



LEGISLATIVE SUMMARY

BILL C-19: AN ACT TO AMEND THE CANADA ELECTIONS ACT (COVID-19 RESPONSE)

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Legislative Summary of Bill C-19
(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-19: AN ACT TO AMEND THE CANADA ELECTIONS ACT (COVID-19 RESPONSE)

1 BACKGROUND

Bill C-19, An Act to amend the Canada Elections Act (COVID-19 response),¹ was introduced in the House of Commons on 10 December 2020 by the President of the Queen's Privy Council for Canada.

The bill contains a series of measures that temporarily supersede sections of the *Canada Elections Act*²(CEA) to assist Elections Canada in administering a potential federal general election during the COVID-19 pandemic. Specifically, Bill C-19

- widens the existing power of the Chief Electoral Officer (CEO) to adapt provisions of the CEA to include ensuring the health and safety of electors or election officers during an election period or within 30 days after it;
- expands the voting period from a single day (usually a Monday) to a polling period of three consecutive days consisting of a Saturday, Sunday and Monday, and sets the hours for voting each day;
- maintains four consecutive days of advance voting but moves the starting period for advance voting forward by one day;
- adjusts opening and closing procedures at polling stations related to ballot boxes to account for multiple consecutive days of voting;
- authorizes returning officers to establish polling divisions that consist of a single institution, or part of an institution, where seniors or persons with disabilities reside, and sets the days and hours for voting at these polling divisions;
- authorizes the CEO to modify deadlines or periods of time prescribed in the CEA by moving the days, or start dates or end dates, forward or backward, by up to two days; and
- adapts certain provisions of the CEA related to special ballots (e.g., voting by mail) with respect to applications for registration for a special ballot, exceptions to voting by special ballots only, modes of transmission of special ballots and secure reception boxes and ballot boxes.

Bill C-19 enacts legislative measures that are temporary in nature. Once a notice is published by the CEO in the *Canada Gazette* confirming that the temporary rules found in the bill are no longer required to safely administer an election in the context of the COVID-19 pandemic, the wording of the provisions adapted by this bill will revert to their previous wording.

1.1 CHIEF ELECTORAL OFFICER'S SPECIAL REPORT

Bill C-19 was introduced in response to the matters raised in a special report tabled in the House of Commons on 5 October 2020 by the CEO. The report, entitled *Special Report of the Chief Electoral Officer: Administering an Election during the COVID-19 Pandemic* (CEO's report),³ outlines the anticipated challenges of administering a federal general election during the COVID-19 pandemic.

In setting out proposed responses to these challenges, the CEO's report requested that Parliament enact several legislative changes to temporarily supersede provisions of the CEA for the duration of the pandemic. The CEO asked that Parliament act swiftly to assist Elections Canada in preparing for a potential general election under pandemic conditions.

1.1.1 Anticipated Challenges of an Election Held During COVID-19

The CEO's report identifies three main challenges for Elections Canada in administering an election during the pandemic:

- *Longer wait times for in-person voting* – To comply with public health advice and guidance, Elections Canada anticipates that the number of voters and workers present simultaneously at a polling place will need to be limited and the number of polling stations within a polling place likely reduced to comply with physical distancing rules. Thus, the wait times experienced by electors seeking to vote in person could significantly increase. Further, physical distancing between electors would also need to be maintained while in line inside and outside polling places.⁴
- *A smaller pool of potential election workers* – The administration of a federal general election requires that many workers be hired by Elections Canada (e.g., 232,000 election workers were hired to administer the 43rd general election in 2019). Elections Canada anticipates that the COVID-19 pandemic could reduce the pool of potential election workers as individuals might feel dissuaded from working at a polling place due to the potential risk of infection. Further, records show that a significant number of past election workers have been senior citizens.⁵ These individuals may consider themselves vulnerable to infection by COVID-19.
- *A reduced availability of traditional polling places* – The availability of traditional and suitable polling places is likely to be reduced during the COVID-19 pandemic. Traditional polling locations such as schools and churches may declare their locations unavailable because of the perceived risks of infection.⁶

