced by a more general provision allowing the attendance at the polls of persons or classes of persons authorized by the CEO.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			mission to Canada, the Organization for Security and Co-operation in Europe recommended that a provision be added to the Act to allow the attendance at the polls of international and citizen observers.	
B15.	Oath of assistance	**155(3)**	Under this provision, when a family member or friend assists an elector with a disability in voting, the family member or friend must take an oath. The oath sets out the following: that the assistor will mark the ballot paper as directed by the elector; will keep the elector's choice of candidate secret; will not try to influence the elector in making that choice; and, if assisting as a friend, has not so assisted another person during the current election. It is sufficient to have the election officer, acting on the CEO's instructions, inform assistors that they must not influence the elector's choice, must mark the ballot as directed and must keep the elector's choice of candidate secret. The use of an oath is unnecessary in this circumstance and creates an air of formality and intimidation that is not consistent with the goal of the provision, which is to help electors vote.	The requirement for a family member or friend to take an oath of assistance should be repealed.
B16.	Transfer certificates	**158** **159**	Transfer certificates allow electors who are unable to vote at their assigned polling station, for one of several specified reasons, to vote at another polling station. It is currently unclear that transfer certificates issued under sections 158 and 159 can be used at advance polls. As well, section 158 only permits election officers who work on polling day to obtain transfer certificates, not those who work at advance polls. Finally, under subsection 158(2), only an RO or ARO may issue a transfer	The Act should make it clear that transfer certificates may also be used to vote at advance polls. Election officers who work at advance polls should be entitled to obtain transfer certificates to vote there. Any election officer working at a polling station, as well as the RO and ARO, should be authorized to issue a transfer certificate.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			certificate to an election officer.	
B17.	External audit	**164.1**	Under a requirement enacted in 2014, an external audit was conducted during the 42nd general election to assess whether certain poll workers properly performed a specified set of duties. The Act calls for this audit to take place in every election. The utility of repeating exactly the same audit in every general election and by-election is unclear at best. The CEO can have poll workers' performance audited at any time, including by an external auditing firm, should this be desirable. The CEO has in the past relied on independent audits where appropriate. Such audits are not limited to the very specific audit scope in the Act, which means they can be targeted to continuously improving electoral operations.	The requirement for an external audit in every general election and by-election should be repealed, recognizing that the CEO retains the authority to audit or assess poll workers' performance through an external review at any time.
B18.	Counting of votes from advance polls	**172(*a*)(iv)** **289(1)**	When there is high voter turnout at advance polls, it is difficult to count the ballots from those polls in a timely manner, since the Act specifies that the counting can only begin after the polls close on polling day.	A provision should be added to specify that ballots cast at advance polls may be counted on polling day before the polls close, if ROs obtain the CEO's prior approval. The counting would have to occur in the presence of candidates' representatives. The provision should include safeguards for keeping the results secret until the polls close.
B19.	Advance poll—closing procedure	**175**	Under amendments to the Act in 2014, separate ballot boxes are required for each day of advance polls and another box is required for keeping supplies. Although in some cases it may be desirable to use extra ballot boxes because of the number of electors, the use of multiple boxes renders opening and closing procedures complex. In many cases, the large number of boxes and	Subsections 175(2) and (3) should be replaced by one provision indicating that, on each day of advance polls, the DRO shall close the polling station and seal the ballot box and envelopes in accordance with the CEO's instructions.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			accompanying paperwork is unnecessary. The CEO should retain some flexibility for streamlining the number of ballot boxes used at advance polls where possible.	
B20.	Voting by incarcerated electors	**177** **246–247**	Division 5 of Part 11 sets out the Special Voting Rules that allow incarcerated electors to vote. It applies specifically to electors confined in "correctional institutions"; however, the Act does not define this term. As a result, Division 5 does not necessarily apply to some electors who should logically be covered, insofar as they are confined and cannot vote at the polls nor easily vote by regular mail. The term "correctional institution" clearly includes a provincial penitentiary. However, it does not clearly include a secure youth custody facility, or a jail or remand centre where electors remain while awaiting trial. Under the current rules, electors confined in these institutions do not have the same opportunity to vote as electors in penitentiaries.	The Act should be amended to add a definition of "correctional institution" that expressly enumerates what types of institutions are contemplated for the purposes of Division 5. The definition should be broad enough to include electors confined in a variety of institutions, such as a prison, jail, correctional centre, correctional facility, penal institution, secure youth custody facility, detention centre, remand centre, lock-up or other place designated or established pursuant to an Act of Parliament or of a legislature for the confinement of an elector upon arrest, pending or following a court hearing. The definition should not include residential facilities that provide accommodation to offenders who are on parole, conditional release or temporary absence, or living in a halfway house, as such persons are not confined and are able to vote at the polls or by mail. It should also not include addictions treatment facilities, and hospitals or other health institutions operated for the care of people who have a disease, injury, sickness, disability or mental disorder. These electors can be served as part of Elections Canada's hospital voting program. Finally, sections 246 and 247 should be amended to ensure that the references to responsible ministers cover all provincial ministers who have oversight over

No.	Subject	Provision(s) in the Act	Issue	Recommendation
				potential electors in Division 5, including youth.
B21.	Special Voting Rules for CF electors	**Part 11, Division 2**	Division 2 of Part 11 sets out the Special Voting Rules that apply to CF electors. It is very prescriptive and relies on paper-based processes, making it difficult to improve efficiency using technology. In addition, whether they are deployed or not, CF electors may only vote under Division 2 (with limited exceptions). This is confusing for some of them and means they do not have the same voting opportunities as their families and neighbours. When it was first established, voting by special ballot was a privilege extended only to CF electors. However, the rules that apply to them are stuck in the past. Compared to today's process for other electors who wish to vote in an RO office or by mail, the rules that apply to CF electors are unduly restrictive rather than beneficial.	Division 2 of Part 11 should be reviewed, in consultation with the Canadian Armed Forces, to determine the best way to facilitate voting by CF electors. The Canadian Armed Forces agrees with this recommendation. If an overall review is not approved, the specific amendments to Division 2 of Part 11 recommended in this table (Recommendation B22) and in Table C—Minor and Technical Recommendations (Recommendations C14–C17) should be made.
B22.	Hiring of liaison officers	**201**	Liaison officers are the election workers that link the commanding officers of each military unit with the Canadian Armed Forces and Elections Canada during an election. Liaison officers should be appointed and trained before the issue of the writs, but section 201 currently only permits the Minister of National Defence to designate liaison officers upon the Minister "being informed of the issue of the writs".	The Minister of National Defence should be authorized to designate liaison officers before the writs are issued, so that these individuals can be trained and ready at the start of the election period. The Canadian Armed Forces agrees with this recommendation.
B23.	Deadline for applying to vote by special ballot	**232**	The Act provides that an application to vote by special ballot must be received by the SVRA or RO no later than the 6th day before polling day. This means that special ballot voting cannot be initiated after this time,	The CEO should be authorized to extend the deadline for receiving applications beyond the 6th day before polling day, to no later than the day before polling day.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			including in an RO office. Presumably, this deadline was set to allow enough time before polling day for updating the lists of electors to indicate who has received a special ballot. However, if electronic lists are used at the polls in the future, it may be operationally feasible to add updates about special ballot voting closer to polling day.	
B24.	Advertising "using a means of transmission of the Government of Canada"	**321**	This provision deals specifically with the way that election advertising is transmitted, and not with its content. It is not clear what the prohibition is meant to cover beyond what is already prohibited by the *Policy on Communications and Federal Identity* and the *Directive on the Management of Communications*. The provision appears to have been created in the 1970s to complement an advertising blackout at the start of the election period, which no longer exists. Any use of Government of Canada resources to conduct election advertising is a contribution by the person using those resources and is addressed by other provisions.	The Commissioner has suggested to the CEO that he would welcome a clarification of the scope of this provision. The CEO recommends that the scope of the provision be clarified, or that the provision be repealed.
B25.	Opinion polls and election surveys	**326**	The first person who transmits the results of an election survey (for example, an opinion poll), or anyone else who transmits them within 24 hours, must provide background information about the survey. This includes the date on which the survey was conducted, the population surveyed and the margin of error. For all means of transmission other than broadcasting, additional information must be provided, including the	The requirement for survey sponsors to provide additional information in a written report should be deleted. Instead, the same information should be made available in electronic format. The obligation to provide a website address or link to where the additional information can be found should apply to all persons, including broadcasters, who first transmit the results or who transmit them within the next