1.1.2 Elections Canada's Proposed Responses to Anticipated Challenges

1.1.2.1 Extending the Voting Period

The CEO's report states that holding election day over a two-day period on a weekend would have a number of advantages. It could increase both the pool of potential election workers and the availability of buildings that could be used as polling locations, as well encourage a more evenly spaced flow of electors that allows for physical distancing.⁷ Further, the report favours reducing the length of the workday from 12 hours to eight, to lessen fatigue among workers. Delaying the opening time of polls by one hour would also allow more time to set up polling places according to public health guidelines.

The CEO's report recommends the following:

- temporarily changing election day from a Monday to a two-day period held on a weekend;
- shortening voting hours for the Saturday and Sunday election days from 12 hours to eight hours each day;
- temporarily moving advance polling days to Thursday, Friday, Saturday and Sunday before the polling period and reducing voting hours for advance polls from 12 hours to eight hours each day; and
- temporarily moving the deadline for receipt of mail-in ballots to 6:00 p.m. on the Monday following the second polling day, a proposal made in anticipation of an increase in the use of mail-in ballots by voters.⁸

The CEO's report notes that holding election day over the weekend would create conflicts with days of religious significance for some electors and candidates. However, this potential problem would likely be lessened by holding the election over two days rather than one.

1.1.2.2 Voting in Long-Term Care Facilities

In recent elections, residents of long-term care facilities were given the option of voting inside their facility at mobile polls operated by Elections Canada workers. However, the CEO's report states that health conditions at long-term care facilities have been adversely affected by the COVID-19 pandemic in a disproportionate manner.⁹ Rules permitting access to these facilities differ among provinces and change regularly in response to public health directives. As a result, it is not clear whether these facilities could accommodate Elections Canada's schedule for mobile polls as currently set out in the CEA.

Further, the CEO's report raises the concern that the current process under the CEA for administering the vote using mobile polls entails election workers proceeding from facility to facility. This could lead to an increased risk of spreading the virus.

Therefore, the CEO's report proposes that the CEO be authorized to prescribe the timing and manner in which voting would occur at long-term care facilities. Elections Canada would develop a service model that reflects the regulatory framework in each province that could be adapted to local circumstances.¹⁰

1.1.2.3 Adjusting the Chief Electoral Officer's Adaptation Power

Section 17 of the CEA provides the CEO with the power to adapt provisions of the CEA during an election or within 30 days after it, in response to an emergency, an unusual or unforeseen circumstance, or an error. However, this power is subject to certain restrictions.

According to the CEO's report, section 17 may be too narrowly prescribed to allow for the CEO to respond to unforeseen issues that could arise as a result of the pandemic.

Consequently, the report recommends adopting temporary provisions that would supersede section 17 to authorize the CEO to make the necessary adaptations within all areas of his mandate while maintaining certain prohibitions, such as the prohibition on extending voting hours.¹¹

1.2 SUBJECT-MATTER STUDY BY THE HOUSE OF COMMONS STANDING COMMITTEE ON PROCEDURE AND HOUSE AFFAIRS

On 5 October 2020, the CEO's report was referred to the House of Commons Standing Committee on Procedure and House Affairs (the committee), pursuant to House of Commons Standing Order 32(5). The committee began its study on the CEO's report and related matters on 22 October 2020.

In organizing its work, the committee agreed to adopt an interim report by 1 December 2020, a deadline that was subsequently extended to 11 December 2020. The recommendations made by the committee in its report entitled *Interim Report: Protecting Public Health and Democracy During a Possible Pandemic Election*¹² dealt only with the proposals contained in the CEO's report.

The committee recommended as follows:

- that Elections Canada provide voting opportunities for three 12-hour-long voting days, consisting of Saturday, Sunday and Monday;

- that Elections Canada do its utmost to protect the health and safety of seniors and to strengthen voting procedures in long-term care and congregate settings, and when necessary, ensure that alternative voting methods are put in place;
- that Elections Canada consult extensively with appropriate public health authorities and long-term care facilities to determine safe procedures for the conducting the vote in those facilities;
- that Elections Canada consider how rapid testing of its employees may increase the safety of residents of long-term care facilities;
- that as part of administering an election in long-term care facilities, Elections Canada workers be responsible for helping residents vote and for collecting ballots; and
- that the CEA be temporarily amended to allow for the CEO to adapt the Act where necessary for safety, health or security reasons, in consultation with public health officials and the Advisory Committee of Political Parties.¹³

The committee presented its interim report to the House of Commons on 11 December 2020. However, it should be noted that Bill C-19 had been introduced in that same chamber the day before.

2 DESCRIPTION AND ANALYSIS

The CEA in its current form consists of 21 parts and 555 sections, which, taken together, prescribe the conduct of federal general elections in Canada.

Bill C-19 contains 11 clauses. Clauses 1 to 5 amend the CEA to add a new temporary Part 22 comprising new sections 556 to 594. Clauses 6 to 11 provide for the repeal of new Part 22, transitional provisions and the coming-into-force provisions of the bill.

2.1 APPLICATION OF NEW TEMPORARY RULES (CLAUSE 1)

Bill C-19 amends the CEA to add a new temporary Part 22 after current section 555.

This new part temporarily adapts provisions contained in Parts 1 to 21 of the CEA. New sections 556 and 557 clarify that Parts 1 to 21 of the CEA continue to apply to an election once Part 22 comes into force but subject to any modifications contained in that Part.

2.2 CHIEF ELECTORAL OFFICER'S POWER TO ADAPT ACT (CLAUSE 1)

Current section 17(1) of the CEA gives the CEO the power to adapt any provision of the CEA during an election or within 30 days after it, should an emergency, unusual

or unforeseen circumstance, or error make it necessary. The sole purpose of this power is to enable electors to exercise their right to vote or to enable the counting of votes.

New section 558 of the CEA adapts the contents of current section 17(1) to add that the CEO can also use the power to adapt any provision of the CEA to ensure the health and safety of electors or election officers.

2.3 VOTING IN INSTITUTIONS WHERE SENIORS AND PERSONS WITH DISABILITIES RESIDE (CLAUSES 1 AND 2)

2.3.1 Constituting Polling Divisions in Institutions

The current provisions of the CEA set out a process for in-person voting for electors who live at institutions where seniors or persons with a disability reside. Current section 538(5) of the CEA states that a returning officer, with the approval of the CEO, may constitute polling divisions¹⁴ that consist of two or more such institutions. Under current section 125(1), the returning officer can then establish a mobile polling station, to be located inside each of those institutions, which services the electors residing in them successively (i.e., the polling station moves from one facility to another).

Clause 1 of Bill C-19 creates new section 560 of the CEA, which temporarily adapts current section 538(5) to provide that returning officers can constitute polling divisions that consist of only one institution, or a part of an institution, where seniors or persons with disabilities reside. The bill also adds new section 561(1) to the CEA, which provides that the returning officer must establish a polling station at a polling division constituted under section 538(5) (clause 1).

Further, the bill adds new section 559,¹⁵ which temporarily adapts current section 127(a) of the CEA to provide that electors may vote in person at a polling station constituted under temporarily adapted section 538(5) (clauses 1 and 2).

2.3.2 Days and Hours of Operation of Polling Stations Constituted in Institutions (Clauses 1 and 3)

Bill C-19 creates new section 561(2) of the CEA,¹⁶ which stipulates the days and hours of operation of polling stations established under new section 561(1) at institutions where seniors and persons with disabilities reside (clauses 1 and 3). The returning officer must open these polling stations for a period that the returning officer considers necessary to give electors residing in the institution a reasonable opportunity to vote. However, the period can only begin on the 13th day before election day, and the polling station cannot be open for a total of more than 28 hours during that period (clause 3).