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			wording of the questions asked and how to obtain a detailed written report on the survey. No matter how the survey results are transmitted, the survey sponsor must make this report available to anyone upon request. The requirement for a written report is onerous. It would be less of a burden on the sponsor, and more useful to electors, if the report were in electronic format. A link to the report or information on how to obtain it could be provided in the case of all means of transmission, including broadcasts.	24 hours. The Commissioner agrees with this recommendation.
B26.	Broadcasting outside Canada	**330**	During the 42nd general election, the Commissioner received complaints about Canadian broadcasting stations that were intentionally transmitting broadcasting signals to the United States for retransmission (and termination) in Canada. In such situations, the broadcasting signal is transient; the sole goal of routing the signal this way is to better reach Canadian audiences. This sort of transmission should not be caught by the prohibition on broadcasting from outside Canada.	As the Commissioner recommended to the CEO, this provision should be amended to limit its scope. It should exclude situations where, at any point, the signal is carried by a broadcaster subject to the Canadian government's broadcasting policies and regulations (for instance, where a broadcast signal originates in Canada and is destined for Canadian audiences, but is retransmitted via a foreign broadcasting station).
B27.	Foreigners inducing electors to vote or refrain from voting	**331**	Section 331 prohibits anyone who does not reside in Canada, or who is not a Canadian citizen or permanent resident of the country, from "induc[ing] electors to vote or refrain from voting or vote or refrain from voting for a particular candidate". This section's breadth has caused difficulties for Elections Canada and the Commissioner in recent elections. Elections Canada receives frequent complaints that media statements (such as tweets or interview comments) made by non-Canadians violate	The Commissioner has suggested to the CEO that Parliament may wish to modernize this provision or repeal it. The CEO recommends that section 331 be repealed.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			this provision. It also receives questions about whether goods and services supplied by a foreign provider violate the Act. The overly broad wording of this provision diminishes public trust in how well the rules can be enforced. It also leads to criticism of both Elections Canada and the Commissioner for not properly enforcing a law that was likely never intended to limit all speech and actions by foreigners.	
B28.	CRTC publication of registration notices relating to voter contact calling services	**348.12**	Section 348.12 requires the CRTC to publish registration notices that it receives in relation to voter contact calling services, but no earlier than 30 days after polling day. During the 42nd general election, Canadians who received calls from various political entities called the CRTC to ask whether these entities were properly registered. The callers needed the information during the election period, but because the Act does not require timely publication of the registration notices, there was no way for complainants to independently ascertain whether entities providing the calling services were properly registered until after the election.	As the CRTC recommended to the CEO, registration notices relating to voter contact calling services should be published by the CRTC as soon as feasible, instead of 30 days after polling day. For greater certainty, the Act should also provide that the notices may be published during an election period and may be published even if they only include partial information.
B29.	Requirement to keep lists of numbers called	**348.16–348.19**	In the part of the Act that regulates voter contact calling services, there is currently no requirement to keep lists of telephone numbers called and provide them to the CRTC. This information could prove extremely useful for investigations into breaches of the voter contact calling rules or of the Act's other rules on transmitting information to electors. The CEO made a recommendation on this general issue in 2013.	The Act should be amended to add a requirement for certain persons or groups to retain lists of telephone numbers called and file them with the CRTC. This rule would apply to calling service providers and others under the Act who are entitled to conduct voter contact calls, as well as to the entities for whom the calls are being made. The Commissioner and the CRTC agree with this recommendation.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
B30.	Third party election advertising reports	**361** **382** **496** **541**	The Act's rules for third party election advertising reports—specifically, the rules about filing deadlines, corrections, the publication of revised reports and public access to reports—are out of step with the regime in place for candidate and party returns. The number of third parties more than doubled in the 42nd general election, from 54 in the previous election to 114. The more of a role third parties play in elections, the more striking it is that they are not subject to the same obligations as other political participants.	The third party regime should be made consistent with the candidate and party regimes by means of the following changes: add a provision allowing a third party to request extensions of the filing deadline for its election advertising report; allow the CEO to require corrections to an election advertising report, and allow a third party to request corrections to its own report (section 361); require the publication of the revised report (section 382); and include third party reports in the list of documents that are public records and that may be inspected by any person on request (section 541). Section 496, which is the relevant offence provision, would need to be updated as a consequence of these changes.
B31.	Length of party name	**385(2)**	The Act does not limit the length of a party name as it appears on the ballot, called its "short-form" name. There is a danger that parties will choose to use longer and longer "short-form" names (for example, to include slogans), and that this will impact the readability of the ballot.	The CEO should have the authority to limit the length of party names on the ballot in order to ensure that the ballot is legible.
B32.	Political party expenses	**437**	Unlike candidates, political parties are not required to provide documents evidencing the expenses set out in their election expenses return. This is despite the fact that Elections Canada needs such documents to properly review party returns to ensure that the transparency sought by the Act is being achieved, and despite the fact that parties receive tens of millions of dollars in direct public subsidies every election as well as millions in public subsidies in the form of substantial tax credits for their contributors.	To improve transparency in financial reporting by political parties, the CEO should be authorized to request that parties provide any documents and information that may, in the CEO's opinion, be necessary to verify that the party and its chief agent have complied with the requirements of the Act with respect to the election expenses return.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			The CEO has twice previously (in 2005 and 2010) recommended that parties, like candidates, be required to provide some evidence of their expenses. This is in the interests of transparency and would ensure that the subsidy is being properly paid out. As an alternative, the CEO recommended in 2010 that party auditors be given increased responsibility to consider whether the parties they audited have complied with their statutory reporting obligations. In 2014, the Act was amended to enhance party auditors' responsibilities. Nonetheless, Elections Canada continues to believe that, as a matter of transparency and because of the large amount of public money at issue, parties should be required to produce documentation evidencing the expenses claimed in their returns on the CEO's request.	
B33.	EDA spending during an election period	**450(1)**	Currently, EDAs are specifically prohibited from incurring election advertising expenses during an election period. Elections Canada takes the position that if other spending by an EDA during the election period promotes the candidate or party, such an expense is an election expense of the candidate or the party. The Act should indicate more clearly that EDAs are not allowed to incur *any* expense that would otherwise be an election expense of a candidate or party—that is, not only is election advertising prohibited, but also such things as get-out-the-vote calls.	The prohibition on EDA election advertising during an election period should be clarified to prohibit EDAs from incurring any expense that would otherwise be an election expense of a candidate or party. An exception should be made for expenses that an EDA incurs for goods or services that are subsequently transferred or sold to the party or candidate. The Commissioner agrees with this recommendation.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
B34.	Candidate bank account	**477.46(1)**	Many candidates conduct no financial transactions during the campaign, but are still required to open a bank account by law.	Candidates who conduct no financial transactions should not be required to open a separate bank account for the campaign. The CEO also made this recommendation in 2001 and 2010.
B35.	Exceeding expenses limit	**477.47(5)** **477.48** **477.52**	The Act provides that no candidate, official agent or other person with authority to incur expenses shall exceed the election expenses limit. The Commissioner has indicated that the way this prohibition is worded can create challenges in enforcement, as it is sometimes difficult to prove which expense, incurred by whom, pushed the campaign over the limit. Because the official agent and the candidate can incur expenses or cause them to be incurred independently from one another, it may be impossible to enforce the spending limit where there was no coordination between the persons allowed to incur expenses.	The Act should be amended to provide that candidates may incur election expenses only in accordance with written authorization from the official agent, as is already the case for any other person authorized by the official agent to incur expenses on behalf of the campaign. This would make it easier to enforce the existing prohibition against exceeding the limit. The Commissioner agrees with this recommendation. Parliament may also wish to consider a similar amendment with regard to the election expenses of political parties.
B36.	Incomplete, false or misleading returns	**477.72(1)** **497.3(1)(*s*)** **497.4(1)(*p*)** **497.4(2)(*r*)**	Subsection 477.72(1) prohibits the official agent and the candidate from providing a document required in relation to the campaign return that the candidate or official agent knows contains a material statement that is false or misleading or does not substantially set out the required information. However, the related offence provisions at paragraphs 497.4(1)(*p*) and 497.4(2)(*r*) refer only to the official agent.	As the Commissioner recommended to the CEO, the offence provisions at paragraphs 497.4(1)(*p*) and 497.4(2)(*r*) should be made consistent with the prohibition by referring to the candidate as well as the official agent. The CEO also made this recommendation in 2010. A similar amendment should be made to the equivalent provision relating to nomination contestants (paragraph 497.3(1)(*s*)). The CEO also made this recommendation in 2010.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
B37.	Suspension of members of the House of Commons for non-compliance	**477.72(2)** **477.72(3)**	Subsections 477.72(2) and (3) govern when the suspension of a member of the House of Commons who has failed to comply with the document-filing rules in the Act takes effect. Currently, some elected candidates who fail to produce, correct or revise their electoral campaign returns by the applicable deadline or any extension to that deadline have the benefit of a grace period before they can be precluded from voting and sitting in the House of Commons, whereas others do not. Only a member who fails to make, within the specified period, a correction or a revision requested by the CEO under subsection 477.65(2) is entitled to such a grace period. The member is suspended not when the filing deadline has passed, but two weeks after the end of the period for making the correction or revision if the candidate has not applied to a judge to be relieved from complying with the CEO's request (or, if the candidate has applied, when the application is denied by a judge). This distinction is hard to justify, and the same rule should apply to all cases of members not complying with the Act's filing rules.	The Act should be amended to provide the same two-week grace period for all elected candidates who fail to produce, correct or revise their electoral campaign returns within the prescribed or extended deadlines.
B38.	Independent candidates' surpluses	**477.82–477.84**	Independent candidates must dispose of any surplus of electoral funds to the Receiver General. This is in contrast to candidates endorsed by a party, who are able to dispose of their surplus to either their party or their party's EDA in the electoral district. The difference in treatment means that candidates of registered parties can have surplus funds available to them for a future election, but independent candidates cannot.	The Act should be amended to allow for an independent candidate's surplus of funds to be held in trust by the CEO until the next general election. If the candidate is nominated in that next general election (or any intervening by-election) as an independent or non-affiliated candidate, the money shall be paid to the candidate's campaign. If the candidate is not nominated in the next general election, or is endorsed by a party, the funds should revert to the Receiver General. The