New section 561(3) of the CEA provides that, in accordance with instructions given by the CEO, returning officers must give notice to candidates of the days and hours of operation for polling stations established under new section 561(1).

2.3.3 Ballot Box Procedures for Polling Stations Constituted in Institutions
(Clause 1)

Clause 1 of Bill C-19 creates new section 561(4) of the CEA, which provides that the provisions of the CEA related to ordinary polls also apply to polling stations established at institutions where seniors and persons with disabilities reside, where applicable and subject to instructions given by the CEO.

New section 562(1) of the CEA provides that, at the opening of a polling station in an institution on the first day, an election officer must open the ballot box, ascertain that it is empty, seal the box with an official seal and place it on a table. This process must be carried out in full view of the candidates or representatives who are present. The box must remain in full view on a table until the polling station closes that day. New section 562(2) of the CEA requires that this process be carried out on each subsequent day that the polling station is open.

New section 562(3) provides for the times when candidates or their representatives may take note of the serial numbers on the seals of any ballot box at polling stations established in institutions. These times are as follows:

- when the ballot box is placed on the table as per new section 562(1);
- when the polling station closes each day; and
- when votes are counted on election day.

Under new section 562(4), the five procedures that currently exist under sections 175(5) to 175(9) in the CEA for keeping custody of ballot boxes and, if necessary, recovering ballot boxes from election officers, apply to ballot boxes for polling stations constituted in institutions.

2.4 SINGLE ELECTION DAY REPLACED BY A POLLING PERIOD
(CLAUSE 4)

Current section 56.1(2) of the CEA sets the fixed date on which federal general elections must be held: the third Monday in October, four calendar years after the last general election.

Clause 4 in Bill C-19 provides for the temporary replacement of the date of election day with a polling period. New section 564 of the CEA provides that, instead of holding a general election on a single day, a polling period is created, consisting of

the Saturday, Sunday and Monday following the second Monday in October, four calendar years after the last general election.

2.4.1 Related Adaptations to the *Canada Elections Act* to Create a Polling Period

Temporarily replacing a single election day with a polling period consisting of three days requires that numerous related adaptations be made throughout the CEA. Bill C-19 contains many instances whereby sections of the CEA are adapted to temporarily replace the use of “polling day,” or references to polling day as a single day, with the term “polling period” or a reference to the first or last day of the polling period.

Clause 4 of the bill creates new section 583(1) of the CEA, which temporarily replaces all references to the expression “before polling day” with the expression “before the first day of the polling period” in Parts 1 to 21 of the CEA, with some exceptions. New section 584 temporarily replaces all references to the expression “after polling day” and “after the polling day” with the expression “after the last day of the polling period” in Parts 1 to 21 of the CEA, with some exceptions. New section 585(1) of the CEA temporarily replaces all references to the expression “polling day” with the expression “the last day of the polling period” in Parts 1 to 21 of the CEA, with some exceptions.

Some notable provisions of the current CEA that are adapted by clause 4 of Bill C-19 to temporarily replace references to a single polling day with references to a three-day polling period include the following:

- the definition of “polling day” (current section 2(1) is adapted by new section 562(3) of the CEA);
- a writ deemed withdrawn (current section 2(6) is adapted by new section 562(4), and current sections 59(3), 59(4), 59(5)(a), 59(5)(b) and 59(5)(e) are adapted by new section 567);
- the extension of voting hours for an emergency (current section 17(3) is adapted by new section 563);
- the date of the general election and writs of election (current sections 57(1.2)(c), 57(2)(b) and 57(3) are adapted by new sections 566(1), 566(2) and 566(3), respectively); and
- the postponement of closing day for nominations on the death of a candidate (current section 77 of the CEA is adapted by new section 569).

Some of adaptations made by Bill C-19 render several provisions of the CEA inapplicable. For instance, new section 565 renders current section 56.2 (alternate date for an election if Monday is deemed unsuitable) inapplicable. Similarly, new

section 566(4) stipulates that current sections 57(4) and 57(5) (dealing with elections held on Tuesday) are not applicable.

Current section 120 of the CEA sets out that a returning officer must, on polling day, establish polling stations and assign these to a polling division. In new section 570, the term “polling day” is replaced with “polling period,” and a new provision is created whereby a polling station must remain in the same premises on each day of the polling period unless the CEO approves the transfer of a polling station to new premises for one or more days during that period.

2.4.2 Hours of Voting at a General Election

Current section 128(1) of the CEA sets out the hours of voting on election day. They are as follows:

- (a) from 8:30 a.m. to 8:30 p.m., if the electoral district is in the Newfoundland, Atlantic or Central time zone;
- (b) from 9:30 a.m. to 9:30 p.m., if the electoral district is in the Eastern time zone;
- (c) from 7:30 a.m. to 7:30 p.m., if the electoral district is in the Mountain time zone; and
- (d) from 7:00 a.m. to 7:00 p.m., if the electoral district is in the Pacific time zone.

Further, current section 128(2) accounts for the non-observance of daylight saving time by Saskatchewan. Should a general election be held during the time when daylight saving time is observed by the rest of the country, the electoral districts in Saskatchewan are deemed to observe daylight saving time.

Clause 4 of the bill creates new section 572 of the CEA to adapt current section 128(1) so that it reads that the hours for voting in current section 128(1) are to be used on the last day (i.e., Monday) of the newly created polling period. However, new section 572 sets out that the voting hours for the first and second day (i.e., Saturday and Sunday) of the polling period are 9:30 a.m. to 5:30 p.m., irrespective of the time zone the elector resides in.

Further, new section 572 maintains the provision that all electoral districts in the country are deemed to observe daylight saving time during the time when the majority of electoral districts observe daylight saving time. The same deeming provision applies for standard time.

2.4.3 Hours of Voting at a By-Election

Under current section 131 of the CEA, the hours for voting at a by-election or by-elections held on the same day in the same time zone are from 8:30 a.m. to 8:30 p.m.

Clause 4 of Bill C-19 creates new section 573 of the CEA, which adapts current section 131 to provide for a polling period consisting of three consecutive days during which electors vote, instead of a single polling day. The hours for voting on the first and second day of the polling period are from 9:30 a.m. to 5:30 p.m. The hours for voting on the last day of the period are from 8:30 a.m. to 8:30 p.m.

2.4.4 Days and Hours of Voting at Advance Polls

Current section 171(2) of the CEA provides for the hours of voting for the four days that advance polling stations are open. These are 9:00 a.m. to 9:00 p.m. on each of the Friday, Saturday, Sunday and Monday, the tenth, ninth, eighth and seventh days, respectively, before election day.

Clause 4 of the bill creates new section 577, which adapts current section 171(2) to read that advance polling stations are to be open on the Thursday, Friday, Saturday and Sunday, the ninth, eighth, seventh and sixth days, respectively, before the first day of the polling period. The hours for voting at advance polls remain from 9:00 a.m. to 9:00 p.m.

2.4.5 Ballot Box Procedures for Polling Stations During the Polling Period

Current section 140 of the CEA sets out procedures for examining and sealing ballot boxes when polling stations open on election day. Clause 4 of Bill C-19 creates new section 574 of the CEA, which adapts these procedures to account for a new three-day polling period. It does so by adding four new provisions to current section 140 of the CEA.

New section 140(1) of the CEA provides that, at the opening of a polling station on the first day of the polling period, an election officer assigned to the polling station must open the ballot box, ascertain that it is empty, seal the box with official seals and place it on a table. This process must be carried out in full view of the candidates or representatives who are present. The box must remain in full view on a table until the polling station closes that day. The process must be carried out on each subsequent day that the polling station is open.

At the close of a polling station each day, an election officer who is assigned to the polling station must, in full view of the candidates or their representatives who are present, take the measures set out in instructions provided to the officer by the CEO, which are designed to ensure the integrity of the vote (new section 140(2)).