No.	Subject	Provision(s) in the Act	Issue	Recommendation
				CEO made a similar recommendation in 1996 and 2001.
B39.	Maintaining order at the polls	**479**	Section 479 of the Act provides the legislative framework for maintaining order at an RO office or at a polling place. This provision grants considerable powers, including forcible ejection or arrest of a person. But it is complex, calls for a difficult exercise of judgment, and requires election officers to perform duties for which they are not trained and likely cannot be adequately trained, given the extent of their current duties and skill sets. The potential risks arising from section 479 include violence and injury as well as violation of fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms*. Local law enforcement officials are better trained and equipped to perform these functions.	While this section should continue to make it clear that the relevant election officer has the power to maintain order at the polls and may order a person to leave if the person is committing or reasonably believed to be committing an offence, the election officer's power of arrest without a warrant should be deleted. The subsections providing for the use of force and listing procedures in the event of an arrest should be repealed.
B40.	Impersonation offence	**480.1**	This provision was introduced in 2014 in response to a recommendation by the CEO. Based on the Commissioner's experience during the last general election, the provision is not specific enough to capture the distribution of false communication material, including the creation of false campaign websites or other online or social media content for the purpose of impersonating a party or candidate.	As the Commissioner recommended to the CEO, a new provision should be added to establish a specific offence for the creation and distribution of false candidate or party campaign communication material, including false websites or other online or social media content, with the intent to mislead electors.
B41.	Disclosure of correspond-ence with election officers and others	**541**	The CEO has an obligation to make available to the public a wide variety of political financing reports and returns, as well as all instructions to election officers respecting their duties at the polls. While these requirements are sensible and consistent with the need for transparency in the electoral process, the Act also requires public access to be provided to "all	The right of access to "all correspondence with election officers or others in relation to an election" should be deleted from the provision, allowing individuals to instead request copies of this correspondence under the established federal access-to-information regime.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
			correspondence with election officers or others in relation to an election." This requirement could lead to disclosures of sensitive personal information. It is out of step with the *Access to Information Act* and *Privacy Act*, which allow for a balance between disclosure of information and the protection of individual privacy. It would be more appropriate to rely on that established regime to govern the disclosure of correspondence with election officers and others, rather than making such correspondence available to the public without restriction in all situations.	
B42.	Prohibition on partisan conduct by election officers and RO office staff	**n/a**	Although ROs and field liaison officers are prohibited from engaging in partisan conduct, there is no general prohibition on partisan conduct by other election officers in the performance of their duties. The Commissioner has raised this as a gap in the Act. A prohibition for election officers would have to be more targeted than the one applicable to ROs and field liaison officers, given that many other election officers do engage in partisan activities outside their electoral role.	As the Commissioner recommended to the CEO, a new provision should be added to prohibit anyone who is performing the duties of an election officer, or who is hired as a staff member of an RO, from encouraging a person to vote or not to vote for a particular candidate while the election officer or staff member is performing his or her duties.
B43.	Privacy protection principles for parties	**n/a**	Political parties are entitled by law to receive lists of electors annually and at election time. These lists are used by the larger parties to update databases that contain personal information about millions of Canadians. Political parties and candidates are not, however, subject to the basic privacy rules to which government bodies and private-sector business organizations must adhere.	In order to receive the lists of electors, parties should be required to obtain an assurance from an external management auditor, attesting that the party has systems in place to protect the personal information of electors and that these systems respect generally accepted privacy principles. A party would need this assurance to continue to receive lists of electors from Elections Canada. The CEO made a similar recommendation in 2013.

No.	Subject	Provision(s) in the Act	Issue	Recommendation
B44.	By-election called specifically to overlap with fixed date election	***Parliament of Canada Act*, s. 31**	The *Parliament of Canada Act* requires that a by-election be called no later than 180 days after the CEO receives notice of a vacancy in the House of Commons. In most cases, this is not problematic; however, the obligation to call a by-election shortly before a fixed election date serves little purpose and does cause a number of problems. In 2015, three by-elections were called with the same polling day as the fixed general election date. The by-election periods were six months long and raised several operational and political financing questions. Some parties and third parties were in the difficult situation of having to distinguish between by-election expenses and pre-writ expenses for the impending general election.	Section 31 of the *Parliament of Canada Act* should be amended so as not to require the issuance of a warrant where a vacancy in the House of Commons occurs within one year (or some other period) before the fixed election date in subsection 56.1(2) of the *Canada Elections Act*.

Table C—Minor and Technical Recommendations

No.	Subject	Provision(s) in the Act	Recommendation
C1.	Power to enter into contracts	**18.2(1)**	Subsection 18.2(1) does not expressly state that the CEO may exercise his contracting authority with respect to statutes under which he acts other than the *Canada Elections Act*, such as the *Electoral Boundaries Readjustment Act*. The CEO is authorized, for example, to provide administrative support services to commissions under the latter Act. Subsection 18.2(1) should therefore be amended to specify that the CEO may enter into contracts in the exercise or performance of his powers, duties and functions under the *Canada Elections Act* or any other Act of Parliament.
C2.	AAROs	**30(4)**	Subsection 30(4) specifies that an AARO may not perform the functions of an ARO described in subsections 28(1), 60(2), 70(1) and 293(1). However, there are no ARO functions described in subsection 60(2), which states that the CEO may fix the minimum hours that an ARO and the RO have to be present at the RO office. What is intended by subsection 30(4) is to distinguish those sections of the Act where "assistant returning officer" means *only* an ARO from those sections where "assistant returning officer" can mean both an ARO *and* an AARO. Subsection 30(4) should be amended. Instead of specifying that an AARO may not perform the duties described in subsections 28(1), 60(2), 70(1) and 293(1), it should provide that when reference is made to an ARO in those subsections, it does not include an AARO.
C3.	Ineligible candidates	**65(*d*)**	Under paragraph 65(*d*), among those currently ineligible to become candidates under the Act are "a sheriff, clerk of the peace or county Crown Attorney". These are anachronistic terms, the meaning and scope of which are unclear. In addition, the English and French versions of the provision are not consistent. The prohibition on sheriffs, clerks of the peace or county Crown Attorneys running as candidates should be repealed or at least reconsidered.
C4.	Campaigning in public places	**81.1(1)**	The lists of places open to the public in the English and French versions of subsection 81.1(1) are not consistent. The English version uses "governmental … place" while the French version uses "lieu à usage … officiel", which does not have the same meaning. Subsection 81.1(1) should be amended so that the two versions correspond.
C5.	Distribution of lists	**94** **107** **109**	The Act requires ROs to provide a specified number of paper lists of electors to candidates, and the CEO to provide printed copies of the final lists of electors to parties and candidates who are elected, in addition to electronic copies. This rule does not reflect the current preference of many parties and candidates for electronic lists. The Act should be amended so that ROs and the CEO are required to provide printed copies only on request.

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C6.	Objection by an elector	**103** **104**	The objection procedure set out in sections 103 and 104 is a complicated and administratively burdensome process by which an elector can object to the inclusion of another person's name on a preliminary list of electors. The process is anachronistic—it predates the establishment of the NROE—and is not necessary to ensure the integrity of the preliminary lists. Electors remain free to contact Elections Canada at any time if they have concerns about the integrity of a list. The provisions allowing electors to make objections before an RO respecting the inclusion of another person's name on a list should be repealed.
C7.	Publication of addresses	**112(1)**	ROs are currently required to post in their offices and provide to candidates the names and addresses of all DROs and poll clerks. The purpose is to inform candidates of who will be working at the polls; however, providing a person's home address is an unnecessary invasion of privacy. The requirement to disclose home addresses of DROs and poll clerks should be repealed, as the CEO recommended in 2001.
C8.	Information on the ballot	**2** **66(1)(*a*)(v)** **117(3)** **117(5)**	Where a candidate has requested in his or her nomination paper to be designated as an independent on the ballot, the French version of subsection 117(3) makes it mandatory for the word "indépendant" to be used, whether the candidate is male or female. It does not allow a female candidate to choose to be designated as "indépendante". This subsection should be modernized to reflect current French usage in Canada. The French versions of subsections 117(3) and 117(5), subparagraph 66(1)(*a*)(v) and the definition of "appartenance politique" in section 2 should be amended to use the word "indépendant(e)" instead of "indépendant".
C9.	Information—location of polling stations	**125.1**	Section 125.1 requires ROs to send information on polling locations directly to all candidates in the electoral district and also to the political parties that have endorsed them. As a result, political parties that run a candidate in each electoral district receive as many as 338 separate communications and data files. Section 125.1 should be amended so that the polling location information for parties can be consolidated at Elections Canada headquarters and then sent directly to the national party offices. ROs would continue to send the information directly to each candidate in the electoral district.
C10.	Representative's authorization	**135(2)**	Under subsection 135(2), candidates' representatives must present their authorization forms to the DRO. This is not practical or efficient in a central polling place. This subsection should be amended so that candidates' representatives may deliver their authorization forms to either the central poll supervisor or the DRO.
C11.	Elector not on the list	**149(*b*)** **173(2)(*a*)**	Under paragraphs 149(*b*) and 173(2)(*a*), an elector whose name is not on the list of electors can vote if the DRO "ascertains" with the RO that the elector should be on the list. These are anachronistic provisions from a time when electors could not register at the polls. Anyone not on the list today can fill out a registration certificate, without the need for an alternative process. The provisions allowing electors to vote if the DRO ascertains that they ought to be