New section 140(3) of the CEA stipulates that candidates or their representatives may take note of the serial numbers on the seals of any ballot box at polling stations at the following times: when the ballot box is placed on the table to start the day; when the polling station closes each day; and when votes are counted on the last day of the polling period.

Finally, new section 140(4) provides that the five procedures set out in current sections 175(5) to 175(9) of the CEA for keeping custody of ballot boxes and, if necessary, recovering ballot boxes from election officers, apply to ballot boxes used in polling stations during the polling period.

2.5 CHIEF ELECTORAL OFFICER'S NEW AUTHORITY TO MODIFY DEADLINES OR PERIODS OF TIME (CLAUSE 4)

Bill C-19 adds new temporary section 582 to the CEA. This section authorizes the CEO to modify deadlines or periods of time prescribed in the CEA by moving the days, or start dates or end dates, forward or backward, by up to two days. This power can only be exercised by the CEO within two days after the issue of the writ for an election.

New section 582(1)(a) deals with anything that is authorized or required to be done under the CEA *on a day* that is a certain number of days after the issue of the writ or before the first day of the polling period. That day can be moved forward or backward by the CEO by up to two days unless that day is the closing day for nominations.

New section 582(1)(b) deals with anything that is authorized or required to be done under the CEA *within a period* that ends before the first day of the polling period. The CEO may modify the starting date or ending date of that period by up to two days unless that date is the closing day for nominations.

Under new section 582(2) of the CEA, the CEO must cause a notice of any modification made under section 582(1) to be published without delay in the *Canada Gazette* and on Election Canada's website.

2.6 RULES RELATING TO SPECIAL BALLOTS (CLAUSES 4 AND 5)

Part 11 of the CEA, "Special Voting Rules," currently provides a separate process of voting during a general election for electors who vote by a special ballot. The special voting rules under this part apply to the following groups of electors:

- Canadian Forces electors (Part 11, Division 2);
- Canadian electors temporarily residing outside of Canada (Part 11, Division 3);

- electors residing in Canada who wish to vote in accordance with the special voting rules (Part 11, Division 4); and
- incarcerated electors (Part 11, Division 5).

Bill C-19 adds new sections to the CEA that temporarily adapt certain provisions related to special ballots under Part 11.

2.6.1 Sending and Receiving Special Ballots when the Last Day of the Polling Period Is a Holiday (Clause 4)

Current sections 214, 229, 239 and 261 of the CEA set out the deadline for the receipt of special ballots in order for them to be counted. Clause 4 adds new sections 580(a) to 580(f), which temporarily adapt sections 214(1), 229, 239(1) to 239(3) and 261 of the CEA, respectively, to provide that, if the last day of the polling period is a holiday, special ballots, in order to be counted,

- must be sent before the close of the polling stations on the last day of the polling period (Monday); and
- must be received no later than 6:00 p.m. the Tuesday following the last day of the polling period. In the English version of the bill, special ballots must be received by the special voting rules administrator in the National Capital Region according to the prescribed deadline. However, the French version of the bill indicates that the returning officer in the elector's electoral district is the person who should receive special ballots by the deadline.

Under the current provisions of the CEA, special ballots are counted either at the office of the CEO or in the office of the returning officer. Current sections 267(1) and 277 provide the circumstances under which an unopened inner envelope must be set aside during the counting of special ballots at the office of the CEO and in the office of the returning officer, respectively.

New section 580(i) of the CEA temporarily adapts section 277(1) to require that an election officer set aside an unopened inner envelope if the outer envelope was sent after the close of polling stations on the last day of the polling period. With respect to the counting of the votes at the office of the CEO, the bill temporarily adapts section 267(1) of the CEA to provide that an unopened inner envelope must be set aside by the special ballot officers if

- the outer envelope was sent after the close of polling stations on the last day of the polling period (new section 580(g)); or
- the outer envelope has been received by the special voting rules administrator in the National Capital Region after 6:00 p.m. on the Tuesday following the last day of the polling period (new section 580(h)).