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			on the list should be repealed.
C12.	Custody of election materials	**175(7)**	As a general rule, DROs are entrusted with the safekeeping of election documents, including ballot boxes and their contents. With the CEO's prior approval, an RO may recover a ballot box from a DRO if that action is deemed necessary to ensure the integrity of the vote. The need for the CEO's approval in each individual situation is an administrative hurdle that delays ROs from acting promptly to protect ballot boxes. As the CEO recommended in 2010, ROs should be entitled to recover a ballot box when they believe the integrity of the vote is at risk, without seeking the CEO's prior approval. The CEO will retain the authority to issue binding instructions regarding the custody of election materials where warranted.
C13.	Location of SVRA and CEO	**180, 214, 221, 229, 239, 261, 267**	Sections 180, 214, 221, 229, 239, 261 and 267 of the Act refer to the SVRA and the CEO as being located in Ottawa, but in reality their offices are now in Gatineau. The Act was not amended accordingly after Elections Canada moved its headquarters in 2013. The word "Ottawa" in these provisions should be replaced with the term "National Capital Region", which is defined in the *National Capital Act*.
C14.	Requiring service numbers on statements of ordinary residence	**194** **195**	Under the Act, CF electors must complete a statement of ordinary residence, which is the basis of the voting process for these electors. The Act does not require CF electors to supply their service number on their statement, but doing so would allow the Canadian Armed Forces and Elections Canada to more accurately track these electors. (Note that not all electors who fall within the definition of a CF elector have a service number.) Sections 194 and 195 should therefore be amended to require CF electors who have a service number to provide it on their statement of ordinary residence. The Canadian Armed Forces agrees with this recommendation.
C15.	CF elector lists and data	**194–199** **204** **205**	The Act sets out an approach to producing and managing CF elector data and lists that is outdated and paper-based. As well, it prescribes different processes for managing data on members of the Regular Force and of the Reserve Force. Finally, when CF electors wish to amend their statement of ordinary residence, the Act sets a delay of 60 days before the amendment takes effect if the request is made outside an election period, and no amendments requested inside an election period may become effective during that period. These are unreasonable limits on a CF elector's ability to update his or her information. The provisions about collecting, validating and maintaining CF elector data should be rewritten to remove references that suggest a paper-based process, and to authorize the CEO to prescribe the process and the forms necessary for maintaining a register of CF electors. The Canadian Armed Forces agrees with this recommendation.
C16.	Delivery of CF ballots to the	**214**	The Canadian Armed Forces provides its members with a delivery service for sending their ballots to the SVRA, but electors are not required to use it. In addition to advising CF electors of the delivery service, the Act requires the

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	SVRA		DRO to inform them of the nearest post office or mailbox and to ensure that sufficient postage is applied to the mailing envelope containing the elector's outer envelope. In practice, the DRO already supplies the postage for mailing envelopes. These requirements are unnecessary additional duties and should be deleted from the Act. Section 214 should be amended so that the DRO only has a duty to advise a CF elector of the delivery service and of the deadline for the ballot to be received by the SVRA in order to be counted. The Canadian Armed Forces agrees with this recommendation.
C17.	Time for sending CF ballots	**219**	The Act currently requires that outer envelopes containing the marked ballots of CF electors be delivered to Elections Canada at the end of the voting period; however, sending all the ballots at once creates a bottleneck at Elections Canada. Section 219 should be amended to require that the marked ballots be delivered to Elections Canada at the end of each voting day, where practicable, but in any event by the end of the voting period. The Canadian Armed Forces agrees with this recommendation.
C18.	Electors in danger	**233(1.1)**	Subsection 233(1) provides that electors applying to vote by special ballot must indicate their residential and mailing addresses on the application. Subsection 233(1.1) is intended to allow electors who are under reasonable apprehension of bodily harm, such as persons in witness protection programs, undercover enforcement officers and victims of violence, to use another address to replace both their residential and mailing addresses on the application. However, the wording in subsection 233(1.1) does not accomplish Parliament's intent. Subsection 233(1.1) should be clarified so that it uses the same terminology as subsection 233(1) (that is, the elector's "place of ordinary residence" and "mailing address") and specifies that the elector may use an alternative address for both these addresses.
C19.	Updating lists of electors	**233(3)**	When electors who reside in Canada apply for a special ballot, they are required by subsection 233(3) to indicate whether they are already on a list of electors. Electors may not know the answer to this question. The goal of removing these electors from the list at their former address, where applicable, can be achieved administratively by asking them for that address. Subsection 233(3) should therefore be repealed.
C20.	Informing elector's RO of special ballot application	**234**	Under section 234, when electors apply for a special ballot in an RO office outside their own electoral district (the "host RO" office), the host RO informs the SVRA that the elector has received a special ballot. In turn, the SVRA provides this information to the elector's RO. This provision is overly prescriptive, and it may be more efficient for the information to flow in other ways—for example, from the host RO directly to the elector's RO. The way the information is shared could be managed by means of instructions from the CEO. This is especially relevant as Elections Canada moves away from paper lists to electronic lists, which could allow the information to be shared

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			instantaneously. Section 234 should therefore be repealed, and the information flow should be dictated instead by instructions from the CEO.
C21.	Giving the SVRA discretion to cancel an application for registration and special ballot	**235** **242**	Section 235 provides that electors residing in Canada who have applied for a special ballot may only vote under Division 4. Once their application is accepted, they cannot vote at the advance or ordinary polls, even if the ballot delivery is delayed or their plans change and they become able to vote at the polls. Section 242 permits electors to receive a new special ballot if they inadvertently handled the ballot in such a manner that it cannot be used. This provision seems to apply only when electors receive their special ballot at an RO office, and not when they request it from the SVRA. The provision also does not address situations where an elector never receives the special ballot by mail, or where the special ballot is damaged in transit rather than spoiled by the elector. Division 4 should include a new provision to address situations where electors decide to vote at an advance or ordinary polling station after applying for a special ballot, or where they apply a second time because their first special ballot did not arrive or arrived spoiled. The provision should give the SVRA discretion to cancel an elector's application to vote by special ballot in circumstances where not doing so would disenfranchise the elector or permit the elector to cast two ballots. This would both prevent double voting and ensure that the elector is not disenfranchised. The new provision should provide that, when an application is cancelled, it will be deemed to have not been made and the special ballot will be deemed to have not been issued. Such a deeming will mean that the elector is not liable to prosecution for applying for a ballot to which the elector was not entitled.
C22.	Where to send special ballots	**239**	Under section 239, electors must send their special ballot to the RO office if they cast the ballot in their own electoral district or to the SVRA if they cast it outside their electoral district. This strict rule could disenfranchise some electors for no reason. There may be circumstances where it is more efficient for electors to send their special ballot to the SVRA rather than to the RO office in their electoral district. There may also be situations where electors send the ballot to the wrong office by mistake. Section 239 should be amended to authorize the SVRA to determine where to send the ballot.
C23.	Voting day for incarcerated electors	**245** **250** **251**	The Act provides that voting in correctional institutions shall take place on the 10th day before polling day. With general elections fixed to occur on the third Monday in October, the 10th day before polling day is almost inevitably the Friday of the Thanksgiving weekend. This puts pressure on the people and processes necessary to conduct the vote because the institution's support personnel are less likely to be at work that day. As well, the couriers used to

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			deliver the outer envelopes to the SVRA do not operate over the long weekend, delaying the return of the ballots by three days. The Act should be amended either to grant the liaison officer responsible for an institution discretion in deciding when to hold the election (always subject to instructions from the CEO) or to set voting day for the 12th day before polling day.
C24.	Setting aside outer envelopes at count of special ballots	**267**	Special ballots are counted at Elections Canada headquarters by special ballot officers. First, these officers determine which outer envelopes must be set aside (section 267). Then, among the outer envelopes that are retained, the officers determine if any ballots must be rejected (section 269). The Act provides that the SVRA resolves any dispute related to rejecting ballots (subsection 269(3)), but there is no equivalent mechanism for setting aside outer envelopes. To make the provisions consistent, the Act should give the SVRA the authority to resolve disputes related to setting aside outer envelopes.
C25.	Counting special ballots	**267** **277**	Special ballots are counted at Elections Canada headquarters and in RO offices. The two counting procedures specify somewhat different reasons for setting aside outer envelopes. At the office of the CEO, under subsection 267(2), envelopes are to be set aside if the elector has voted more than once. At the office of the RO, under paragraph 277(1)(*c*), an outer envelope must be set aside if more than one ballot has been issued to the elector. Since it is possible for more than one ballot to be issued to an elector in innocent circumstances (notably, where the first ballot was "spoiled" before reaching the elector or was never received), outer envelopes should only be set aside at the RO office when the elector has actually voted twice. Paragraph 277(1)(*c*) should therefore be amended to align with subsection 267(2).
C26.	Judicial recount	**301–312** **Schedule 4**	Electors who file an application before a judge for a judicial recount under subsection 301(1) are not obligated to notify each candidate. A new provision should require an elector to give notice to all candidates in the electoral district when applying for a recount, since they all have a stake in the judge's decision of whether or not to grant the application. In addition, the language used in sections 311 and 312, regarding the failure of a judge to conduct a recount, is unclear. Questions have been raised about the scope of the provisions and whether they may, in fact, allow for a review or appeal of a judicial recount. Sections 311 and 312 should be amended to clarify their intent. Finally, the new Schedule 4 to the Act fails to require the judge to certify the recount results by signature. Schedule 4 should be amended to oblige the judge to sign the Recount Ballot Box Reports and no longer require the judge to initial the number of votes allocated to each candidate.
C27.	Election survey	**319**	There is a discrepancy between the English and French versions of the definition of "election survey" ("sondage électoral") in section 319 of the Act. "Election survey" is defined as an "opinion survey" in the English version; it is

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			defined only as a “sondage” in the French version, without the “opinion” qualifier. The two versions should be reconciled. The word “opinion” should be deleted from the English version so that the definitions clearly include not only opinion surveys, but also surveys such as exit polls that set out how people did vote.
C28.	Obligations to file registration notices	**348.06** **348.07**	Under subsections 348.06(2) and 348.07(2), the registration notices that the calling service provider and the person who enters into an agreement with the provider must file with the CRTC shall include, *inter alia*, the name of the person or group with which the provider has entered into the agreement. From registrations filed during the 2015 election, it is evident that the person who signed or executed the agreement is not necessarily the same person or group with which the calling service provider has entered into the agreement. The English version makes no distinction between the person who executed the agreement and the person or group with whom the provider has entered into the agreement. This difference leads to inconsistencies in the registration process. The French version seems to appropriately distinguish between the person who executed the agreement (“la personne qui conclut”) in subsection 348.07(1) and the person or group with which the provider has entered into the agreement (“la personne ou [le] groupe partie à l’accord”) in subsection 348.07(2). Moreover, while agreements can be entered into by a number of persons and groups identified in the Act, the provisions do not specifically require that registrants identify on whose behalf the calls are being made. As the CRTC has recommended, the English version of section 348.06 and subsections 348.07(1) and (2) should be amended to more closely align with the French version of these provisions. The registration notice provisions should include a requirement to identify on whose behalf the calls are being made.
C29.	Uncancellable spending	**350(4.1)** **450(2)**	Subsections 350(4.1) and 450(2) provide that third parties and EDAs do not incur election advertising expenses if they are unable to cancel the transmission of the advertising once the writ is issued. The introductory words of the subsections state that this applies only for by-elections and for general elections “held on a date other than” the fixed date prescribed by subsection 56.1(2) or section 56.2. However, since the start date of a fixed-date election is currently not prescribed by law, these provisions should apply for all elections. The introductory wording of these subsections should be adjusted accordingly.
C30.	Contribution to third parties	**359(4)(*a*)**	Under paragraph 359(4)(*a*), third parties must report contributions received “for election advertising purposes”, but only those received in the period beginning six months before the issue of the writ and ending on polling day. Restricting the period in which such contributions must be reported is not warranted and is not well suited to fixed-date elections. The timing restriction in paragraph 359(4)(*a*) should be removed so that all relevant contributions must be reported, regardless of when they are received. The Commissioner agrees with this recommendation.