2.6.2 Additional Special Voting Rules for Electors Residing in Canada (Clause 5)

Division 4 of Part 11 of the CEA enables voters residing in Canada to vote by special ballot. The special ballot is available to electors who cannot or do not wish to cast a ballot at an ordinary or advance poll. With a special ballot, an elector residing in Canada can vote by mail or in person at any Elections Canada office.

Clause 5 of the bill amends the CEA by adding new sections that temporarily adapt certain provisions under Division 4 of Part 11 of the CEA. These adaptations are in relation to the following:

- applications for registration and special ballot;
- exceptions to voting by special ballot only; and
- transmission of special ballots and secure reception boxes and ballot boxes.

2.6.2.1 Application for Registration and Special Ballot

To vote under Division 4 of Part 11 of the CEA, an elector must complete an application for registration and special ballot, which must then be accepted by the returning officer or the special voting rules administrator.

Clause 5 of Bill C-9 creates new section 589, which temporarily adapts current section 232(1) to provide that an elector may submit their application for registration and special ballot in writing or in electronic form, provided that it is received by the returning officer or the special voting rules administrator before 6:00 p.m. on the sixth day before the first day of the polling period.

Current section 233(1) of the CEA lists the information required for the application for registration and special ballot. New section 590 of the CEA temporarily adapts section 233(1)(c) to specify that proof of an elector's identity and residence may include information that correlates with the information that the CEO already holds for that elector.

2.6.2.2 Vote by Special Ballot Only – Exceptions

Current section 235 of the CEA states that once an elector's application for registration and special ballot under Division 4 has been accepted, they may only vote by special ballot under this Division. New section 591 temporarily adapts current section 235 to provide exceptions to this rule. Thus, even if an elector's application for registration and special ballot under Division 4 has been accepted, the elector may vote under another Division of the CEA if authorized to do so by the returning officer or if the elector returns their special ballot to a designated election officer in person at one of three authorized places.

An elector may also vote under another Division if they make a solemn declaration as provided by section 549.1(1) of the CEA, which sets out the statements required to prove, among other matters, that an elector has not previously voted at the election. New sections 594(1) and 594(2) adapt current section 549.1(1) of the CEA to provide that an elector may vote under another Division if they make a solemn declaration that contains a statement that they have not previously voted in the election and will not vote more than once in the election, including by using a special ballot.

2.6.2.3 Transmission of Special Ballots for Applications Made in Electoral District:
Secure Reception Box and Ballot Box

Current section 239(2) of the CEA states that an elector whose application for registration and special ballot was accepted in their electoral district must ensure that the ballot is received at the office of the returning officer who accepted their application before the close of the polling stations on polling day. However, current section 239(2) does not currently provide how the special ballot is to be transmitted to that returning officer.

Bill C-19 temporarily adapts current section 239(2) of the CEA by adding new section 592(1) to provide options for the transmission of special ballots to the office of the returning officer in the elector's electoral district before the close of the polling stations on the last day of the polling period. An elector whose application for registration and special ballot was accepted by the returning officer in their electoral district may therefore transmit their special ballot in one of the following ways:

- by returning the sealed outer envelope to the returning officer by mail or any other means (new section 239(2)(a));
- by depositing the sealed outer envelope in a secure reception box outside the returning officer's office or outside the polling station or advance polling station (new sections 239(2.1)(a) and 239(2)(b)(i)); or
- by depositing the sealed outer envelope in a ballot box for the deposit of outer envelopes inside the polling station or advance polling station (new section 239(2)(b)(ii)).

Accordingly, new section 592(2) temporarily adds a new requirement under new section 239(2.1) that the returning officer install a secure reception box outside their office. The returning officer must also install, in the electoral district, either (1) a secure reception box outside the polling station or advance polling station; or (2) a ballot box for the deposit of outer envelopes inside the polling station or advance polling station.

The bill also adds new section 593(1) to temporarily adapt current section 281.7(1) of the CEA to prohibit any person from installing a secure reception box for the deposit of outer envelopes unless authorized by the CEO or a returning officer

(new section 281.7(1)(h.1)). It also adds new section 593(2) to temporarily adapt current section 281.7(1)(i) of the CEA to prohibit any person from destroying, taking, opening or otherwise interfering with a secure reception box.