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C31.	Delivery to ROs	**383**	Due to an error in section 3 of the *Reform Act, 2014* (S.C. 2015, c. 37), subsection 383(2) of the *Canada Elections Act* was accidentally replaced with text that was also rightly inserted elsewhere. Before it was replaced, the original provision allowed public inspection of a candidate's electoral campaign return and associated documents at the RO office. A review has suggested that the original provision, and in fact the whole section, is no longer needed, as candidates' electoral campaign returns and most associated documents are now posted on Elections Canada's website. As a result, the public inspection afforded previously by section 383 can now be done online. Section 383 should therefore be repealed.
C32.	Quarterly returns	**433**	Under section 433 of the Act, parties whose candidates received at least 2% of the vote (or 5% of the vote in electoral districts where they endorsed a candidate) in the most recent general election must file quarterly returns that contain certain financial information. As the section is currently drafted, a party that met the vote threshold in the last general election of October 2015 could be required to file a quarterly return for the three-month period prior to it (for example, from July 2015 to September 2015). In all likelihood, this is not the result intended by Parliament. Prior to 2014, sections 424.1 and 435.01 of the Act provided that parties had to produce such returns if they met the vote threshold in the most recent general election *preceding that quarter*. Subsection 433(1) should be amended so that parties meeting the vote threshold have to produce returns only for quarters that follow the most recent general election, as is the current practice.
C33.	Quarterly allowance	**445** **446**	Sections 445 and 446 deal with the quarterly allowances that were phased out on April 1, 2015, pursuant to amendments to the Act. Section 445 and subsections 446(1) to (3) should be repealed because they are spent. However, subsections 446(4) and (5) should not be repealed because they define the term "provincial division" of a registered party (a term that is used elsewhere in the Act) and require the chief executive officer of a provincial division to report changes in specified information to the registered party's chief agent within 15 days.
C34.	Filing date for EDA's annual update	**464**	The Act requires registered EDAs to file an annual financial transactions return (section 475.4) and an annual registry update (section 464). Both reports are due on or before May 31 of each year. If an election campaign is in progress in that electoral district on that date, the financial return is still due on May 31, but the annual update is due July 31. Granting two extra months for the less complex annual registry update provides little benefit to associations, while the fact that the two reports may be due on different days creates administrative complexities for associations and Elections Canada. In all cases, the annual registry update should be due on the same date as the financial transactions return. Section 464 should be amended accordingly to preclude the rare possibility of a July 31 deadline.

No.	Subject	Provision(s) in the Act	Recommendation
C35.	*Electoral Boundaries Readjustment Act*	**469(4)**	Subsection 469(4) of the *Canada Elections Act* provides that the registration of an EDA for an electoral district that is created or revised by a representation order made under section 24 of the *Electoral Boundaries Readjustment Act* may not take effect before the order comes into force. Yet subsection 25(3) of the latter Act overrides this rule by stipulating that, for the purpose of registering associations under subsection 469(4) of the *Canada Elections Act*, the representation order is deemed to be effective on the day on which the proclamation of the draft representation order is issued. Subsection 469(4) should be amended to align with subsection 25(3) of the *Electoral Boundaries Readjustment Act*. It should clearly state that the registration is effective on the day on which the proclamation is issued under subsection 25(1) of that Act.
C36.	Reporting non-monetary transfers	**476.75(2)(*h*)** **478.8(2)(*i*)**	Under paragraphs 476.75(2)(*h*) and 478.8(2)(*i*), nomination contestants and leadership contestants must include in their financial returns a statement of goods, services and funds transferred by the contestant to the registered party, registered association or (in the case of a nomination contestant) the candidate. While contestants may transfer funds to these other entities under paragraphs 364(5)(*a*) and (*b*), there is no equivalent provision allowing them to transfer goods or services. Paragraphs 476.75(2)(*h*) and 478.8(2)(*i*) should therefore be amended to remove the reference to goods and services.
C37.	Leadership and nomination surplus	**476.91** **478.94**	In 2014, the Act was amended to require that candidates dispose of their capital assets before disposing of their surplus of electoral funds (subsection 477.8(2)). This is currently not the case for leadership and nomination contestants. The surplus provisions for contestants should therefore be updated to align with the rules for candidates.
C38.	Expense limit for notices of nomination meetings	**477.48**	Section 477.48 sets a limit on expenses that may be incurred to provide notice of meetings held for the purpose of nominating a candidate for an election. The limit is 1% of the maximum election expenses for the electoral district. It is not clear who the provision applies to, and the rule would be difficult to enforce. In fact, the provision predates the regulation of nomination contests, including expenses. It served as an exception to an advertising blackout at the start of the election period, which no longer exists. Section 477.48 should therefore be repealed.
C39.	Payment of candidate expenses	**477.54** **497.4(1)(*f*)**	Subsection 477.54(2) prohibits an official agent and a candidate from paying a campaign expense more than three years after polling day without an authorization or order to do so. However, the related offence provision at paragraph 497.4(1)(*f*) refers only to the official agent. Nevertheless, it is possible that both a candidate and an official agent could contravene the provision, since candidates are authorized to pay their personal expenses. As the Commissioner has recommended to the CEO, candidates should be added to the offence provision at paragraph 497.4(1)(*f*) to be consistent with the prohibition at section 477.54.

No.	Subject	Provision(s) in the Act	Recommendation
C40.	Candidate reimbursement	**477.74(1)(*c*)**	There are two difficulties with paragraph 477.74(1)(*c*). First, the paragraph should clearly indicate that the candidate must have paid *personal and election expenses* in an amount that is more than the specified percentage of the election expenses limit, to reflect the intention to reimburse both types of expenses. Second, the paragraph currently provides that candidates are eligible for the final instalment of their reimbursement if they have incurred expenses of more than 30% of their election expenses limit. This number appears to be a drafting error; it should have been adjusted when candidate reimbursement levels increased to 60% in 2004.The number in paragraph 477.74(1)(*c*) should be 25% to reflect Parliament's intent and current practice. The provision aims to ensure that a final instalment is paid only to candidates who are entitled to a total reimbursement that is more than their first instalment. That first instalment is 15% of the election expenses limit, irrespective of the actual paid expenses. As candidates receive a total reimbursement of only 60% of what they actually paid, in order to be entitled to the full first instalment, candidates need to have paid expenses amounting to at least 25% of their expenses limit. This is because the first instalment is equal to 60% of 25% of the election expenses limit. As a result, the only candidates who would be entitled to a final instalment are those whose paid expenses amount to more than 25% of their expenses limit. Any candidate whose expenses were less than 25% will not only receive no final instalment, but will be required to pay back part of the first instalment. Paragraph 477.74(1)(*c*) should therefore be amended as described above.
C41.	Withdrawal of writ	**477.79(*a*)** **477.9(5)**	The definition in subsection 2(6) of "polling day" in cases where a writ is withdrawn or deemed withdrawn was enacted in 2014 and applies, among other parts, to Division 5 of Part 18 of the Act. However, it conflicts with other provisions in that division, namely, paragraph 477.79(*a*) and subsection 477.9(5). The English versions of subsection 2(6) and paragraph 477.79(*a*) define polling day in two different ways: in paragraph 477.79(*a*), it means the day of publication in the *Canada Gazette* of the notice of withdrawal or deemed withdrawal of the writ; and in subsection 2(6), it means the day that the writ is withdrawn or deemed to be withdrawn. These two days may not necessarily be the same. Paragraph 477.79(*a*) should be amended to provide that, in respect of electoral campaign expenses of candidates, the election is deemed to have been held on polling day as defined in subsection 2(6)—that is, the day that the writ is withdrawn or deemed to be withdrawn.