2.7 REPEAL OF PART 22 OF THE *CANADA ELECTIONS ACT* (CLAUSE 6)

Clause 6 of the bill provides for the repeal of new Part 22 of the CEA, consisting of sections 556 to 594, subject to the coming into force of the transitional provisions outlined in clauses 7, 8 and 9.

2.8 TRANSITIONAL PROVISIONS (CLAUSES 7, 8 AND 9)

Once Part 22 is repealed, the provisions adapted by this bill will revert to their previous wording. Clauses 7 and 8 therefore provide transitional provisions depending on when certain clauses of the bill come into force in relation to an election period.

Current section 554(1) of the CEA provides that amendments to the CEA may only apply to an election if a six-month period has elapsed between the passing of the amendment and the issue of the writ for that election unless, before the issue of the writ, the CEO has published a notice in the *Canada Gazette* stating that the necessary preparations for the bringing into operation of the amendment have been made.

Clause 9 of the bill provides that, despite current section 554(1), the adaptations enacted by clauses 1 to 5 of the bill apply to an election for which the writ is issued within six months after the bill receives Royal Assent.

2.9 COMING INTO FORCE (CLAUSES 10 AND 11)

Bill C-19 provides different time frames for the coming into force of the clauses of the bill.

To provide time for the CEO to make the necessary preparations in response to the temporary rules under new Part 22, clause 10 of the bill provides that clauses 2 to 5 come into force either 90 days after the bill receives Royal Assent or on a day before that date when the CEO publishes a notice in the *Canada Gazette* stating that the necessary preparations for the bringing into operation of those temporary rules have been made.

Clause 11 of the bill provides that clauses 6 and 7 come into force six months after the publication of a notice by the CEO in the *Canada Gazette*. The notice must indicate that the CEO is of the opinion that the temporary rules are no longer required to ensure the safe administration of an election in the context of the COVID-19 pandemic. Before publishing the notice, the CEO must consult with the

Chief Public Health Officer. Clause 6 may come into force before that six-month period if the CEO publishes another notice in the *Canada Gazette* stating that the necessary preparations for the bringing into operation of the repeal have been made.

NOTES

1. [Bill C-19, An Act to amend the Canada Elections Act \(COVID-19 response\)](#), 43rd Parliament, 2nd Session.
2. [Canada Elections Act](#) (CEA), S.C. 2000, c. 9.
3. Office of the Chief Electoral Officer of Canada, [Special Report of the Chief Electoral Officer: Administering an Election during the COVID-19 Pandemic](#), 2020. The Chief Electoral Officer's special report was tabled in the House of Commons under the authority provided by section 535 of the *Canada Elections Act*.
4. *Ibid.*, p. 12.
5. *Ibid.*
6. *Ibid.*
7. *Ibid.*, p. 13.
8. *Ibid.*, pp. 13–14 and 19.
9. *Ibid.*, p. 15.
10. *Ibid.*
11. *Ibid.*
12. House of Commons, Standing Committee on Procedure and House Affairs, [Interim Report: Protecting Public Health and Democracy During a Possible Pandemic Election](#), Seventh report, December 2020,
13. *Ibid.*, pp. 45–48.
14. A polling division is a constituent part of a larger electoral district.
15. Note that clause 1 of Bill C-19 adds new section 559 to the CEA, while clause 2 of the bill replaces the newly added section 559. The language used in clauses 1 and 2 with respect to section 559 is similar; however, clause 1 refers to polling day as a single day, whereas clause 2 refers to a polling period.
16. Note that clause 1 of Bill C-19 adds new section 561(2) to the CEA, while clause 3 of the bill replaces the newly added section 561(2). The language used in clauses 1 and 3 with respect to section 561(2) is similar; however, clause 1 refers to polling day as a single day, whereas clause 3 refers to a polling period.