No.	Subject	Provision(s) in the Act	Recommendation
			The new definition of polling day in subsection 2(6) has also unintentionally given candidates two different deadlines, under subsection 477.9(5), by which to provide the CEO with their statement of gifts or other advantages when a writ is withdrawn or deemed to be withdrawn. Under paragraph 477.9(5)(*b*), it is four months after the day of publication in the *Canada Gazette* of the notice of withdrawal or deemed withdrawal of the writ; under paragraph 477.9(5)(*a*) and subsection 2(6), it is four months after the day that the writ is withdrawn or deemed to be withdrawn. Parliament could not have intended for two different deadlines. Paragraph 477.9(5)(*b*) should therefore be repealed so that only one deadline applies when a writ is withdrawn or deemed to be withdrawn.
C42.	Exclusion from surplus of assets transferred by candidates to themselves when a by-election is cancelled	**477.8**	Paragraphs 364(2)(*f*) and 364(3)(*e*) of the Act address certain transfers that occur when a by-election is superseded by a general election. Added in 2014, these new paragraphs remove from the definition of "contribution", and expressly permit, the provision of goods and services (paragraph 364(2)(*f*)) and the transfer of funds (paragraph 364(3)(*e*)) from candidates in a cancelled by-election to themselves as candidates in the general election. However, these permitted activities are not contemplated in section 477.8, which deals with the calculation of a candidate's surplus. A strict reading of this provision could require a by-election candidate who has made transfers under paragraphs 364(2)(*f*) or 364(3)(*e*) to dispose of a "surplus" that does not exist. This can be resolved with two amendments. Subsection 477.8(2), which requires the transfer or sale of certain capital assets before the surplus is calculated, could take into account the transfer of goods and services under paragraph 364(2)(*f*). This could be done, for example, by removing the reference to transfers to parties and associations and using more general wording. In subsection 477.8(4), which defines transfers made by a candidate, paragraph 477.8(4)(*c*) could be amended to also refer to funds transferred under paragraph 364(3)(*e*).
C43.	Partnership appointed as auditor	**478.61(3)**	In the French version of subsection 478.61(3), the first use of the word "nommé" should relate to the word "société" and not the word "membre" in order to align with the English version. This is because a person may not, under paragraph 478.6(*c*) and subsection 478.61(2), be an auditor of a registered party and a financial agent for a leadership contestant at the same time. The French version of subsection 478.61(3) should therefore be amended to add an "e" at the end of the first use of "nommé".
C44.	Obstruction, etc., of electoral process	**480(1)**	Subsection 480(1) makes it an offence to contravene the Act with the intention of delaying or obstructing the electoral process, otherwise than by committing an offence under subsection 480(2) or sections 481, 482 and 483 to 499. Two new offence-making provisions (sections 480.1 and 482.1) were added to the Act in 2014. However, they were not added to the list of offences referred to in subsection 480(1), which are offences not caught by the general offence of delaying or obstructing the electoral process. This is likely an oversight, and a reference to sections 480.1 and 482.1 should therefore be added to subsection 480(1).

No.	Subject	Provision(s) in the Act	Recommendation
C45.	Search and seizure	**511(3)**	Subsection 511(3) of the Act deems investigators engaged by the Commissioner to be "public officers" for the purposes of section 487 of the *Criminal Code*, which is the basic search warrant provision. After subsection 511(3) was enacted, the *Criminal Code* was amended to allow judicial authorization for production orders and other investigative tools. These new tools are available to permanent employees of the Commissioner, who by virtue of their employment are public officers for the purposes of the *Criminal Code*. But they are not available to investigators on contract with the Commissioner, who are public officers only by virtue of subsection 511(3) of the Act and only with respect to section 487 of the *Criminal Code*. As the Commissioner recommended to the CEO, subsection 511(3) of the Act should be updated to ensure that all the Commissioner's investigators, including contractors, are able to apply for judicial authorizations as provided for in the following sections of the *Criminal Code*: 487 (search warrants); 487.012 (preservation demands); 487.013 (preservation orders for computer data); 487.014 (general production orders); 487.015 (production orders to trace specified communications); 487.016 (production orders for transmission data); 487.017 (production orders for tracking data); 487.018 (production orders for financial data); 487.019(3) (revocations or variations of a production order); 487.0191 (orders prohibiting disclosure of information related to or the existence of a preservation demand, preservation order or production order); and 487.0192 (particulars of production orders).
C46.	Oaths and affidavits	**549**	Subsection 549(1) sets out the persons who may administer oaths or affidavits under the Act. The English version gives this authority to, among other persons, "the returning officer, *an* assistant returning officer, a deputy returning officer". The French version, on the other hand, gives this authority to "le directeur du scrutin, *le* directeur adjoint du scrutin, un scrutateur". The English version seems to reflect the proper interpretation of the Act, as it would include AAROs appointed under section 30. The French version of subsection 549(1) should therefore be amended to align with the English by replacing "le" with "un" before "directeur adjoint du scrutin".
C47.	Publication in *Canada Gazette*	**554(2)**	The CEO is required by subsection 554(2) to publish a notice in the *Canada Gazette* once amendments to the Act have been consolidated and all forms and instructions have been accordingly corrected and reprinted. Now that the Act is available in a consolidated version online, the public can see that it has been amended. Updated forms and instructions are also available on Elections Canada's website. There is no need for additional notice to be published in the *Canada Gazette*. This anachronistic requirement should be repealed.
C48.	Northwest Territories	**Schedule 3**	The name of the federal electoral district for the Northwest Territories was changed from "Western Arctic" to "Northwest Territories" by the *Riding Name Change Act, 2014* (S.C. 2014, c. 19). However, that statute did not include a consequential amendment to change the name in Schedule 3 of the *Canada Elections Act*. Accordingly, Schedule 3 should now be amended to reflect the change.

No.	Subject	Provision(s) in the Act	Recommendation
C49.	Inducing or influencing others to act	**Various provisions**	The Act has many prohibitions on a person "inducing", "influencing", "attempting to induce" or "attempting to influence" someone else to act in a certain way—for example, to make a false or misleading statement regarding a person's qualification as an elector, in paragraph 111(*d.1*), or to vote or refrain from voting for a certain candidate, in subsection 166(1). The use of the word "induce" or "influence" in English could imply that, for the offence to be committed, the desired outcome of the inducing or influencing must occur—that is, the other person must actually do what the first person wanted him or her to do. In contrast, where the phrases "attempting to influence" or "attempting to induce" are used, it is clearer that, for an offence to be committed, it is sufficient that the first person acts for the purpose of influencing someone else—it is immaterial whether or not the first person's actions have the desired impact on the other person's behaviour. The French equivalent primarily used in the Act for all of these words and phrases is "inciter". The use of this word generally does not imply the need to prove a successful outcome and is likely a better reflection of Parliament's intent. However, the occasional use of "tenter d'inciter" in the Act creates some uncertainty on this point (for example, in subsection 161(5.1)). For greater clarity, and to enable more effective prosecution of wrongful behaviour that seeks to influence the outcome of an election, all prohibitions and offences in the Act that use the words "induce" or "influence" in English and "inciter" in French should be reviewed and amended for consistency. In most cases, the phrases "attempt to influence" and "attempt to induce" more appropriately describe the conduct that the Act seeks to punish than the words "induce" or "influence". The Commissioner agrees with this recommendation.